

CHARTERED SECRETARY

THE JOURNAL FOR GOVERNANCE PROFESSIONALS

**Exploring Opportunities :
Paving the road ahead for
Governance Professionals**



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE
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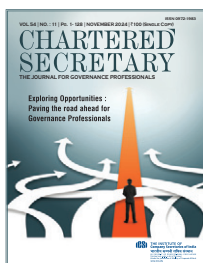


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EDITORIAL

As an Institution and beacon of Good Corporate Governance, The ICSI reverberates with its Mission 'To develop high calibre professionals facilitating good Corporate Governance' and takes pride in representing this glorious profession at national as well as international forums.

The month of November marks another historic stride by ICSI as it hosts the Mega Congregation of Company Secretaries, Professionals and Government dignitaries, bringing forth intense deliberations amongst intellectuals and visionaries of our coveted profession at its 52nd National Convention of Company Secretaries, scheduled to be held at the financial capital of India, Mumbai.

As we carry forward the warmth and joy of Deepawali, a festival that embodies the victory of light over darkness and wisdom over ignorance, it is also a reminder of renewal, resilience, and the pursuit of knowledge, values that resonate deeply within the professional journey of governance and compliance, inspiring us to illuminate new paths in our profession, reinforcing our dedication to integrity and excellence.

In alignment with these principles, this month's issue of the Journal presents deliberations through its articles and research inputs on the areas of Governance, Artificial Intelligence (AI) and Compliance, attempting to create an in-depth awareness on the standardization processes and applications of standards. The issue is devoted to the theme 'Exploring Opportunities: Paving the Road ahead for Governance Professions.'

Elaborating on the thought, it is a well-accepted fact that the Indian Start-Up culture relies heavily on setting up the foundation of good corporate governance with a focus on sustainable business practices. From being emerging Start-Ups to becoming Unicorns, Start-Ups are increasingly contributing to the GDP of our economy.

The article on 'Governance in Indian Start-Ups: From Hustle Culture to Professionalism -The Expanding Role of Company Secretaries' highlights the various ways how Company Secretaries can play a crucial role in building

sustainable governance structures within Indian Start-Ups, helping them grow beyond their early-stage agility and maintain long-term operational integrity.

The article titled 'PCS As Monitoring Agency for Implementation of CCI Orders' emphasizes how practicing professionals can act as vigilant monitors and contribute meaningfully to promoting a competitive, transparent and equitable business environment.

Further, the article titled 'Understanding Artificial Intelligence: A Layman's Overview' outlines the three stages of development of Artificial Intelligence: Symbolic Artificial Intelligence, Machine Learning and the anticipated emergence of Artificial Super Intelligence.

With the article on 'Digital Transformation & AI-Shaping Profiles of Future Professionals', the author estimates that the AI technology has the potential to contribute trillions of dollars to the global economy annually, primarily by automating tasks that currently consume significant time and resources. The article 'India's Data Protection Laws in Light of The Lessons Learned from European GDPR' analysis various aspects of the Digital Personal Data Protection Act introduced in India.

The aspects of governance in MSME sector are covered through the article 'Evolving Governance in MSMEs and Start-Ups: The Expanding Role of Governance Professionals'. The research segment of the Journal features a distinctive article on 'Strengthening Effective Governance & Sustainability in Banking Sector: CS as Governance Professional and Sustainability Expert'.

Wishing for a Happy festive season.

Happy reading!

CS Asish Mohan
(Editor - Chartered Secretary)



1. 16th Southern India Regional Conference of Practising Company Secretaries on the theme “CS - Spreading Wings Internationally” held on October 18-19, 2024 at Hyderabad.
2. NIRC of ICSI organized UP State Conference 2024 on October 19, 2024 hosted by Noida Chapter on the theme ‘Viksit Bharat 2047 and SME IPOs- Bridging the Gap between Innovation and Wealth’. Dr. Mahesh Sharma, Hon’ble Member of Parliament, Government of India, Ms. Sonica Malhotra Kandhari, Jt. MD, MBD Group Hotels and CS B. Narasimhan, President, The ICSI graced the occasion.
- 3-4. ICSI delegation led by CS B. Narasimhan, President, The ICSI and CS Manish Gupta, Immediate Past President, The ICSI met with Shri Ravi Mittal, Chairperson, IBBI and Kulwant Singh, Executive Director, IBBI on November 6, 2024 at IBBI office, New Delhi.
5. Chhatrapati Sambhajinagar Chapter of WIRC of The ICSI celebrated its 24th Foundation Day Programme on the theme “Corporate Synergy 2024” on October 01, 2024.
6. CS Dhananjay Shukla, Vice - President, The ICSI graced the NCLT Conclave organized by Gurugram Chapter of ICSI on October 26, 2024.



7. A Full Day Seminar on the theme “समानांतर - Saluting the Contributions beyond Boundaries” – was organized by EIRC of ICSI October 19, 2024 at Kolkata.
8. One Day Joint Conference of WIRC of ICSI jointly with Bhayander Chapter was held at Maharashtra on September 22, 2024 on the theme “Compliance Simplified”. CS Praveen Soni, Central Council Member, The ICSI and other ICSI officials graced the occasion.
9. 2nd batch of CLDP organised by Thane Chapter of WIRC of ICSI from October 7-24, 2024.
10. A Full Day Seminar was organized on FEMA-Regulating Foreign Exchange for Economic Stability by ICSI-NIRC on October 05, 2024.
11. The NIRC of ICSI organized the 23rd All India Debate Competition 2024 for students of ICSI on October 18, 2024 at National level. The topic across all levels was “AI in Corporate Governance: Challenges and Opportunities”.
12. Thane Chapter of WIRC of ICSI celebrated its 22nd Foundation Day on October 5, 2024, at Thane and hosted a seminar in collaboration with the Western Indian Regional Council of ICSI on the theme “Strengthening Governance, Elevating Professionalism: A Path to Risk-Free Leadership.” Shri P. R. Rajagopal, Executive Director of the Bank of India was the Guest of Honour.

ICSI CCGRT GLIMPSES



13. ICSI-CCGRT, Mumbai organised Seminar on "Related Party Transaction & Recent Adjudication Orders under the Companies Act" on October 5, 2024.
14. 25th Batch of the RCLDP was conducted from September 24 – October 9, 2024 at ICSI-CCGRT, Mumbai.
15. ICSI-CCGRT, Hyderabad organized its 16th Batch of RCLDP from October 7 - 22, 2024. Shri Y.B.S. Moorthy, Managing Director, B.S. Envi-Tech. Pvt. Ltd., Hyderabad was the Chief Guest and CS R Venkata Ramana, Central Council Member, The ICSI also graced the occasion.
16. A delegation of ICSI met with Prof. (Dr.) Nirmal Kanti Chakrabarti, Hon'ble Vice Chancellor, West Bengal National University of Juridical Sciences, Kolkata at his office on October 7, 2024.
17. Inaugural Meeting of Debating Society at ICSI - CCGRT Kolkata was organized on October 22, 2024 through videoconferencing. CS Sandip Kejriwal, Central Council Member, The ICSI and Convenor, ICSI - CCGRT Kolkata welcomed all the mentors and participants.



सिद्धिबुद्धिप्रदे देवि भुक्तिमुक्तिप्रदायिनि।
मन्त्रपूते सदा देवि महालक्ष्मि नमोस्तुते ॥

Goddess Bhagwati Mahalakshmi, who gives success, wisdom, enjoyment and salvation! I bow before you.



Dear Professional Colleagues,

As I sit to pen the message for this edition, there is not just a lively atmosphere filled with the brightness of diyas and lights, sweetness of shared laughter and mithais but also a sense of exuberance engulfing the self, both on account of the ongoing festivities of Deepawali but also the impending ones of the upcoming National Convention of Company Secretaries at Mumbai on 8-9-10 November, 2024. The celebration of Dhanteras or the emergence of Lord Dhanvantari – the god of Ayurveda is a reminder of the fact that good health is the primary wealth and should be sought for as such much before seeking materialistic pleasures.

As we bow in reverence before Lord Ganesha and Maa Lakshmi, I do hope and pray that all our lives are filled with good health, longevity, intellectual wisdom, accurate decision-making prowess, and wealth and abundance that arrives at your doorstep and stays.

स्वास्थ्याय समृद्धयै सुखाय च शुभकामनाः।

Wishing you health, prosperity and happiness.

At the ICSI, the festivities went on for a little longer as we shared moments of fun, gaiety and laughter with the Team ICSI. The Institute with the intent of exploring the hidden talents of its employees of ICSI organised 'Employees Arts, Sports & Cultural Fest - SPANDAN 2024'. This event proved to be a fantastic opportunity to celebrate and showcase the diverse talents and passions of the Team ICSI while promoting a healthy work-life balance. More than 150 employees participated and displayed their skills in the various competitions lined up. The fest was a sure shot eyeopener to the talents possessed by the employees which otherwise do not come to light in the routine work. The week-long activities not only built a much more cohesive work environment but strengthened bonds in between as well.

RATAN TATA : THE TITAN WILL BE MISSED

"If you're going to live, leave a legacy. Make a mark on the world that can't be erased."

As we talk of celebrations, we cannot help but pay our obeisance to the man who alighted the lives of many. Ratan Tata — a man of exemplary vision and a personification of insight, integrity, and inspiration, left for heavenly abode on October 09, 2024 leaving an indelible mark on all our lives. While at an individual level, it was about the products we used in our daily life, at an institutional level, we

admired his penchant for good governance. Being one of the first few entrepreneurs of the country, he understood the value of leading by example and thus leaving a legacy on the way. The fact that he was not afraid to tread into novel business adventures made for many a success stories and case studies.

It is for his governance-driven mindset and sustainability-friendly approach that the ICSI had bestowed upon him the ICSI Lifetime Achievement Award for translating Excellence in Corporate Governance into reality in the year 2003.

A good way to honour him would be to take a cue from his life, find in him a source of inspiration and take his visions for the nation forward. For as the man himself said,

“Don’t wait for opportunities to come to you, create your own opportunities.”

Going forward, taking a tad bit different approach, I would like to share the developments during the past month, across the Regions and Chapters picking one direction at a time:

NORTH : FINDING COHESIVENESS IN CORPORATE GOVERNANCE AND VIKSIT BHARAT

“Viksit Bharat is a nation where no one is too small to dream and no dream is too big to achieve. Everyone, no matter who they are, can aspire to reach the heights of success.”

- Shri Narendra Modi, Hon’ble Prime Minister

The Institute of Company Secretaries of India, takes great pride and at the same time feels greatly honoured in playing its roles to perfection in the achievement of the national goals and objectives to take the Indian economy to greater heights. The goal of becoming a Viksit Bharat by 2047 is a shared one. The ICSI being a governance centric institution, aims to strengthen the governance scenarios not only in the Indian corporate sector but other business organisations with equal fervour. At the same time, there is a deeper realization of the significance of academic deliberations in creating solid foundations for the future.

In this regard, I feel pleased to congratulate the Noida Chapter and Faridabad Chapter for the efforts placed in by them and their Teams in placing and sharing across pertinent thoughts and developing a reservoir of quality thoughts on topics of contemporary interest.

The UP State Conference hosted by the Noida Chapter on the theme Viksit Bharat 2047 and SME IPOs : Bridging the gap between Innovation and Wealth shed light on one of the major contributors of the Indian GDP and export numbers – the SMEs. In India, MSMEs account for more than 30% of India’s GDP and over 45% of the exports. These businesses, ranging from micro business entities to mid-sized manufacturers and export-oriented entities MSMEs are at the core of the value chain of Indian economy. For the country to move towards a quicker and more equitable growth, this sector is crucial. To put it this way, the MSME sector is considered as a vital engine for achieving the vision of a developed India by 2047, envisioned in the concept of “Viksit Bharat 2047”. Ruminating upon these aspects in the presence of Dr. Mahesh Sharma, Hon’ble Member of Parliament, Government of India brought out a different perspective. Our heartiest gratitude towards Dr. Sharma for gracing the occasion with his presence and enlightening the audience with his thoughts.

The Half Day Seminar organized by the Faridabad Chapter dug deeper into the finer nuances and details of corporate governance with its focused approach. The theme, carefully chosen, rested upon “A comprehensive Exploration of Emerging Corporate Governance and Compliance Trends”. The deliberations and discussions touched upon almost all aspects and trends of governance ranging from FEMA Compliances to Mergers & Acquisitions to the evolving role of AI in Legal & compliance space. Having been accorded the opportunity to have a tete-a-tete with members of a particular Chapter – understanding their journeys, sharing my own thoughts, swinging between serious topical matters and personal matters on the lighter side, made the entire event all the more memorable.

My best wishes to both the Teams for their future endeavours....!!!

EAST : EXPANDING LITERARY PROWESS

“For good ideas and true innovation, you need human interaction, conflict, argument, debate.”

- Margaret Heffernan

For a brigade of professionals pursuing representation before quasi-judicial authorities and providing such services to corporate clientele, it seemed imperative that appropriate quantum of emphasis is laid upon honing their debating and persuasion skills. It is with this intent that the Council at its 312th meeting held on 8-9 October, 2024 accorded approval

for constitution of 'Debating Society of ICSI' for improving public speaking skills, fostering critical thinking & promoting open dialogue prominently among the Students and the young Members of ICSI, implemented through CCGRTs, Regional Offices and Chapters.

The "ICSI Debating Society", will act as a platform to empower Executive and Professional students with essential skills for success in their professional journey from a student to being a member of ICSI.

With an expert guiding through the process of debating, presentation and delivery skills, the Debating Society will provide a framework for formal communication, sharpening impromptu 'think and speak' skills vital for success, both in the corporate world and also in the practising sphere. The Society is now active at the four Regional Offices (Kolkata, Delhi, Chennai, and Mumbai) and in the ICSI Chapters at Jaipur, Noida, Hyderabad, Ahmedabad, Bhopal, Indore, Nagpur, Thane, Gurugram, Bengaluru, Pune, and Kochi.

Taking the lead, the first meeting of Debating Society of CCGRT Kolkata was organized on October 22, 2024 through videoconferencing. I told that the first interaction with the mentors and fellow participants was both enlightening and inspiring.

As an Institution we are hopeful that the students will be wholeheartedly participating in the activities of the Debating Society and this unique initiative will be reaping its desired results in the years to come...

SOUTH : INDULGENCE OF INTELLIGENCE

Going down south, and sharing a momentous occasion, I feel a sense of deep privilege. The 16th Southern India Regional Conference of Practising Company Secretaries stood out on two accounts – the Chief Guest and the theme for the occasion.

It is a tremendous honour for not just the Hyderabad Chapter or the Southern Region but the entire Institute that we had the pleasure of having amongst us Shri Jishnu Dev Varma, Hon'ble Governor of Telangana at the Conference as the Chief Guest. His words of wisdom and advice coming from his own experience and that of appreciation and expectations from us professionals, was very invigorating.

Coming to the theme of the 2-day Conference, 'Indulgence of Intelligence', the event began with

the underlying thought of indulging ourselves and immersing ourselves truly and deeply towards seeking knowledge, intelligence and wisdom in all spheres possible and thus becoming competent professionals in the process. Not only did we deliberate upon the global opportunities as well as in emerging areas within the territorial boundaries of the country, but also opened up to discussions on the varied roles of Company Secretaries, Governance Professionals as whistle blowers, as Arbitrators and even as professionals who will dabble in the growing bounds of Artificial Intelligence. All in all the event truly marked indulgence in intelligence in all spheres and I believe that is how we all truly make ourselves 'Future-ready' !!!

WEST : PLANNING THE NEXT STEP

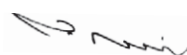
Although the old saying goes, "Sun rises in the east and sets in the west"; yet here we are, contemplating and readying ourselves to arise a new sun across the western coast of the Indian Mainland with the 52nd National Convention of Company Secretaries on the November 8-9-10, 2024. The most anticipated event of the year for the ICSI and all its members, the largest congregation of Governance Professionals – the National Convention is being held in the heart of the financial hub of the country, Mumbai. If the city is known for harbouring dreams and making them come true, it is in this very city that we are all set to introspect, contemplate, ponder and reflect, upon the various aspects of the theme "India @2047 : Expanding Horizons for Professionals".

If the West is all set to make its way into the pages of history with large scale member discussions, I feel a spring in my step and a heightened sense of exuberance and zeal as I announce the hosting of Yuvotsav 2025 on the 11th and 12th of January, 2025 at Ahmedabad (Gujarat). I am sure that the students would be as much eager to nominate themselves and their friends into the long list of competitions.

The ICSI awaits to witness a high tide of talent... Let the exhilaration spread across and there be an experience electrifying !!!

Happy reading !!!

Yours Sincerely



CS B. Narasimhan
President, ICSI

THIS MONTH THAT YEAR



Opening Plenary – Standing on the dais from left: Anju Jain, N.K. Jain, Harish K. Vaid, Anil Murarka, His Excellency B.L. Joshi (Hon'ble Governor of U.P.), Amit K. Sen, Nesar Ahmad, Ranjeet Pandey and Amit Gupta.



A view of the Chief Guest, Guests of Honour, Past President, Central Council Members, Secretary, ICSI, and other dignitaries present on the CS Day celebration.



Hon'ble Prime Minister with the Council Members, Secretary of the Institute.



CS Ranjeet Pandey met with Amit Shah (Hon'ble Union Minister for Home Affairs). Also seen CS Chetan Patel and CS Manish Gupta.



ICSI delegation met with Kalraj Mishra (Hon'ble Governor of Rajasthan).

Activity Highlights of October, 2024

MEETINGS WITH DIGNITARIES DURING THE MONTH OF OCTOBER 2024

- Shri Jishnu Dev Varma, Hon'ble Governor of Telangana graced the ICSI SIRC's 16th SIRC Regional PCS Conference in Hyderabad

56TH FOUNDATION DAY OF ICSI

The Institute of Company Secretaries of India celebrated its 56th Foundation Day on October 4, 2024 in New Delhi, on the theme, Governance for Sustainable Growth, in the august presence Smt. Anupriya Patel, Hon'ble Minister of State for Health & Family Welfare and Chemicals & Fertilizers, Government of India.

The event also witnessed the presence of Pride of the Nation, Shri Harvinder Singh, Indian Paralympic Archer and Gold Medalist, Paris Para Olympic 2024, and Ms. Anjali Devi, Gold Medalist, World Boccia Challenger, Cairo 2024.

EEE4.0 – MASTER KNOWLEDGE SERIES

In view of the overwhelming response received on the first 3 editions, the ICSI has launched the EEE 4.0- Master Knowledge Series on contemporary topics of professional interest. During the month following webinars were conducted under the Series:

Date	Topic	Speaker	YouTube Link
October 09, 2024	IFSCA (Listing) Regulations, 2024	CS Pradeep Ramakrishnan Exec. Director, IFSCA Mr. Akash Boddada Asst. Manager, IFSCA	youtube.com/watch?v=R_hT0AGysEE
October 16, 2024	FEMA: Documentation & Reporting Aspects	CS Sunil Nanal Practising Company Secretary	youtube.com/watch?v=gR_lX_lJy7Y
October 23, 2024	Bharatiya Nagarik Suraksha Sanhita (BNSS)	Chirag Balyan Assistant Professor of Law Maharashtra NLU	youtube.com/watch?v=mj6b9WTBXew

REPRESENTATIONS SUBMITTED

Date	Purpose	Authority
October 10, 2024	Request for modification in Form MSME-I to remove ambiguity pertaining to the 45-days period	MCA
October 11, 2024	Comments on Consultation paper on Proposed amendment to SEBI LODR Regulations, 2015 with respect to allowing only electronic mode for payment of dividend or interest or redemption or repayment amounts	SEBI
October 17, 2024	Request to allow Company Secretaries in Practice to participate and Impart Training under the Prime Minister's Internship Scheme-Pilot project (FY 2024-25)	MCA
October 17, 2024	Practical difficulties faced while processing dematerialisation process by Private Companies	MCA
October 22, 2024	Request for introduction of Company Law and LLP Law Settlement Scheme, 2024 (CL & LLSS-2024)	MCA
October 28, 2024	Request for Extension of time period for filing of Annual Forms (AOC-4 CFS NBFC (Ind AS), AOC-4(XBRL), AOC-4, AOC-4(CFS), AOC-4 NBFC (Ind AS), MGT-7, MGT-7A for the FY ended 31.03.2024 without levying additional fee	MCA and Smt. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs

TRAINING PROGRAMME FOR THE OFFICIALS OF SEBI AT MUMBAI

The ICSI conducted one day training programme on Mergers and Acquisition provisions under Companies Act, 2013 and IBC for the officials of SEBI on October 14, 2024 at SEBI Bhavan II, BKC, Mumbai. The training programme was attended by approximately 30 officials from SEBI including Chief General Manager, General Manager, Deputy General Manager, Manager, Assistant Manager etc. The faculties for various sessions were CS Makarand Joshi, Practicing Company Secretary, CS Ashish Lalpuria, Practicing Company Secretary and CA Ranganayiki Rangachari, Practicing Chartered Accountant.

PUBLICATIONS RELEASED

On this momentous occasion of 56th Foundation Day of ICSI, the Institute unveiled two significant publications:

- Guidance Note on Loan to Directors and Loan, Investment, Issue of Guarantee and Security by Companies (Sections 185 & 186 of the Companies Act, 2013)
- ICSI Bi-Annual Progress Report (January-July, 2024)

RENEWAL OF ICSI STUDY CIRCLES

The ICSI has been promoting the Formation/Renewal of Study Circles for creating knowledge upgradation avenues through professional discussion and deliberation. Study Circle renewed in October, 2024 for the Financial Year 2024-25 was as under:

Name of the Study Circle	Region
JSW (Corporate) Study Circle of ICSI	WIRC

ONLINE CLASSES OF PMQ COURSES

During the month, Online Classes for the following courses were organized:

- PMQ Course on Corporate Governance - December 2024 session
- PMQ Course on Internal Audit - December 2024 session
- PMQ Course on Arbitration - December 2024 session

COMMENCEMENT OF CERTIFICATE COURSES

The new batches of Certificate Course on Independent Director, Forensic Audit, CSR and POSH has been announced in this month.

Certificate Course on Mediation, ESG and IFSCA (International Financial Services Centre Authority) has been launched by the Institute in this month.

E-LEARNING FACILITY

The E-learning LMS offered with anytime anywhere flexibility through online Learning Management System

(LMS) to 208200 students and members. Semi-Final round of All India CL Quiz 2024 conducted. PMQ, Certificate Courses, Crash courses, KOD, PCS Orientation training/assessment conducted on regular basis.

MOU RENEWAL

ICSI has entered into a Memorandum of Understanding (MOU) with Insurance Institute of India (III) for holding Certification Course/s, Training Programs, undertaking joint Research, holding joint seminars / conferences / workshops etc. The said MOU has been renewed for further five years, i.e., till September 25, 2029 for the benefit of Members of the Institute.

PEER REVIEW CERTIFICATES ISSUED

During the month October 2024, Peer Review of 75 Practice Units was completed and accordingly Peer Review Certificate issued. The list of Peer Reviewed Units is updated on ICSI website from time to time and can be accessed at www.icsi.edu/media/webmodules/List_Peer_Reviewed_Practice_Units.pdf

TRAINING PROGRAMMES FOR EMPANELMENT OF PEER REVIEWERS

A Training Programme for empanelment of Peer Reviewers was organized at Madurai on October 19, 2024. The participants will be empaneled as Peer Reviewer upon completion of necessary formalities in this regard. More such training programmes will be conducted across the length and breadth of the Country in the days to come for the benefit of our members.

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.

(October 2024)

No. of Corporates/ MCA and other Government Bodies/ PSUs/ PCS Firms that Posted Jobs on the ICSI Placement Portal	119
No. of Openings available on the ICSI Placement Portal	211

For more details, kindly visit ICSI Placement Portal - placement.icsi.edu

STATUS OF REGISTRATIONS AND POSTINGS AT THE PLACEMENT PORTAL

(As on October 29, 2024)

Registered Users			Total no. of Vacancies
Members	Students	Corporates	Jobs / Trainings
19,721	28,421	6,881	14,681

ICSI-SECTION 8 COMPANIES

ICSI INSTITUTE OF INSOLVENCY PROFESSIONALS

• WORKSHOPS

Date	Subject	Speaker(s)	YouTube link
October 07-11, 2024	Perspectives on IBC - An Array (Series XI)	IP Raghuram Manchi	youtube.com/watch?v=T69JBrHAcUI
		IP & CS Ranjeet Kumar Verma	youtube.com/watch?v=8RJfgWY5eio
		IP and CS Sucheta Gupta	youtube.com/watch?v=FAWSE9D5tH4
		IP and CS Sandeep Kulkarni	youtube.com/watch?v=oInpULBqT8U
		IP, CS & CMA Siva Rama Prasad Puvvala	youtube.com/watch?v=IX636K4y88o
October 19, 2024	Interplay of IBC and other Laws	IP and CS Vinit Nagar IP and CS Harmeet Kaur	youtube.com/watch?v=eoPSERjCP8A
October 24, 2024	CIRP Audit and Liquidation Audit in Banks	IP, CS and CMA Siva Rama Prasad Puvvala	youtube.com/watch?v=d9vnqqmWfQ

• Webinars

Date	Subject	Speaker(s)	YouTube link
October 05, 2024	Revitalising CD: Turnaround Strategies and Soft Skills for Success	IP & Advocate Rocky Ravinder Gupta IP Satish Kumar Gupta IP CA Ashish Rathi Ms. Indu Basu	youtube.com/watch?v=WNWodASD13M
October 17, 2024	Transactional Audit through Digital Footprints	IP, CS and CMA Siva Rama Prasad Puvvala	youtube.com/watch?v=Jt_7vlmwS7g

• Joint Program

IBBI jointly with ICSI Institute of Insolvency Professionals, Indian Institute of Insolvency Professionals of ICAI and IPA of Institute of Cost Accountants of India conducted:

- Workshop for Insolvency Professionals on October 08, 2024.
- Workshop for Insolvency Professionals on October 17, 2024.

ICSI REGISTERED VALUERS ORGANISATION

Programme	Topic	Date	Faculty
Online Continuing Professional Education (CPE) Programme	Fundamental Principles of value Creation	October 21, 2024	CS Rajiv Garodia

ICSI-CCGRTS

ICSI-CCGRT KOLKATA

- *Meeting with Hon'ble Vice Chancellor, WBNUJS on October 07, 2024*

ICSI delegation met Prof. (Dr) Nirmal Kanti Chakrabarti, Hon'ble Vice Chancellor, West Bengal National University of Juridical Sciences, Kolkata at his office on October 07, 2024. This meeting has sown the seeds for future collaboration between both the Institutions where Joint programmes can be organised along with exchange of faculties and sharing of knowledge for the benefit of the students of both the Institution.

- *Inaugural Meeting of Debating Society at CCGRT Kolkata on October 22, 2024*

The first meeting of Debating Society of CCGRT Kolkata was organized on October 22, 2024 through videoconferencing. The society would serve as a dynamic platform for students to hone their critical thinking, public speaking, and argumentative skills. This society not only encourages participants to engage in lively discussions but also fosters a culture of intellectual curiosity and collaboration among its members. The first interaction with the mentors and fellow participants was both enlightening and inspiring. The mentors, seasoned debaters with extensive experience, emphasized the importance of preparation and research in debating. CS Sandip Kejriwal, Council Member, ICSI and Convenor, CCGRT Kolkata welcomed all the mentors and participants. CS Rupanjana De, Council Member, ICSI; CS Rajesh Chura, CS Swati Bajaj, CS Ravi Varma and CS Arani Guha were present in the very first meeting.

- *Half Day Workshop on MCA-21 V3 Issues held on October 26, 2024*

CCGRT Kolkata organised a Half Day Workshop on "Challenges in Compliance / Filing in MCA V3" on 26th October 2024. CS Sandip Kejriwal, Council Member, ICSI and Convenor, CCGRT Kolkata welcomed all the participants. CS A Manish Kumar and CS Prateek Kohli, Practising Company Secretaries deliberated on the topic and explained the issue related with filing and MCA V3 portal in detail.

ICSI-CCGRT MUMBAI

- *25th RCLDP organised from September 24, 2024 to October 09, 2024*

25th batch of the RCLDP was conducted at CCGRT, Mumbai from September 24, 2024 and concluded on October 09, 2024. This program gathered 28 participants from different parts of the country, fostering a diverse learning atmosphere. The valedictory ceremony on October 09, 2024, was

graced by CS Geeta Krishnan, Practicing Company Secretary from Kharghar, Navi Mumbai as the Chief Guest.

- *Seminar on "Related Party Transaction & Recent Adjudication Orders under the Companies Act" organised on 5th October 2024.*

CS Amita Desai, Practicing Company Secretary from Mumbai conducted session on the topic 'Related Party Transaction' in first session. The second session on topic 'Recent Adjudication Orders under the Companies Act' was addressed by CS Anshul Jain, AVP, Corporate Secretarial, Reliance Retail Limited.

ICSI-CCGRT HYDERABAD

- *16th Batch of RCLDP organized during October 07-22, 2024*

ICSI-CCGRT, Hyderabad organized its 16th Batch of Residential Corporate Leadership Development Program at its campus from 07 October 2024 to 22 October 2024. 29 participants from all corners of the country participated in the program. Shri Y.B.S. Moorthy, Managing Director, B.S. Envi-Tech. Pvt. Ltd., Hyderabad graced the inaugural ceremony as the Chief Guest and addressed the participants in the presence of CS R Venkata Ramana, Central Council member, ICSI.

ICSI-REGIONAL OFFICES

ICSI-EIRO

- *समानांतर - Saluting the Contributions beyond Boundaries*

Full Day Seminar "समानांतर - Saluting the Contributions beyond Boundaries" - aimed at showcasing the diverse scope and achievements of our members beyond traditional compliance work organized on October 19, 2024. The platform celebrated members excelling in non-core areas, with roles ranging from session court judges and additional directors of law with state governments to assistant professors, tehsildars, social activists, and entrepreneurs.

- *Vidyut, e-bulletin by ICSI-EIRC launched*

The inaugural issue of Vidyut, an e-bulletin by ICSI-EIRC, was launched on October 19, 2024. The bulletin is designed to foster advanced writing and analytical skills among emerging professionals.

ICSI SIRO

- *22nd All India Moot Court Competition – Southern Region*

SIRC of the ICSI conducted the 22nd All India Moot Court Competition – Southern Regional Level on October 25, 2024 at "ICSI-SIRC House",

Chennai. CS S. Satish and Ms. Aswany Ajaykumar, Practising Advocates, Chennai acted as Judges. Each team from Chennai, Bengaluru and Hyderabad consisting of two students participated in the programme.

ICSI WIRO

- *22nd All India Moot Court Competition – Western Region*

The Chapter level (Mumbai round) hosted by ICSI-WIRC was held on October 18, 2024 and the Regional level round was held on October 25, 2024. The National Level Round is scheduled to be held on November 22, 2024 at the ICSI-WIRC Premises, Nariman Point, Mumbai.

- *ICSI- 23rd All India Debate Competition*

The Chapter level (Mumbai round) and Regional level “ICSI–23rd All India Debate Competition” was successfully held at WIRC of ICSI Office Premises and the National level round was organized at ICSI-NIRC Office Premises on Friday, October 18th 2024. The winners of the Regional level and National level round are as follows:

Regional Level	Winners	National Level	Winners
1 st Prize	Isha Hublikar	1 st Prize	Jaspreet Singh
2 nd Prize	Kshitij Kasi V	2 nd Prize	G Saidhevi
3 rd Prize	Maitree Bhatt	3 rd Prize	Prachee Chaturvedi

ICSI NIRO

- *Moot Court Competition*

On the occasion of 155th birth anniversary of Mahatma Gandhi on 2nd October 2024, the ICSI-NIRC organized a Moot Court Competition for Students on Corporate Governance and Legal challenges in the Modern Corporate Environment wherein participants presented a case study on the Insolvency and Bankruptcy Code (IBC) and were evaluated by a judging panel of advocates, legal experts, and experienced Company Secretaries.

- *Foreign Exchange Management Act (FEMA) - Full Day Seminar*

A Full Day Seminar was organized on FEMA-Regulating Foreign Exchange for Economic Stability on October 05, 2024.

- *23rd All India Debate Competition - National round*

The NIRC of ICSI organized the 23rd All India Debate Competition 2024 for students of ICSI on October 18, 2024 at National level. The topic across all levels was “AI in Corporate Governance: Challenges and Opportunities”.

- *UP State Conference 2024*

The NIRC of ICSI organized UP State Conference 2024 as on October 19, 2024 which was hosted by Noida Chapter on the theme ‘Viksit Bharat 2047 and SME IPOs- Bridging the Gap between Innovation and Wealth’. Dr. Mahesh Sharma, Hon’ble Member of Parliament, Government of India, Ms. Sonica Malhotra Kandhari, Jt. MD, Hotel MBD Group and CS B. Narasimhan, President, The ICSI.

- *22nd All India Moot Court Competition - Delhi Round*

The Delhi Round of All India Moot Court Competition was held on 15th October, 2024 at ICSI – NIRC Building for students of ICSI.

INITIATIVES FOR EMPLOYEES

- *"SPANDAN" -Sports, Arts & Cultural Fest, 2024*

On the occasion of Diwali Festival, ICSI organized a Mega Function "SPANDAN"-Sports, Arts & Cultural Fest exclusively for ICSI employees during October 18-25, 2024. This festival aimed to be fantastic opportunity to celebrate and showcase the diverse talents and passions of the ICSI team while promoting a healthy work-life balance and encouragement amongst all the category of employees. In this very mega function, various sports and cultural activities were conducted. In Sports: Table Tennis, Carom, Chess & Arm Wrestling and in Arts and Culture: Solo Singing, Dance, Poster Making, Mono Acting, Ramp Walk & Group Dance were the activities. The Grand Finale for Cultural activities was organized on October 25, 2024, followed by DJ and High-Tea. The fest received an overwhelming response from all the employees who participated with full enthusiasm in all the activities.

- *Two Days Workshop on Noting & Drafting by ISTM from 28th-29th October, 2024*

One employee was nominated for Two Days Workshop on “Noting & Drafting” by Institute of Secretariate Training and Management (ISTM) from October 28-29, 2024. The main objective of the training is to apply functional approach to noting and effective communication in a given situation.

INITIATIVES FOR STUDENTS

EVENTS

- *All India Company Law Quiz 2024*

The Company Law is a core subject under the Company Secretaryship Course. All India Company Law Quiz facilitates enhancing participation levels and the competitive spirit among the students. The objective of this competition is to upgrade the knowledge levels of students in Company Law and allied areas and to generate interest among the students for in-depth study of the subject including greater conceptual clarity.

The Quarter Final Round of the Competition was held via Online Mode on September 27, 2024. The Semi-final round was also held via Online Mode on October 22, 2024. The Final Round will be held on November 16, 2024.

- **Online Quiz on Current Affairs and General Knowledge 2024**

The Institute, through a novel initiative, for creating awareness about the profession is organising Online Quiz on Current Affairs & General Knowledge. There is no participation fee and the winners in each Category will be awarded with cash prizes.

Students pursuing 11th Class / Class 12th / Passed 12th Class/ pursuing Graduation of any stream/Students registered for CSEET (CS Executive Entrance Test) are eligible to participate. The three rounds of quiz will be conducted - prelims, semi-final and final on different dates and the winners in each Category will be awarded with cash prizes.

- **Constitution day Online Quiz 2024**

To enhance the knowledge levels of students in Constitution of India and to generate interest among the students for in-depth study of the subject including greater conceptual clarity, the Institute is organizing Constitution Day Online Quiz -2024 on November 26, 2024 for below categories of students:

Category - I - Students pursuing class 11 /12 (commerce Stream)/ Registered for CSEET

Category - II - Pursuing Graduation (Commerce/Law/ Management) and

Category - III - Existing CS Students

Last date to register is November 15, 2024.

- **Yuvotsav-2025 scheduled for January 11-12, 2025**

Yuvotsav-2025, National Conference of Student Company Secretaries will be organised on January 11-12, 2025 in Ahmedabad. Students can participate in various competitions in Yuvotsav-2025 through their Regional/Chapter Offices. They also need to register online by remitting the requisite fee for the same. Around 23 competitions will be organised during Yuvotsav-2025. Legal Puzzle, Elocution Competition, Debate Competition, Fashion show are some of the competitions which will be organised during Yuvotsav-2025. All interested students are requested to contact their respective regional/ Chapter office to participate. The link to register in Yuvotsav-2025 is: <https://stimulate.icsi.edu/RO/Home/delegateportal/37>

- **The ICSI Debating Society**

The Institute has introduced the concept of “ICSI Debating Society”, a platform designed to empower Executive and Professional students with essential

skills for success in their professional journey from a student to being a member of ICSI.

The Debating Society would enhance students’ public speaking abilities through an expert guiding them through the process of debating, presentation and delivery skills. The Debating Society will provide a framework for formal communication, sharpening impromptu ‘think and speak’ skills which is vital for success in the corporate world and also in the practising sphere.

The ICSI Debating Society is now active at the Regional Offices (Kolkata, Delhi, Chennai, and Mumbai) and in the ICSI Chapters at Jaipur, Noida, Hyderabad, Ahmedabad, Bhopal, Indore, Nagpur, Thane, Gurugram, Bengaluru, Pune, and Kochi.

FACILITATION AND RELAXATION

- **CS Mittr Scheme:**

ICSI has introduced CS Mittr incentive Scheme wherein any person who is above 18 years of age is eligible to become CS Mittr under the scheme. Incentive @ ₹ 500 will be paid per student to the CS Mittr for each student registered in Executive Programme (subject to applicable tax deduction). Further, the above incentive will only be valid for the registration categories wherein concession in fees is not applicable. Persons willing to become CS Mittr will be required to apply through online process. After their credentials are verified and they are registered with ICSI as CS Mittr, they will be allotted a code number. Students will be required to mention the code as a referral code, while registering themselves for the Executive Programme. All payments will be transferred by the Dte of Finance and Accounts to the bank account. of beneficiary through NEFT

The link to register for CS Mittr scheme is placed below: https://smash.icsi.edu/Scripts/Registration/Mitr_Registration.aspx?rmode=1#

- **Golden Opportunity to become a Company Secretary for Economically Backward Students Record and Academically Bright Students**

With a view to encourage and motivate Economically Backward Students with Good Academic Record and Academically Bright Students to pursue the Company Secretaryship Course, the Institute is providing Financial assistance from Student Education Fund Trust (SEFT) to a registered student on fulfilling the criteria as laid down in SEFT Guidelines.

The details are available at: icsi.edu/media/webmodules/student/SEFTGuidelines202201072024.pdf

- **Centralized Free Online Classes for Executive and Professional Programme**

ICSI is conducting free online Centralized classes for the students of Executive Program (New Syllabus) and Professional Programme (New Syllabus) from July 01, 2024 onwards. These Classes are being conducted free of cost for the students. The classes are being conducted for the students eligible to appear in December 2024 examination and the duration of the classes will be 4-5 months. 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.

- ***Allowing Executive & Professional Programme Students One More Attempt Under Old Syllabus: December 2024 & June 2025 Session of Examination Respectively***

The Institute has decided that the students of Executive & Professional Programme (2017 old syllabus) shall be allowed one more attempt during the December, 2024 & June 2025 session of examinations respectively. The detailed information is hosted at: www.icsi.edu/media/webmodules/Announcement_One_More_Attempt_13062024.pdf

CS Course	Last Session of Examination under Old Syllabus (2017)	Additional Attempt under Old Syllabus (2017)	All Examination (Executive under New Syllabus 2022)
Executive Programme	June 2024	December 2024	June 2025
Professional Programme	December 2024	June 2025	December 2025

All students of Executive & Professional Programme (Old Syllabus 2017) shall be compulsorily switched over to 2022 (New syllabus) from June, 2025 & December 2025 respectively.

- ***Unlocking Enrolment Opportunities with Extended Dates for December 2024***

Many students missed the opportunity to enrol for December 2024 session of Examination as the last date to enrol without late fee was 25th September 2024. To facilitate such students the Institute decided to extend the last date without late fee upto 10th October 2024 and with late fee from 11th to 15th October 2024. Accordingly, necessary announcement was shared through following link for information to all concerned: www.icsi.edu/media/webmodules/student/announcementLateFeeWaiver963741852.pdf

- ***Dedicated Helpline Number for Student Queries***

The ICSI has introduced a dedicated helpline number to handle queries related to Student Registration, Post Registration, Class Room Teaching and Enrolment. Students can contact at 0120-4082170 (From Monday to Friday 9.30 A.M. to 5.30 P.M.).

- ***Successful Configuration of December 2024 Enrolment Setup for Executive & Professional New Syllabus (2022), Executive & Professional Old Syllabus 2017***

The first exam for Professional Programme New Syllabus (2022) took place in June 2024. Consequently, the system has been successfully configured to enrol students for December 2024 session of examination. Subsequently Enrolment Setup also activated for Executive Old (2017) & New Syllabus (2022) & Professional Old Syllabus (2017) students with revised Examination Fee.

- ***Encouraging Students to Complete CS Course After Passing Executive Programme***

Many students started their CS Course with enthusiasm and ambition, but due to some personal reasons, the students discontinued their studies after passing the Executive. However, completing CS Course can be one of the best decisions they will ever make for their future. Considering this we are regularly communicating with the students via bulk mail/bulk sms who have passed Executive but not registered for Professional to complete their CS Course. As a result, more than 5562 students registered in Professional Programme up to October 2024.

- ***Encouraging students to Enroll for December 2024 Examinations with Extended Enrollment deadlines***

The Institute implemented an initiative to support students in their enrollment process and extended the following cut-offs for students:

- Enrollment Without Late Fee: September 25, 2024 extended to October 10th, 2024
- Enrollment with Late Fee : October 10, 2024 extended to October 15, 2024

This initiative aimed to facilitate the students who may have missed the opportunity to complete their exam forms and encourage enrolment and the detailed information hosted at the following link of the website of the Institute: icsi.edu/media/webmodules/student/announcementLateFeeWaiver963741852.pdf

- ***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).*

• **ICSI Samadhan Diwas**

ICSI successfully conducted the 48th Samadhan Diwas, on Wednesday, October 09, 2024. 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.

• **Activation of Switchover Option Along With Pre-Examination Fee for Professional Programme Old Syllabus (2017) Students**

The Institute has notified that candidate who have registered under the CS Professional old syllabus (2017) can switch over to CS Professional new syllabus (2022) comprising 7 papers. Accordingly, the portal for switchover from old syllabus (2017) to New Syllabus (2022) along with Pre-Examination Fee has been activated for Professional Programme Students w.e.f., November 20, 2023.

• **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. During the month, 43 Transcripts were issued.

Likewise, on request of the employer/PSU/government authorities and other Education verifier agencies, 05 Education Verification requests of CS students were processed.

• **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: 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 hosted and Communication via Bulk Mail has been sent to students for extracting their Professional Pass Certificate for June 2023 & December 2023 Session of Examinations.

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

TRAINING OPPORTUNITIES

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

No. of Corporates/ MCA and other Government Bodies/ PSUs/ PCS Firms that Posted Training Opportunities on the ICSI Placement Portal	72
No. of Training Opportunities available on the ICSI Placement Portal	144

For more details, kindly visit ICSI Placement Portal - placement.icsi.edu/PlacementApp/

COMPANY SECRETARY EXECUTIVE ENTRANCE TEST (CSEET)

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

- **Centralized free online Classes of CSEET – January 2025 Session**

ICSI shall be conducting online Centralized classes for the students of CSEET registering for January 2025 Session of CSEET. Faculties with vast experience will be taking these classes.

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

CSEET students can register directly for CSEET classes conducted by 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 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 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 www.icsi.edu/media/webmodules/granting_exemption_230621.pdf

- **CSEET Guide – I and CSEET Guide – II 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) for all students at the time of CSEET registration on optional basis**

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: www.icsi.edu/reference-reading-material/

KNOWLEDGE UPGRADATION

- **Student Company Secretary and CSEET Communique**

The Student Company Secretary e-journal for Executive/ Professional Programme students of ICSI and CSEET Communique covering latest updates on CSEET subjects have been released for the month of **October, 2024**. The journals are available on the Academic corner of the Institute's website at the link: 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 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 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 www.icsi.edu/infocapsule/

CAREER AWARENESS

- **Career Awareness Programmes in Army Public Schools across the country**

ICSI through the support of Ministry of Defence conducted extensive Career Awareness Programmes in more than 40 Army public Schools in the country to sensitise the students, parents and teachers about the CS Profession.

- **Career Awareness Programmes, Career Fairs being conducted across the country by ICSI-HQ, Regional and Chapter offices**

ICSI-HQ and Regional/Chapter offices are conducting Career awareness programmes and Career Fairs across the country on regular basis to create awareness regarding CS Profession amongst the prospective students.

ICSI-HQ organised and conducted following Career Fairs and Career Awareness Programmes in the month of October, 2024 in addition to the other programmes being conducted by RC/Chapter offices across the country.

Career Awareness Programmes				
S. No.	Region	Name of Institution	Date	Venue
1.	WIRC	Methodist English Medium HSS	03-10-24	Hoshangabad
2.	WIRC	GOVT. Girls H.S.S	03-10-24	Hoshangabad
3.	WIRC	GHSS CM Rise Pachmarhi	03-10-24	Hoshangabad
4.	WIRC	PM Shri Kendriya Vidyalaya	04-10-24	Hoshangabad
5.	WIRC	Govt. College Pachmarhi	04-10-24	Hoshangabad
6.	WIRC	CM Rise Govt. R.N.A Excellence School	04-10-24	Hoshangabad
7.	WIRC	Govt. H.S School Pathrota	05-10-24	Hoshangabad
8.	WIRC	Govt. CM Rise School,	05-10-24	Hoshangabad
9.	WIRC	Bhagwan Birsha Munda Govt. College	05-10-24	Hoshangabad
10.	WIRC	Govt. Model H.S.S	06-10-24	Hoshangabad
11.	WIRC	Eklavya Model Residential School	06-10-24	Hoshangabad
12.	WIRC	Acharya Public School	07-10-24	Hoshangabad
13.	WIRC	Govt. Girls Higher Secondary School	07-10-24	Hoshangabad
14.	WIRC	Govt Boys Higher Secondary School	07-10-24	Hoshangabad
15.	WIRC	Govt. Girls Higher Secondary School	08-10-24	Hoshangabad
16.	WIRC	Govt. CM Rise Higher Secondary School	08-10-24	Hoshangabad
17.	WIRC	Govt. Girls Higher Secondary School	09-10-24	Hoshangabad
18.	WIRC	Shaheed Indergiri Govt Girls HSS	09-10-24	Hoshangabad
19.	WIRC	Govt. Higher Secondary School	09-10-24	Hoshangabad
20.	WIRC	New High School and Junior College	10-10-24	Dombivli
21.	WIRC	Pragati College Dombivli	11-10-24	Dombivli
22.	NIRC	Bharati College, Delhi University	10-10-24	Janakpuri

- **Career guidance sessions at (EMRS) schools under Ministry of Tribal Affairs for conducting CAPs across the country**

A Letter was issued by NESTS, Ministry of Tribal Affairs for conducting Career guidance sessions across their schools in the country. The Career guidance programme involves providing comprehensive information about the admission criteria, application procedures, and the wide array of professional opportunities awaiting those who successfully complete the CS Course. The same helps the students, their families, teachers, and peer groups make informed decisions regarding their career paths. Based on the circular, ICSI is conducting Career Guidance sessions across their schools.

- **Career guidance sessions at schools under Navodaya Vidyalaya Samiti across the country**

A Letter was issued by Navodaya Vidyalaya Samiti for conducting Career guidance sessions across their schools in the country. The Career guidance programme involves providing comprehensive information about the admission criteria, application procedures, and the wide array of professional opportunities awaiting those who successfully complete the CS Course. The same helps the

students, their families, teachers, and peer groups make informed decisions regarding their career paths. Based on the circular, ICSI is conducting Career Guidance sessions across their schools.

- **Career Guidance Invites Received**

Career guidance programme involves providing comprehensive information about the admission criteria, application procedures, and the wide array of professional opportunities awaiting those who successfully complete the CS Course. The same helps the students, their families, teachers, and peer groups make informed decisions regarding their career paths. During the month invites were received from the following for conducting Career Guidance Sessions:

- ♦ Navodaya Vidyalaya Samiti for conducting Career guidance sessions across their schools
- ♦ Higher Education Directorates of various states viz: Directorate of School education, Mizoram, Indore, Thane, Vadodara

Based on the circular, ICSI is conducting Career Guidance sessions across their schools.

16th Southern India Regional Conference of Practising Company Secretaries organised by SIRC of The ICSI held on October 18 - 19, 2024 at Hyderabad

Theme : CS - Spreading Wings Internationally

Chief Guest : Shri Jishnu Dev Varma, Hon'ble Governor of Telangana



Seminar organized by Faridabad Chapter of NIRC of The ICSI on October 26, 2024

Theme : A Comprehensive Exploration of Emerging Corporate Governance and Compliance Trends

Chief Guest : CS B. Narasimhan, President, The ICSI

Guest of Honor : CS Dhananjay Shukla, Vice-President, The ICSI

Special Guest : CS Suresh Pandey, Council Member, The ICSI



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WEBINAR ON

IFSCA (Listing) Regulations, 2024
held on 09.10.2024



Speakers:
CS Pradeep Ramakrishnan
Exec. Director, IFSCA
Mr. Akash Boddeda
Asst. Manager, IFSCA



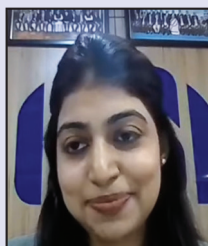
Moderator:
CS Mohan Kumar Aravamudhan
Central Council Member, The ICSI

WEBINAR ON

FEMA: Documentation & Reporting Aspects
held on 16.10.2024



Faculty:
CS Sunil Nanal
Practising Company Secretary



Moderator:
Ms. Nisha Chaudhary
The ICSI

WEBINAR ON

Bharatiya Nagarik Suraksha Sanhita (BNSS)
held on 23.10.2024



Speaker:
Chirag Balyan
Assistant Professor of Law
Maharashtra NLU



Moderator:
CS Kushal Kumar
The ICSI



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It may please be noted that members are entitled to 4 CPE Credits under **clause 7.2 of Continuing Professional Education (CPE) Guidelines 2019**, if any of their article is published in the Chartered Secretary Journal or any UGC approved journal. Guidelines for Authors is placed at **Appendix-A**.

Should you require any further information, please feel free to connect with us.

We look forward to your significant contribution in building a global perspective for the Company Secretary Profession.

Sincerely,

Team ICSI

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India's Data Protection Laws in Light of The Lessons Learned From European GDPR

The General Data Protection Regulation (GDPR), 2016 is widely regarded as the leading global standard for legislation concerning the protection of personal data in the digital realm. Numerous countries have drawn inspiration from GDPR's framework when drafting their own data protection laws. Having introduced its Digital Privacy Data Protection (DPDP) Act, 2023, India is no exception anymore. While India has incorporated central thought from GDPR, it is essential to note that Indian legislators have not merely copied GDPR's regulations verbatim. Instead, they have made deliberate modifications and introduced unique provisions to enhance the efficacy of such legislation. This article will delve into the need for data protection and basis of GDPR and then will analyze specific adaptations and modification implemented by India in its DPDP Act.



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INTRODUCTION

The Indian data economy is experiencing continuous growth, with a steady influx of new smartphone and internet users on a daily basis. The volume of transactions conducted through the Unified Payments Interface (UPI) is on the rise. India boasts the highest user counts on platforms such as Facebook, Instagram, and WhatsApp. These seemingly free services are, in fact, compensated for with user data, which is utilized for the purposes of individual profiling, targeted advertising, and the analysis of emerging trends, as well as the prediction of individual behaviors. Data has emerged as a valuable resource, akin to a goldmine, and India is currently witnessing a goldrush in data-related activities without robust

regulatory oversight. Therefore, there was a pressing need to empower our regulatory authorities through legislation, and the DPDP Act effectively addresses this requirement.

Basics of Data Protection and Stakeholders involved:

Historically, Indian legal framework did not specifically address the concept of data protection and privacy due to absence of any specific legislation in this regard. On other hand, Supreme Court of India has recognized the "right to privacy" as a subset of the larger "right to life and personal liberty" under Article 21. It was the Supreme Court of India in the case of *Justice K.S. Puttaswamy & Anr. v Union of India & Ors.* 2017, the Supreme Court recognized privacy as a fundamental right and highlighted the need for protection of personal data in digital realm. However, The Information Technology Act, 2000 ("IT Act") is the only legislation which has attempted to address the issue of data protection but the amendments to and rules made under the Act were not enough to regulate the evolving and everchanging data protection landscape.

The DPDP Act is designed to address the need for regulating the processing and safeguarding of personal data. According to the DPDP Act, personal data is defined as information, facts, concepts, opinions, or instructions that can be understood and utilized by humans or automated systems for communication, interpretation, or processing. The individual who generates this personal data is referred to as the Data Principal, who could be an adult, a child (in which case it includes their parents and legal guardians), or a person with a disability (with their lawful guardian acting on their behalf).

On the other hand, the entity or individual responsible for collecting the personal data of the Data Principal is known as the Data Fiduciary. The Data Fiduciary can be either an individual or a company and has the authority to determine the purpose and methods of processing the personal data. Lastly, Data Processors are individuals or organizations tasked with handling the data on behalf of the Data Fiduciary. These three parties, namely the Data Principal who generates the data, the Data Fiduciary who collects it, and the Data Processor who processes it, are the key stakeholders in the process of data processing as defined by the DPDP Act.

Similarities between both the regulations: The foundation of any data protection regulations lies in obtaining the

consent of the data principal. The DPDP Act has incorporated the principles of consent from GDPR, specifically found in Article 7, into its own Section 6, titled "Consent." According to Section 6, every instance of consent must adhere to the following criteria: it must be freely given, specific, informed, unconditional, and unambiguous in nature. The consent notice provided to the data principal must be transparent, presented in plain and easily comprehensible language. Importantly, the data principal must retain the right to withdraw their consent at any point in time, and the process for doing so must be as straightforward as it was when the consent was originally provided.

Data collected by a Data Fiduciary is subject to processing provided that such task of processing adheres to a legitimate purpose. Both the GDPR and the DPDP Act delineate specific legitimate purposes for data processing. Notably, there are commonalities between Article 6 of GDPR and Section 7 of DPDP Act with regard to these legitimate purposes. These common grounds encompass the following: Consent of the concerned parties, which grants permission for data processing; Data processing carried out in the pursuit of public interest tasks; Instances where there exists a legal obligation necessitating data processing; Data processing performed in the vital interests of the data principal, particularly in cases of medical emergencies or treatment; Data processing within the context of employment-related activities. Additionally, it is noteworthy that Indian legislators have incorporated a clause granting them the authority to mandate data processing when it is deemed to be in the interest of India's sovereignty and integrity or the security of the State.

Both legislations incorporate the Rights to Rectification, Erasure, and Information. The Right to Rectification empowers data principles to correct inaccurate or incomplete data and update their personal information held by data controllers (referred to as data fiduciaries in the Indian legislation). Meanwhile, the Right to Erasure allows data principles to request the deletion of all their data unless it is necessary for a specific purpose or required by law. The Right to Information grants data principles the right to receive a summary of the personal data processed by data fiduciaries or processors, as well as information about the other data fiduciary and processors with whom their personal data has been shared. In addition to these provisions, not only DPDP Act has incorporated the responsibilities associated with data fiduciary and data processor role but it also provides for establishment of Data Protection Board and authority of Data Protection Officer. The framework closely resembles that of GDPR Regulations.

Novel Legislation Exclusive to India: On the contrary, in addition to incorporating the GDPR principles into the Indian Act, lawmakers have introduced a series of distinctive and novel provisions. Notably, among these are the inclusion of the Alternate Dispute Resolution mechanism, as outlined in Section 31 of the Act. Under this provision, if the Board, established pursuant to the Act, deems that a complaint presented before it may be amicably resolved through mediation, it is empowered to direct the involved parties to engage in mediation, facilitated by a mediator of their mutual choice. Furthermore, the Indian Act also stipulates the appointment of a Consent Manager by the Data Fiduciary, who is a person duly registered with the

The DPDP Act is a comprehensive and forward-looking law designed to empower Indian citizens to safeguard their personal data.

Board, who serves as a centralized point of contact. Her role is instrumental in facilitating the consent of Data Principal which, among other things, includes the Data Principal's ability to provide, manage, review and retract their consent in accessible and transparent manner. The Consent Manager, acting on behalf of the Data Fiduciary, diligently follows the instructions of the latter and remains accountable to them, in accordance with Section 6 of the Act. Additionally, the Consent Manager assumes the responsibility of addressing any grievances raised by Data Principals, as mandated by Section 13 of the Act.

Omissions of Necessary Regulation: The DPDP Act in India, while introducing several novel provisions tailored to the Indian context, has regrettably omitted certain key elements that could significantly enhance its effectiveness and enforceability. Notably, the Indian legislation failed to incorporate the seven fundamental principles of data protection enshrined in the GDPR framework. These principles, namely Lawfulness, Fairness & Transparency, Purpose Limitation, Data Minimization, Accuracy, Storage Limitation, Accountability and Integrity & Confidentiality, serve as the foundational pillars upon which comprehensive data protection regulations are constructed. Though the Indian DPDP Act does incorporate these principles to some extent in spirit, their explicit inclusion within the legislative framework would have imparted greater clarity and legal weight to these fundamental tenets.

Furthermore, the Indian DPDP Act falls short of encompassing a certification mechanism akin to the one present in the GDPR. Under the GDPR's provisions pertaining to codes of conduct and certification mechanisms, data controllers and data processors have the opportunity to seek certification from the EUDGPR body, thereby attesting their compliance with the GDPR regulations. This certification system carries a dual advantage: firstly, it empowers data subjects (referred to as data principals in the Indian legislation) by enabling them to make informed choices when selecting service providers, as they can readily identify those that adhere to GDPR-compliant data protection standards. Secondly, it provides data controllers with a valuable marketing tool, allowing them to promote their products and services as being in alignment with robust data protection regulations.

Indian lawmakers have overlooked the inclusion of provisions regulating particular processing scenarios, such as those outlined under Article 85 of the GDPR, which specifies that data protection does not apply when the right to freedom of expression and information is compromised, particularly in cases involving journalistic, academic, artistic, or literary expression.

The inclusion of these elements would have undoubtedly strengthened the reach and efficacy of the legislation, ensuring the safeguarding of individuals' data rights in a more comprehensive manner.

Learning from Foreign Courts: Indian DPDP Act has demonstrated a thoughtful approach by examining the five years of litigation that have arisen under the GDPR in Europe. It has drawn valuable insights from how European courts have interpreted the GDPR and used this knowledge to draft the provisions of DPDP Act in a manner that minimizes potential legal challenges and delays in its implementation. One notable example is the Austrian Postal Service Case, which shed light on the interpretation of Article 15(1)(c) of the GDPR regarding the right to information about the recipients or categories of recipients to whom personal data has been or will be disclosed, similar to Section 11 of the DPDP Act. In this case, the data subject, RW had requested for access to his personal data stored by Österreichische Post along with the information pertaining to the identities of the recipients of such data. The postal department had provided a general response that as part of its business operations as a telephone directory publisher it provided the data to trading partners for marketing purposes. However, the identity of the specific recipients of the data was kept confidential from the data subject. Upon judicial scrutiny Österreichische Post disclosed that the personal data had been used for marketing purposes and shared with various entities, including mail order companies, IT firms, and political parties.

The Court of Justice of the European Union (CJEU) clarified that data subjects have the right to specific information about the recipients of their personal data, rather than just receiving general information about recipient categories. This right also includes within its ambit the right to specific particulars with respect to the purpose and duration for which the personal data is processed, the reasoning behind such processing, the data recipients and the consequences of such processing. Additionally this right should not adversely affect the right of freedom of others, such as those of trade secrets or intellectual property.

The Court emphasized that the principle of transparency should be borne in mind while processing the data, requiring that the information be fair and lawful in addition to being easily available and understandable. The data subject's right of access should include the preference to obtain information about either the specific recipients or the categories of recipients to whom their data has been disclosed. The Court laid down that this right of access is essential for the data subject to exercise their rights granted under Articles 16, 17 and 18 of the GDPR, which are the right to rectification, erasure ("right to be forgotten"), or restriction of processing.

This ruling prevented controllers from choosing to disclose only broad categories of recipients. To address a potential loophole that could have been exploited by Data Fiduciaries in India, Section 11(1)(b) of the DPDP Act was introduced. This clause empowers data principals to know the identities of all other Data Fiduciaries and Data Processors with

whom their personal data has been shared, along with a description of the shared personal data. The Section further broadens the scope empowering the Data Principal to access any other information, beyond just the identities of the recipients and description of the data, as may be prescribed. This approach ensures that the DPDP does not excessively limit the rights of data principals, allowing them easy access to all lawful information related to their personal data. In essence, the DPDP Act not only aligns with the GDPR but also incorporates valuable lessons learned from the legal precedents established under the GDPR framework.

Implementation Challenges: The DPDP Act addresses long-standing data protection issues in India, filling a crucial legislative gap. However, there are certain challenges that this Act may encounter. For instance, it mandates the appointment of a Data Protection Officer (DPO) only for Significant Data Fiduciaries (SDFs), yet it fails to clearly define who qualifies as a Significant Data Fiduciary and who assumes the role of DPO when a data fiduciary does not meet this criterion. Furthermore, the Act does not specify the circumstances under which the Board can direct parties to engage in mediation, this leave a huge gap in legislation that need to be filled with rules quickly or there could be instances where a significant breach by the data fiduciary would be resolved by mediation rather than being adjudicated by the Board.

Similar to the GDPR another notable challenge is the absence of a compensation mechanism for individuals whose data rights have been breached. While the Act imposes fines, these fines are paid to the Board and deposited into the Consolidated Fund of India, leaving the aggrieved data principle without personal compensation for the violation of their data rights. Additionally, the Act lacks a clear method for determining the fines imposed on data fiduciaries. In contrast to the GDPR, which sets a cap of 2% of the data fiduciary's total worldwide annual turnover from the preceding financial year, the DPDP does not establish such a cap, potentially risking the financial stability of data fiduciaries who are fined in hundreds of crores.

CONCLUSION

The Indian DPDP Act addresses a longstanding void in the realm of personal data protection in India. Drawing inspiration from the European GDPR, the DPDP Act first delineates what constitutes data and identifies all relevant stakeholders. Indian lawmakers then use the GDPR as a model to draft their own legislation, incorporating unique provisions original to India and drawing insights from the judicial interpretations of GDPR in Europe. The DPDP Act is a comprehensive and forward-looking law designed to empower Indian citizens to safeguard their personal data. It also aims to assist the government in establishing a secure environment for both users and developers in the rapidly evolving digital economy. While, like any new legislation, the DPDP Act may encounter challenges, it represents a valuable addition to the legal framework for regulating and safeguarding the swiftly advancing digital economy in India. □



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Articles

P - 37

Governance in Indian Start-Ups: From Hustle Culture to Professionalism - The Expanding Role of Company Secretaries

38

CS Pragati Kumari, ACS, Prof. N. M. Panda

To ensure long-term sustainability and compliance in a competitive market, startups need to transition from hustle culture to professionalism, adopting robust governance frameworks. A key enabler of this transition is the Company Secretary (CS), whose expertise in corporate governance, compliance, and strategic guidance ensures that Start-Ups can operate efficiently and transparently (ICSI, 2021). This article explores how Company Secretaries play a critical role in building sustainable governance structures within Indian startups, helping them grow beyond their early-stage agility and maintain long-term operational integrity.

PCS As Monitoring Agency For Implementation of CCI Orders

43

CS Surendra U Kanstiya, FCS

Being a governance professional, a Company Secretary plays an important role in ensuring that the proper compliance culture prevails in every organization. The recent amendments to the Act have introduced the settlement and commitment mechanisms to expedite the resolution of investigation in certain cases.

Understanding Artificial Intelligence: A Layman's Overview

46

Dr. Sajoy P. B., Dr. Ajoy P. B.

The discussion outlines the three stages of development of Artificial Intelligence: Symbolic Artificial Intelligence, Machine Learning and the anticipated emergence of Artificial Super Intelligence. Various sectors, including healthcare, finance, and education, are highlighted as key areas of Artificial Intelligence applications.

Digital Transformation & AI: Shaping Profiles of Future Professionals

49

CS Rajiv Malik, ACS

At a glance - AI is expected to radically transform all kinds of jobs over the next few years. No longer can the exclusive purview of technologists, AI now be put to work by nearly anyone, using commands in everyday language instead of code. It is estimated that this emerging technology has the potential to contribute trillions of dollars to the global economy annually, primarily by automating tasks that currently consume.

Evolving Governance in MSMEs and Start-Ups: The Expanding Role of Governance Professionals

55

Prof. P. Srinivas Subbarao

The article points out the shift in the role of governance practitioners toward CSR and sustainability, where the requirement is to ensure sustainability is integrated into business and that the stakeholders meet the organization's expectations. The research calls attention to expanding the governance professional's role in ensuring the long-term success and sustainability of MSMEs and Start-Ups as strategic partners.

Governance in MSMEs: CS Insights

61

Dr. Dileep Kumar S. D.

Company Secretaries are instrumental in directing these complexities, promoting compliance, and providing strategic guidance to MSMEs. Strengthening corporate governance practices is essential for MSMEs to enhance transparency, accountability, and sustainability, thereby fostering long-term growth and stakeholder trust in the Indian business ecosystem.

Research Corner

P-67

Strengthening Effective Governance & Sustainability In Banking Sector: CS as Governance Professional and Sustainability Expert

68

CS Mithun B Shenoy, FCS

Strong and efficient Indian Financial system is pre-request for development of nation. Bank's safety and soundness are the important ingredients to financial sustainability. Governance faults in banks can result in problem across the banking sector and the economy as whole. Hence, no one who could deny the fact that banks play important role in economic stability of any economy.

Legal World

P-75

- **LMJ 11:11:2024** It would be for the workers to apply for being heard and if they do so, they would be entitled to appear and be heard on the application for appointment of provisional liquidator.[SC]
- **LW 79:11:2024** In the present case, there is no dispute regarding financial debt which is duly reflected in the balance sheets for various years, including for financial year 2021-22. The debt is due and is within limitation. We find that the Adjudicating Authority has erred in allowing adjustment of Rs. 10,85,850/- against the financial debt for the reasons aforesaid.[NCLAT]
- **LW 80:11:2024** We, thus find substance in the submission of the Counsel for the Respondent that by not filing of Application under Section 8 at the time

of filing of a Reply to Section 7, Corporate Debtor has forfeited his right to file his Application under Section 8. We, thus are satisfied that no error has been committed by the Adjudicating Authority.[NCLAT]

- **LW 81:11:2024** The gratuity and provident fund having been admitted in full and paid in full in the Resolution Plan, compliance of provisions of IBC are fully met. We, thus, are of the view that no error has been committed by the Adjudicating Authority in approving the Resolution Plan.[NCLAT]
- **LW 82:11:2024** We are of the view that the CCI has passed a well-considered order in the instant case which has been upheld in two separate appeals by this Tribunal.[NCLAT]
- **LW 83:11:2024** The assessing officer had no jurisdiction to consider the claim made by the assessee in the revised return filed after the time prescribed by Section 139(5) for filing a revised return had already expired. Therefore, we find no reason to interfere with the impugned judgment of the High Court.[SC]
- **LW 84:11:2024** In terms of statutory time frame which stands constructed by Section 38(3)(a)(ii) of the DVAT Act, the said amount had become refundable within the time frame stipulated under Section 38(3) of the DVAT Act.[Del]
- **LW 85:11:2024** The MSMED Act's specific jurisdictional framework, as outlined in Section 18(4), takes precedence over general provisions under CPC, particularly when disputes involve suppliers located within the territorial jurisdiction of a particular Facilitation Council, in this case, Mumbai.[Del]
- **LW 86:11:2024** The action proposed to be now undertaken vide the Show Cause Notice is separate and distinct from the order of de-registration and thus, pendency of the writ challenging the de-registration order would not be an impediment to the issuance of Show Cause Notice for blacklisting.[Del]

From The Government P-85

- The Companies (Adjudication of Penalties) Second Amendment Rules, 2024
- The Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Amendment Rules, 2024
- Appointment of Chairperson, IEPFA
- (A) Annual Compliance Certificate for Client Level Segregation by nonindividual Investment Advisers; (B) Timeline for submission of periodic reports
- Periodic reporting format for Research Analysts and Proxy Advisers
- Clarification with respect to advertisement code for Research Analysts (RAs)
- Modification in Annexure to Common Application Form (CAF)
- Association of persons regulated by the Board and their agents with certain persons

- Inclusion of Mutual Fund units in the SEBI (Prohibition of Insider Trading) Regulations, 2015
- Clarification with regard to usage of 3 – in – 1 type accounts for making an application in public issue of securities
- Introduction of Liquidity Window facility for investors in debt securities through Stock Exchange mechanism
- Monitoring of position limits for equity derivative segment
- Monitoring Shareholding of Market Infrastructure Institutions (MIIs)
- Corrigendum to Circular on Ease of Doing Business in the context of Standard Operating Procedure for payment of “Financial Disincentives” by Market Infrastructure Institutions (MIIs) as a result of Technical Glitch
- Change in timing for securities payout in the Activity schedule for T+1 Rolling Settlement
- Extension of timeline for implementation of SEBI Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/75 dated June 05, 2024
- Specific due diligence of investors and investments of AIFs
- Timelines for disclosures by Social Enterprises on Social Stock Exchange (“SSE”) for FY 2023-24
- Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 – Reg.
- Review of Stress Testing Framework for Equity Derivatives segment for determining the corpus of Core Settlement Guarantee Fund (Core SGF)
- Measures to Strengthen Equity Index Derivatives Framework for Increased Investor Protection and Market Stability
- Directions for Central Counterparties (CCPs)
- Designation of one organisation under Section 35(1) (a) and 2(1) (m) of the Unlawful Activities (Prevention) Act, 1967 and its listing in the First Schedule of the Act- Reg.
- Reserve Bank of India (Access Criteria for NDS-OM) Directions, 2024
- Facilitating accessibility to digital payment systems for Persons with Disabilities – Guidelines
- Submission of information to Credit Information Companies (CICs) by ARCs
- Implementation of Credit Information Reporting Mechanism subsequent to cancellation of licence or Certificate of Registration
- Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit
- Due diligence in relation to non-resident guarantees availed by persons resident in India

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Mediation and Arbitration : Securing the future for the profession

The Institute of Company Secretaries of India in its attempt to create more opportunities for the professionals has been on a look out for avenues wherein the Company Secretaries can not only serve the varied stakeholders and simultaneously prove their mettle but also play a more participative role in the overall economic ecosystem.

Globally as well as in the Indian legal backdrop, the Legislature and Executive are duly supported by the Judiciary wherein disputes between parties are resolved in the best possible amiable manner. However, given the growing populace and with that the ever-growing number of disputes which are brought before the judicial authorities, a need had been felt for a mechanism founded on the principles of timely recourse and amicable settlements.

The Arbitration and Conciliation Act and thereafter the Mediation Act, aim to provide for a well-regulated scenario for alternate dispute resolution wherein Company Secretaries can play multifarious roles, not only in guiding the parties through the processes but also acting as Arbitrators and Mediators.

In view of the same, we are pleased to inform you that the **December 2024** issue of Chartered Secretary Journal will be devoted to the theme **Mediation and Arbitration : Securing the future for the profession** covering *inter alia* the following aspects:

- ❖ Legal Services Authority Act : Foundation stone of alternate dispute resolution
- ❖ Arbitration and Mediation : Expanding opportunities
- ❖ Mediation Act and Rules : Understanding finer nuances
- ❖ Arbitration and Conciliation Act : A comprehensive analysis
- ❖ Role of ADR Centres in Arbitration : Infrastructural advantage decoded
- ❖ Arbitration and Mediation Laws : Global Outlook
- ❖ Alternate Dispute Resolution : Impact of AI & Digitisation

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The length of the article should ordinarily be between 2,500 - 4,000 words. However, a longer article can also be considered if the topic of discussion so demands. The articles should be forwarded in MS-Word format.

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ARTICLES



- GOVERNANCE IN INDIAN START-UPS: FROM HUSTLE CULTURE TO PROFESSIONALISM - THE EXPANDING ROLE OF COMPANY SECRETARIES
- PCS AS MONITORING AGENCY FOR IMPLEMENTATION OF CCI ORDERS
- UNDERSTANDING ARTIFICIAL INTELLIGENCE: A LAYMAN'S OVERVIEW
- DIGITAL TRANSFORMATION & AI: SHAPING PROFILES OF FUTURE PROFESSIONALS
- EVOLVING GOVERNANCE IN MSMEs AND START-UPS: THE EXPANDING ROLE OF GOVERNANCE PROFESSIONALS
- GOVERNANCE IN MSMEs: CS INSIGHTS

Governance in Indian Start-Ups: From Hustle Culture to Professionalism

The Expanding Role of Company Secretaries

The Indian Start-Up ecosystem has experienced explosive growth over the past decade, driven by innovation, ambition and entrepreneurship. However, with rapid scaling and the influx of investor capital, Start-Ups face increasing pressure to evolve from informal, founder-centric cultures into structured, professionally governed enterprises. Governance is no longer a choice but a necessity to ensure sustainable growth, accountability, and resilience against crises. In this article, we explore the evolution of governance in Indian Start-Up, the challenges in transitioning from hustle-driven culture to professionalism, and the role of Company Secretaries as governance experts in shaping the future of this vibrant ecosystem.



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INTRODUCTION

The Indian Start-Up ecosystem has witnessed phenomenal growth over the last decade, emerging as one of the most vibrant and innovative in the world. Start-Ups across sectors such as fintech, e-commerce, edtech, and health tech have transformed not only the economy but also the entrepreneurial landscape. The rise of Indian Start-Ups began in the early 2010s, driven by increased internet penetration, supportive government policies, and access to venture capital. Over 100 unicorns (Start-Ups

valued at over \$1 billion) have emerged from India. Start-Ups like Flipkart, Zomato, Ola, and Byju's became pioneers, showcasing India's ability to build globally competitive businesses. Initially, these Start-Ups thrived on a "hustle culture" defined by relentless ambition, long working hours, and rapid experimentation. Founders focused heavily on product development and market capture, prioritizing speed and flexibility over formal processes. While this approach fosters rapid innovation, it poses challenges as Start-Ups scale up because it emphasizes speed, agility, and relentless effort over structure and governance. This culture, while effective in the early stages, can become a double-edged sword as companies expand and gain more stakeholders (Adhana, 2021).

To ensure long-term sustainability and compliance in a competitive market, Start-Ups need to transition from hustle culture to professionalism, adopting robust governance frameworks. A key enabler of this transition is the Company Secretary (CS), whose expertise in corporate governance, compliance, and strategic guidance ensures that Start-Ups can operate efficiently and transparently (ICSI, 2021). This article explores how company secretaries play a critical role in building sustainable governance structures within Indian Start-Ups, helping them grow beyond their early-stage agility and maintain long-term operational integrity.

WHAT IS HUSTLE CULTURE, AND WHY DO START-UPS EMBRACE IT?

Hustle culture refers to a fast-paced work environment where the emphasis is on constant effort, quick decisions, long hours, and relentless pursuit of growth. The "hustle culture" has become synonymous with the Start-Up boom in India. Start-Ups operate in highly dynamic markets where quick responses to market trends can determine success. Early-stage Start-Ups often function with lean teams and limited resources that rely on multitasking employees with overlapping responsibilities. Founders often lead with a hands-on approach, managing operations informally to avoid bureaucracy, and tend to be involved in every aspect of the business, prioritizing growth and market capture over structured processes. In

their formative years, Start-Ups operate without formal policies and well-defined processes, which allows them to experiment and pivot rapidly through fast product launches and market penetration (Thippeswami & Poojitha, 2020).

While hustle culture plays a significant role in getting Start-Ups off the ground, it also carries risks. Informal decision-making, poor documentation, and unclear accountability can lead to inefficiencies and conflicts. The absence of structured governance increases the risk of financial mismanagement, compliance failures, internal conflicts, and reputational damage, making it essential for Start-Ups to shift toward professionalism as they scale (Sethi & Kamna, 2023).

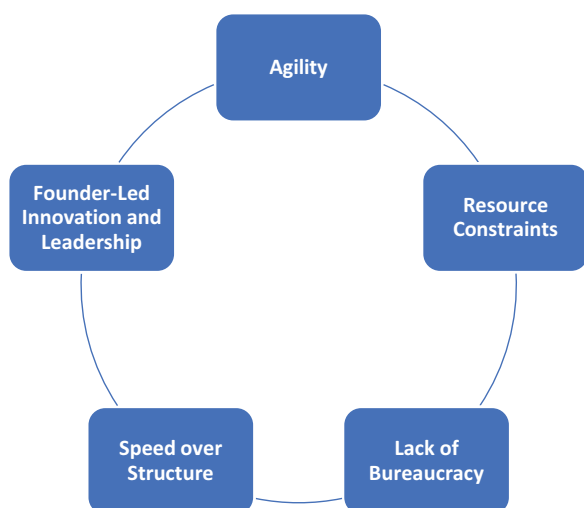


Figure 1: Crucial factors of hustle culture in Indian Start-Ups

WHY GOVERNANCE MATTERS IN SCALING START-UPS

Governance refers to the framework of rules, processes, and practices that direct and control an organization. It is a structure that ensures transparency, accountability, effective management, sustainable growth, and fostering trust among stakeholders such as investors, employees, customers, and regulators in Start-Ups. As Start-Ups scale, governance becomes essential for managing risks, building stakeholder trust, and ensuring long-term growth. Many Indian Start-Ups that began with a hustle culture have now embraced professional governance frameworks to attract investments and sustain operations (Dhamija & Nayyar, 2024). It establishes a leadership hierarchy with well-defined roles for founders, executives, and the board. Forming Boards with independent directors offers strategic guidance and reduces founder bias. Adhering to evolving laws related to taxation, labor, data privacy, and environmental, social, and governance (ESG) standards helps to Implement frameworks to identify and mitigate financial, legal, and operational risks. Professional governance allows Start-Ups to strike a balance between agility and accountability, ensuring sustainable operations (Jack & Bhandar, 2023). Further, for these scaling Start-

Ups, professional governance has become a necessity of growth and is driven by several key factors:

- **Investor Expectations**

Investors now play a crucial role in shaping governance practices. Especially venture capital firms, private equity players, and global funds that invest in Start-Ups are increasingly focused on governance and demand greater transparency and oversight. Many investors now insist on Start-Ups setting up Independent Boards, appointing external auditors, and adopting clear policies on conflict of interest and ethics. Governance practices such as financial reporting, risk management systems, compliance with regulations, and independent audits are essential to secure continued funding (Adhana, 2021).

- **Compliance with Regulations**

The regulatory landscape in India is evolving, with stricter guidelines on data privacy, taxation, labor laws, and environmental, social, and governance (ESG) compliance. Start-Ups are expected to adhere to these rules to avoid penalties and reputational risks.

- **Risk Mitigation**

Without proper governance frameworks, Start-Ups are vulnerable to operational, financial, and legal risks. Fraud, conflicts of interest, or lapses in compliance can damage the company's reputation and erode investor confidence. Governance helps Start-Ups to anticipate and mitigate these risks.

- **Employee Trust and Culture**

Employees are more likely to remain engaged and motivated in an organization that follows ethical practices and has a transparent work environment. Good governance practices foster employee trust, improving retention and productivity.

THE TRANSITION FROM HUSTLE CULTURE TO PROFESSIONAL GOVERNANCE

As Start-Ups grow beyond their initial stages, they must transition from a founder-centric hustle culture to professional governance. This shift requires adopting formal processes, building a leadership team, and creating accountability structures (Manshani & Dubey, 2017). Despite various challenges, many Indian Start-Ups are embracing the shift toward professional governance as they scale. The transition to professionalism involves:

- **Building a Strong Board of Directors**

A well-structured Board with diversity provides oversight and strategic guidance to Start-Ups. Directors bring valuable experience, reduce founder bias, and ensure that decisions align with the company's long-term vision. Start-Ups like Zomato and Nykaa appointed proper Boards before their IPOs, helping them strengthen governance and attract investors.

- **Defining Roles and Responsibilities**

In hustle culture, roles often overlap, with founders involved in every aspect of the business. As companies grow, defining clear roles for executives, the Board, and founders becomes essential. Governance frameworks outline decision-making processes and escalation mechanisms to avoid confusion.

- **The Role of Independent Directors**

Independent Directors bring impartial oversight to Start-Ups boards, reducing the risk of biased decision-making. The inclusion of seasoned professionals ensures that the company maintains strategic focus, improves risk management, and adheres to good governance principles. Additionally, Independent Directors serve as mentors to founders, helping them navigate challenges without compromising the company's values or long-term vision (Agrawal & Mishra, 2023).

- **Professionalizing the C-Suite**

Start-Ups are increasingly hiring seasoned executives and experienced professionals (such as CFOs, COOs, and CHROs) who bring domain expertise and governance practices from larger organizations and manage operations more efficiently. Along with strategic planning, and employee well-being, professional executives bring discipline in financial planning, compliance, and human resource management. This shift allows founders to focus on innovation and core strategy while leaving operational governance to experts (Nachiappan, 2022).

- **Strengthening Compliance and Risk Management**

As Start-Ups expand, they encounter complex regulatory requirements and Risk management becomes critical. Governance frameworks help Start-Ups identify and stay compliant with evolving regulations related to taxation, data privacy, and environmental, social, and governance (ESG) norms. Additionally, these frameworks assess and mitigate risks related to finance, legal compliance, cybersecurity, and operations. This approach helps Start-Ups navigate uncertainties and minimize disruptions (David, 2023). Many Start-Ups now hire legal and compliance officers to build internal controls that prevent legal risks and reputational damage.



Figure 2: Key aspects of transition

THE EXPANDING ROLE OF COMPANY SECRETARIES IN INDIAN START-UPS

Company Secretaries are key players in the governance landscape, ensuring that Start-Ups remain compliant while growing efficiently. Traditionally seen as compliance officers, their role has evolved significantly, making them crucial to the success of modern businesses. The following sections highlight the various dimensions of their contribution to Start-Ups governance.

- **Ensuring Legal Compliance**

Start-Ups must navigate multiple regulatory frameworks, including the Companies Act, 2013, the Goods and Services Tax (GST) Act, and intellectual property (IP) laws. A Company Secretary ensures that Start-Ups remain compliant with these regulations to avoid legal risks. Key responsibilities include:

- ♦ **Incorporation and Registration-** Assisting founders in choosing the right business structure (e.g., private limited company, LLP) and managing the registration process.
- ♦ **Filing and Reporting Obligations-** Handling timely submissions of annual returns, Board resolutions, and financial statements.
- ♦ **Regulatory Approvals-** Securing necessary approvals from authorities such as the Registrar of Companies (ROC) and the Securities and Exchange Board of India (SEBI).

Through their expertise, Company Secretaries ensure Start-Ups meet legal requirements without compromising their focus on business growth.

- **Promoting Corporate Governance and Ethical Practices**

In the initial phases, Start-Ups often deprioritize corporate governance, focusing solely on growth. However, good governance is essential to attract investors, retain employees, and build a sustainable business. Company Secretaries play a key role in fostering ethical practices and governance structures. Their contributions include:

- ♦ **Board Formation-** Assisting in the constitution of a diverse board with Independent Directors who provide strategic oversight.
- ♦ **Transparency and Documentation-** Ensuring all decisions are documented properly and communicated transparently to stakeholders.
- ♦ **Internal Controls-** Implementing internal control systems to monitor operations and ensure compliance with policies.

By embedding governance principles early, Company Secretaries help Start-Ups in create a culture of accountability that enhances trust among stakeholders.

• Facilitating Fundraising and Investor Relations

Fundraising is a crucial part of the Start-Ups lifecycle, whether through venture capital, angel investors, or public offerings. Company Secretaries play an instrumental role in ensuring that these processes are seamless and compliant with regulatory frameworks. Responsibilities include:

- ♦ **Structuring Investments-** Preparing term sheets, shareholders' agreements, and convertible notes.
- ♦ **Cap Table Management-** Maintaining accurate records of shareholding patterns and equity changes.
- ♦ **Investor Communication-** Handling investor relations by arranging meetings, managing disclosures, and addressing queries.

Through effective management of fundraising processes, Company Secretaries build trust between Start-Ups and investors, increasing the likelihood of future investments.

• Managing Mergers, Acquisitions, and Exits

As Start-Ups grow, they often pursue mergers, acquisitions, or strategic partnerships to expand into new markets or strengthen their offerings. Similarly, founders or early investors may plan for exits through buyouts or IPOs. Company Secretaries ensure these transitions are smooth and legally sound. Their role includes:

- ♦ **Due Diligence-** Conducting legal and financial due diligence during mergers or acquisitions.
- ♦ **Drafting Agreements-** Preparing NDAs, MoUs, and share transfer agreements.
- ♦ **Exit Planning-** Managing share transfers and ensuring compliance with tax and repatriation rules during exits.

By managing these complex transactions, Company Secretaries minimize risks and facilitate smooth transitions.

• Safeguarding Intellectual Property

For Start-Ups operating in technology, healthcare, and other innovative sectors, intellectual property is a valuable asset. Protecting these assets requires compliance with IP regulations and proactive management. Company secretaries assist in:

- ♦ **IP Registration-** Helping Start-Ups secure patents, trademarks, and copyrights.
- ♦ **Portfolio Management-** Monitoring renewal deadlines and IP-related agreements.
- ♦ **IP Compliance-** Ensuring adherence to national and international IP laws.

Their involvement ensures that Start-Ups' innovations remain protected, enhancing their competitiveness in the market.

• Structuring Employee Stock Ownership Plans (ESOPs)

Many Start-Ups use Employee Stock Ownership Plans (ESOPs) to attract and retain talent. However, managing ESOPs involves legal and tax complexities. Company Secretaries streamline the process by:

From incorporation to exit, a CS supports Start-Ups at every stage of their journey, providing Start-Ups with the expertise needed to navigate legal complexities, manage risks, and build sustainable businesses by enabling trust with stakeholders.

- ♦ **Designing ESOP Schemes-** Aligning ESOP structures with business goals and employee expectations.
- ♦ **Approvals and Documentation-** Preparing necessary documents and securing Board and shareholder approvals.
- ♦ **Tax Advisory-** Advising employees on the tax implications of their stock options.

Through efficient ESOP management, Company Secretaries help Start-Ups to build a motivated and loyal workforce.

• Risk Management and Business Continuity

Start-Ups often operate in a volatile environment, making them vulnerable to risks such as market fluctuations, regulatory changes, and operational disruptions. A company secretary plays a proactive role in identifying risks and implementing mitigation strategies to ensure business continuity. Their contributions include:

- ♦ **Regulatory risk management-** Monitoring changes in laws and regulations to ensure timely compliance.
- ♦ **Operational risk management-** Developing frameworks to handle potential disruptions.
- ♦ **Business continuity planning-** Establishing policies and protocols to deal with unforeseen events like natural disasters or economic downturns.

Effective risk management helps Start-Ups to stay agile and resilient, ensuring their long-term success.

• Strategic Advisory Role

Beyond compliance and governance, Company Secretaries also act as strategic advisors to the founders. With their deep understanding of corporate laws and business dynamics, they offer valuable insights that contribute to better decision-making. A CS can provide guidance on matters such as:

- ♦ **Business restructuring-** Advising on restructuring operations for better efficiency and cost optimization.
- ♦ **Stakeholder engagement-** Helping founders manage relationships with investors, employees, customers, and regulators.
- ♦ **International expansion-** Assisting with the legal and regulatory aspects of expanding into new markets.

Their strategic inputs enable Start-Ups to align their operations with market trends and future opportunities.



Figure 3: Role of Company Secretaries in Indian Start-Ups

GOVERNANCE CHALLENGES IN INDIAN START-UPS

The journey from hustle culture to professional governance is not without challenges. Start-Ups often encounter resistance from founders who fear losing control or believe that governance structures may slow down innovation. Other challenges include:

- **High Costs-** Hiring experienced professionals, requiring investments in technology, and implementing a compliance system can be expensive for early-stage Start-Ups.
- **Cultural Shift-** Employees accustomed to hustle culture may struggle to adapt to formal processes and accountability structures.
- **Balancing Growth and Compliance-** Start-Ups must strike a balance between rapid growth and adherence to governance practices, which can sometimes appear conflicting.

Resistance from founders accustomed to informal management, the costs of hiring governance professionals, and balancing growth with compliance can create friction. Despite these challenges, Start-Ups that embrace governance early are better positioned to attract investors, scale sustainably, and withstand market volatility. Also, companies that persevere through these challenges build resilient organizations capable of withstanding market fluctuations, regulatory pressures, and competitive threats. To overcome these challenges, Start-Ups must:

- **Embrace a Balanced Approach-** Maintain agility while adopting governance practices incrementally.
- **Leverage Technology-** Use governance tools such as automated compliance software to reduce costs.
- **Foster a Governance-Oriented Culture-** Encourage employees to embrace governance as a value rather than a constraint.

Company Secretaries play a pivotal role in guiding Start-Ups through these challenges, helping them strike the right balance between growth and accountability.

CONCLUSION

The evolution of Indian Start-Ups from hustle-driven beginnings to professionally governed enterprises reflect the maturing of the ecosystem. While hustle culture enables rapid growth and market capture, long-term sustainability requires discipline, accountability, and governance. In the rapidly

evolving Indian Start-Up ecosystem, a Company Secretary is much more than a compliance officer. They are integral to this transformation and play an essential role in ensuring regulatory adherence, fostering corporate governance, managing fundraising efforts, and offering strategic guidance. From incorporation to exit, a CS supports Start-Ups at every stage of their journey, providing Start-Ups with the expertise needed to navigate legal complexities, manage risks, and build sustainable businesses by enabling trust with stakeholders. As Indian Start-Ups continue to expand, the role of Company Secretaries will become even more critical. By ensuring compliance, promoting governance, and offering strategic guidance, they empower Start-Ups to thrive in a competitive environment. Start-Ups that recognize the value of engaging a CS early in their journey will be better positioned to avoid pitfalls, attract investments, and grow with confidence. In essence, a CS serves as the backbone of a Start-Up's governance and compliance framework, enabling entrepreneurs to focus on innovation and growth without compromising on legal obligations. Ultimately, the transition from hustle culture to professionalism, guided by effective governance, will position Indian Start-Ups as global leaders in innovation and entrepreneurship.

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PCS As Monitoring Agency For Implementation of CCI Orders

The role of a Company Secretary is well recognised under the Competition Act, 2002 as a professional having expertise in the Competition Law matters. Being a governance professional, a Company Secretary plays an important role in ensuring that the proper compliance culture prevails in every organization. The recent amendments to the Act have introduced the settlement and commitment mechanisms to expedite the resolution of investigation in certain cases. With regard to the implementation of the settlement order, commitment order or combination modification order, Practising Company Secretary is also authorised to act as a monitoring agency. This paper provides an overview of these provisions.



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INTRODUCTION

THE COMPETITION ACT, 2002

Enacted in the year 2002 and fully operationalised in the year 2011, the Competition Act, 2002 (the Act) seeks to prevent the practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants, in India. The Competition Commission of India (the Commission / CCI) has been established to enforce various provisions of the Act. Based on the recommendations proposed by the Competition Law Review Committee (CLRC) and with a view to provide regulatory certainty and trust-based business environment, several amendments have been made to the Act through the Competition (Amendment) Act, 2023ⁱ (Amendment Act).

Two key amendments effected by the Amendment Act are (i) the introduction of settlement and commitment mechanisms aimed at quick closure of investigations related to certain anti trust violations; and (ii) changes in modification procedure for the combinations. Recently notified Competition Commission of India (General) Regulations, 2024ⁱⁱ (General Regulations, 2024) have recognised the role of Practising Company Secretaries with regard to both these amendments. In addition to other professionals, a Practising Company Secretary

(PCS) is also eligible to be engaged by the Commission for monitoring of the implementation of the orders related to the settlement, commitment, combination modification, as passed by the Commission.

SETTLEMENT – SECTION 48A

Section 48A of the Act has introduced the concept of settlement in certain cases. This Section permits an enterprise to submit an application to the Commission for settlement of the proceeding initiated against it for contravention of Section 3(4) or Section 4. Such application may be submitted within 45 days from the receipt of the report of the Director General under Section 26(4). The Commission may, after taking into consideration the nature, gravity and impact of the contraventions, pass the settlement order, subject to agreed terms relating to manner of implementation of settlement and monitoring, and close the proceedings against the settlement applicant forthwith.

The procedure to be followed during the settlement proceedings is notified in the Competition Commission of India (Settlement) Regulations, 2024ⁱⁱⁱ (Settlement Regulations). These Regulations have come into force on 6th March, 2024. The Settlement Regulations *inter alia* contain details related to filing of application and proposal for settlement; invitation of objections and suggestions on the proposal; manner of determining the settlement amount; effect of settlement order; assessment of the terms of the settlement; payment of non-refundable fee; revocation of the order etc.

Implementation and monitoring of settlement order

Regulation 10 of the Settlement Regulations provides that where the Commission is of the opinion that the implementation of the Settlement Order needs monitoring, it may appoint agencies to oversee such implementation in terms of the Competition Commission of India (General) Regulations and on such terms and conditions as may be specified by the Commission.

COMMITMENT – SECTION 48B

Section 48B of the Act provides for commitment framework which may be applied in certain cases.

Advantage of this Section can be availed by an enterprise against whom any inquiry has been initiated under Section 26(1) for contravention of Section 3(4) or Section 4. The enterprise concerned is permitted to submit an application to the Commission offering commitments in respect of the alleged contraventions stated in the Commission's order under Section 26(1). The commitment application may be submitted at any time after an order has been passed by the Commission. But the application needs to be filed within 45 days from the date of receipt of the Commission's order under Section 26(1) or receipt of the Director General's Report under Section 26(4), whichever is earlier. The Commission may, after taking into consideration the nature, gravity and impact of the alleged contraventions and effectiveness of the proposed commitments etc. accept the commitments offered and close the proceedings against the commitment applicant forthwith.

The procedure to be followed during the commitment proceedings is notified in the Competition Commission of India (Commitment) Regulations, 2024^{iv} (Commitment Regulations). These Regulations have come into force on 6th March, 2024. The Commitment Regulations *inter alia* contain details related to filing of application and proposal for commitment; invitation of objections and suggestions on the proposal; effect of commitment order; assessment of the terms of the commitment; payment of non-refundable fee; revocation of the order; effect of partial commitments; confidentiality etc.

Implementation and monitoring of commitment order

According to Regulation 9 of the Commitment Regulations, where the Commission is of the opinion that the implementation of the commitments needs monitoring, it may appoint agencies to oversee such implementation in terms of the Competition Commission of India (General) Regulations and on such terms and conditions as may be specified by the Commission.

ORDERS OF COMMISSION ON COMBINATIONS – SECTION 31

Section 31 provides that the Commission shall approve a combination if it is not likely to, have an appreciable adverse effect on competition within the relevant market in India. Where the Commission is of the opinion that any appreciable adverse effect on competition that the combination has, or is likely to have, can be eliminated by modification proposed by the parties or the Commission, it may approve the combination subject to such modifications as it thinks fit. The procedure to be followed for modification to a proposed combination is notified in the Competition Commission of India (Combinations) Regulations, 2024^v (Combinations Regulations). These Regulations have come into force on 10th September, 2024. Regulation 25 of the Combinations Regulations provides that the parties to the combination may offer modification to combination in Form IV. This Form requires the parties to advise the monitoring arrangements to the Commission.

Company Secretaries can play important role under the revised competition regime in the country. Being fully familiar with the corporate affairs, practising Company Secretaries would be the natural allies of all the stakeholders concerned.

Appointment of independent agencies to oversee modification

Regulation 27 of the Combinations Regulations provides that where the Commission is of the opinion that the implementation of the modifications to the proposed combination needs supervision, it may appoint agencies to oversee such modifications, in terms of the General Regulations, 2024 and on such terms and conditions as may be specified by the Commission.

IMPLEMENTATION AND MONITORING OF ORDERS

Section 64 of the Act, empowers the Commission to make regulations to carry out the purposes of the Act. In exercise of the said powers, the Commission has notified the Competition Commission of India (General) Regulations, 2024 (General Regulations). Regulation 54 of the General Regulations deals with the implementation and monitoring of orders passed by the Commission. The said regulation 54 reads as under :

54. Implementation and monitoring of orders passed by the Commission.

- (1) Where the Commission is of the opinion that the implementation of its orders passed under *Section 31 or Section 48A or Section 48B or any other provisions* of the Act and regulations made thereunder, needs monitoring, it may appoint agencies to oversee such implementation, on such terms and conditions as deemed fit by the Commission.
- (2) The agencies appointed under sub-regulation (1) shall be independent of the parties to the proceedings in the matter, and shall confirm that they do not have any conflict of interest with the said parties.
- (3) Such agencies referred to in this regulation may include an accounting firm, management consultancy, any other professional organisation or Chartered Accountants/ *Company Secretaries/ Cost Accountants*.

- (4) The agencies appointed under sub-regulation (1) shall carry out the responsibilities as specified by the Commission from time to time, *inter alia*, including:
- monitoring the implementation of the orders of the Commission in accordance with its terms of engagement;
 - informing the Commission of any non-implementation or non-compliance of such orders;
 - adequately disclosing any direct or indirect pecuniary or non-pecuniary interest that is likely to prejudice performance of its duties under the terms of its engagement;
 - submit reports related to monitoring of the implementation of the orders of the Commission, at such periodic intervals as directed by the Commission;
 - maintaining highest standards of confidentiality in respect of information received or collected during the discharge of its obligations; and
 - performing such other duties as stipulated under the terms of its engagement or directed by the Commission.
- (5) The Commission may, suspend or terminate the engagement of agencies appointed under sub-regulation (1) in such manner as may be determined by terms of its engagement:
- Provided that notwithstanding anything contained in the terms of engagement, the Commission may, if it deems necessary, revoke the engagement, for reasons to be recorded in writing and such revocation shall not be questioned in any court of law or otherwise.
- (6) The payment to the agencies appointed under sub-regulation (1) shall be made by the person who has filed an application under regulation 3 of the Competition Commission of India (Settlement) Regulations, 2024 or regulation 3 of the Competition Commission of India (Commitment) Regulations, 2024 or who has filed a notice under regulation 9 of the Competition Commission of India (Combinations) Regulations, 2024 or in any other case, by any other person as directed by the Commission, as the case may be, by depositing it with the Commission or as may be directed by the Commission, subject to satisfactory discharge of responsibilities by the agencies. (emphasis added)

Hence a PCS is entitled to be appointed as an implementation and monitoring agency on such terms

and conditions as may be deemed fit by the Commission. The PCS needs to be independent of the parties to the proceedings, not having any conflict of interest with the parties. The PCS shall carry out the tasks like monitoring the implementation of the orders of the Commission; informing the Commission of any non-implementation or non-compliance of such orders; submitting periodic reports related to monitoring of the implementation of the orders etc. As an independent professional, the PCS is expected to disclose any direct or indirect pecuniary or non-pecuniary interest which may prejudice the performance of duties and to maintain the highest standards of confidentiality. In case, the Commission revokes the engagement, for reasons to be recorded in writing, such revocation can not be questioned in any court of law or otherwise.

Prior to 10th September 2024, the Competition Commission of India (Procedure in Regard to the Transaction of Business relating to Combinations) Regulations, 2011 were in force and the same have now been repealed and replaced by the Combinations Regulation 2024. It is interesting to note that the 2011 Regulations did authorised the Commission to appoint agencies to oversee the implementation of the modification to a combination. But there was no mention of the professionals (except the law firms). Now the new Regulations have also recognised the three professionals, namely, Chartered Accountants, Company Secretaries and Cost Accountants for being appointed as the implementing and monitoring agency.

CONCLUSION

Section 3(3), Section 3(4), Section 4 and Section 6 are the most sensitive Sections of the Act. The contravention of these Sections has resulted into imposition of penalties running in to thousands of crores of rupees. Tools such as settlement, commitment, leniency, leniency plus, compounding etc. have also been incorporated under the Act which result into expeditious disposal of the cases and thereby saving of valuable time of the enterprises as well as the regulator. Company Secretaries can play important role under the revised competition regime in the country. Being fully familiar with the corporate affairs, Practising Company Secretaries would be the natural allies of all the stakeholders concerned. Hopefully, the Company Secretaries would come up to the expectations of the Commission by their diligent and efficient monitoring of the implementation of the Commission's orders.

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Understanding Artificial Intelligence: A Layman's Overview

This article explores the evolution and applications of Artificial Intelligence (AI), emphasizing its attempt in replicating human intelligence. It also distinguishes between objective functions, like arithmetic calculations, and subjective functions, such as decision-making, illustrating how Artificial Intelligence systems are designed to learn and adapt autonomously. The discussion outlines the three stages of development of Artificial Intelligence: Symbolic Artificial Intelligence, Machine Learning and the anticipated emergence of Artificial Super Intelligence. Various sectors, including healthcare, finance, and education are highlighted as key areas of Artificial Intelligence applications. Existing Artificial Intelligence systems, while not fully capable of replacing the functions of a Company Secretary, can still assist in their professional performance. As Artificial Intelligence continues to advance, the implication for society becomes increasingly significant and complex.



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INTRODUCTION

The last two decades has witnessed a tremendous application of Artificial Intelligence (AI) in almost all fields of human activity including economics, stock market, marketing, management, law, etc. (Oke, 2008). This period has also seen a swift expansion of general and specialized literature on artificial intelligence across both traditional and digital media

platforms. The primary focus of these writings has been on the potential use of Artificial Intelligence for the betterment of human life. This short article tries to make a small contribution to the said literature by attempting to explain artificial intelligence from the perspective of a layman.

HUMAN INTELLIGENCE

From an analytical standpoint, Artificial Intelligence represents an endeavour to replicate the intricate activities and tasks that are performed by human beings (using their brain) through artificial means. Consequently, to understand Artificial Intelligence in its true perspective, it is important to understand the concept of human intelligence.

An examination of the recent literature on the concept of human intelligence reveals that there is no consensus in that field regarding the definition of human intelligence. As early as 2007, Shane Legg and Maras Hutter complied about seventy-one definitions of human intelligence after an extensive survey of existing literature (Legg & Hutter, 2007). As a result of this disagreement, it is difficult to understand human intelligence with a precise amount of accuracy.

Nevertheless, at the most fundamental level, human intellect performs at least two sorts of functions. Firstly, human intelligence executes tasks or functions that must yield consistent outcomes, regardless of individual differences. For example, tasks like addition, subtraction, multiplication, etc. Since, these results should consistently align, and there exists a definitive right and wrong, these functions can be classified as objective functions executed by human intelligence. Thus, when a person multiplies 15×20 , he should on all occasions get the result 300. If he obtains a different result on any occasion, his answer will be deemed wrong, and his intellectual capacity will be regarded with scepticism. Similarly, when another person B multiplies 15×20 , he too should also get the answer as 300 on all occasions.

Secondly, there are a set of functions executed by the human brain which produce different results on different occasions depending on the situation. Such subjective functions can be seen in various human decisions making processes. For example, assume that two individuals, A and B, are situated in the same location and must make a decision regarding whether to visit the City Park, in the evening, which is situated ten kilometres away. Depending upon the inputs available, each of the two will make a decision that may not align. Suppose at the time A and B were deciding, the following common inputs were available, namely, (1) it is raining outside, (2) the local radio is reporting that there is a traffic block near City Park and (3) it is a working day, and he/she will have to take half day leave to go to the park. Based on their separate analysis of each of these inputs and based on the weight they assign to each input, both A and B will take a decision which need not be identical. A may decide to go to the park while B may decide not to go. This is because A and B will rarely assign the same weight to each of the input factors as their experience, previous learning and understanding of the inputs varies. Neither of the decision can be termed as right nor wrong.

ARTIFICIAL INTELLIGENCE

Almost all the objective functions performed by humans - including the example of arithmetic calculations mentioned above - are being executed by computer systems ever since its invention in the mid-1940's. In contemporary times, these tasks performed by computer systems are not described as Artificial Intelligence. However, these days when the subjective functions performed by humans are attempted to be replicated by computer systems, it is referred to as Artificial Intelligence. It is in this context that the following definition on Artificial Intelligence provided by the European Commission in 2018 becomes relevant:

"Artificial Intelligence (AI) refers to systems that display intelligent behaviour by analysing their environment and taking actions - with some degree of autonomy - to achieve specific goals" (European Commission, 2018).

Returning to the example of taking a decision whether to go to the City Park or not, an Artificial Intelligence system can also take the decision just like A or B provided the said system has been properly programmed and trained to take such a decision. The weight that the Artificial Intelligence system will assign to each input factor will depend on such training and programming.

TRADITIONAL COMPUTER SYSTEMS VS. ARTIFICIAL INTELLIGENCE SYSTEMS

Traditional computer systems rely heavily on the software codes developed by human programmers for functioning. The rules contained in these codes serve as the sole basis for the traditional computer systems to take decisions

This necessitates that every Company Secretary stay informed about the latest advancements in the field of Artificial Intelligence.

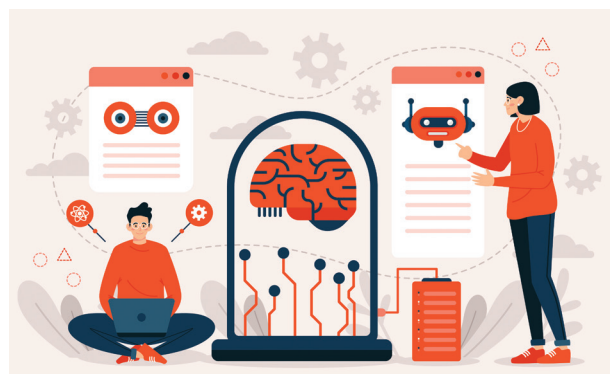
and process input data. Consequently, the ability of such systems to take decisions is limited by those rules. The rules contained in the programme codes can deal with only certain fixed situations. Consequently, when input data becomes more and more diverse and complex, the traditional computer systems (limited by the human programmed rules) are not able to respond to them effectively (Blank, 2012).

Artificial Intelligence systems, on the other hand, are programmed in a fundamentally different manner. The software developer writes software programmes that helps the Artificial Intelligence systems to train itself and learn from input data. Based on this learning, the Artificial Intelligence systems can take decisions on its own without solely relying on rules framed by human coded software. This ability enables Artificial Intelligence systems to respond quickly to complex input data (Sarker, 2021).

THE EVOLUTION OF ARTIFICIAL INTELLIGENCE: THREE KEY STAGES

The development of Artificial Intelligence can be understood through three stages or generations, namely: (1) Symbolic Artificial Intelligence, (2) Machine Learning and Data Driven Artificial Intelligence and (3) Artificial Super Intelligence (Boucher, 2020).

The first stage of evolution of Artificial Intelligence involved the building of expert systems by engineers. These systems were programmed by engineers to follow a rule-based algorithm which enabled it to respond intelligently to a given situation. The second stage began to extensively emerge in the last two decades, when computer systems were able to obtain continuous data input using reliable sensors without any human intervention. The ever-increasing computing speed and capacity of computer systems allow them to continuously process input data and perform specific tasks with great efficiency. The third stage of evolution of Artificial Intelligence which is a possible future prospect, emphasizes the performance of general tasks by computer systems, as opposed to the specific tasks that were the focus of the first and second stages of development of Artificial Intelligence. However, existing technology is incapable of generating such Artificial General Intelligence (AGI).



ARTIFICIAL INTELLIGENCE IN PRACTICE: DIVERSE APPLICATIONS ACROSS SECTORS

Second-generation Artificial Intelligence systems, which are capable of reading and processing data intelligibly for specified purposes, without any human intervention, have enabled scientists to develop a wide range of applications that benefit humanity. Some of the most common fields where Artificial Intelligence is being used are gaming industry, heavy industry, weather forecasting, expert systems, data mining (knowledge extraction) (Borana, 2016), health care, retail industry, manufacturing, banking (Sana, 2024), finance, travel and transport, social media, astronomy, automotive industry, robotics, e-commerce, education (Patil et al., 2023), etc.

IMPACT OF ARTIFICIAL INTELLIGENCE ON THE COMPANY SECRETARY'S JOB

The functions performed by a Company Secretary include ensuring compliance with statutory and regulatory requirements, maintaining corporate records, and facilitating communication between the Board of Directors and shareholders. Additionally, they often play a key role in organizing Board Meetings and preparing agendas and minutes. This role remains dynamic due to the constantly growing regulatory environment and changing dynamics of the company's internal functioning (Mishra, 2020). Hence, this role is multi-dimensional, encompassing both general and specific tasks requiring the sourcing of data from diverse fields. Existing Artificial Intelligence systems, that can perform only specific tasks, may not be suitable to completely replace human professionals. Therefore, it is unlikely that Artificial Intelligence systems will replace Company Secretaries in the near future. However, the use of currently available Artificial Intelligence systems as obedient tools to streamline decision-making, particularly in the area of compliance, can enrich the profession of Company Secretary. This necessitates that every Company Secretary stay informed about the latest advancements in the field Artificial Intelligence.

CONCLUSION

Artificial Intelligence is currently only in its second stage of development. Even then, Artificial Intelligence is widely applied in a variety of sectors. This scenario will erupt once

third-generation Artificial Intelligence systems capable of performing both general and specific activities and capable of completely replacing humans, become technologically feasible. However, at this point, it is difficult to predict whether such a development would benefit or harm human civilisation.

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Digital Transformation & AI : Shaping Profiles of Future Professionals

AI is transforming industries and jobs, requiring professionals to adapt and develop new skills. The key skills for the future include: understanding AI's strengths and weaknesses, critical thinking, data analysis, and human-centric skills like communication and creativity. Ethical considerations of AI use are important, such as ensuring data privacy, avoiding bias, and being transparent about AI limitations. The future of work will be defined by professionals who can leverage AI effectively. This requires continuous learning and adaptation to stay relevant in the AI-driven world. AI offers both challenges and opportunities. By embracing AI and digital transformation, professionals can enhance their capabilities and drive organizational success.



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INTRODUCTION

"Everything we love about civilization is a product of intelligence, so amplifying our human intelligence with artificial intelligence has the potential of helping a civilization flourish like never before – as long as we manage to keep the technology beneficial." - Max Tegmark, President of the Future of Life Institute

The convergence of Artificial Intelligence (AI) and digital transformation is ushering in a new era of professional work. As evidenced by the rapid advancements in various fields, from law and healthcare to education and finance, AI is no longer a futuristic concept but a tangible reality. AI is expected to radically transform all kinds of jobs over the next few years. No longer can the exclusive purview of technologists, AI now be put to work by nearly anyone, using commands in everyday language instead of code. It is estimated that this emerging technology has the potential to contribute trillions of dollars to the global economy annually, primarily by automating tasks that currently consume nearly 70% of employees' time. According to HBR research, most business functions and more than 40% of all work activity can be augmented, automated, or reinvented with AI.

In the realm of legal practice, for instance, AI-powered assistants are becoming indispensable tools for attorneys, aiding in tasks such as contract analysis, case prediction, and regulatory compliance. Similarly, in the healthcare

sector, AI-driven diagnostics and personalized treatment plans are revolutionizing patient care.

Beyond these specific examples, a common theme emerges: AI's transformative potential lies in its ability to automate routine tasks, provide valuable insights, and augment human decision-making. This trend is not limited to a few industries but is pervasive across the professional landscape. While it may not be the immediate focus for all professionals, its influence on decision-making is undeniable. The widespread recognition of AI's potential stems from its proven ability to drive growth and improve internal processes.

For Company Secretaries and professionals alike, adapting to these advancements is imperative. The future of work is being shaped by AI, and those who embrace its potential will be well-positioned to thrive in this evolving landscape.

DIGITAL JURISPRUDENCE AND THE ROLE OF PROFESSIONALS

The legal framework surrounding AI is still developing. The EU's AI Act, the world's first comprehensive AI law, will regulate AI usage within the EU by establishing obligations for providers and users based on the level of risk associated with their AI applications. India, too, is evolving its regulatory landscape through guidelines and initiatives like the national AI strategy, #AIFORALL. The Minister of Electronics and Information Technology, Ashwini Vaishnaw, stated at the Global India AI Summit 2024 that the government is working on regulations and legislation for AI, focusing on mitigating risks and implementing safeguards.

The existing jurisprudence, exemplified by the Shreya Singhal judgment, established the concept of safe harbor and intermediary liability to protect content hosts from liability as long as they adhered to due diligence. However, as AI becomes more integrated into these platforms, applying these protections is becoming increasingly challenging. Professionals and constitutional courts will need to creatively interpret existing laws to balance the need for accountability with the autonomous nature of AI outputs.

The debates around intermediary responsibility provide a fertile ground for future legal frameworks. On the one hand, professionals may find opportunities to advocate for new interpretations of liability, potentially drafting or advising on laws that better align with the unique capabilities of AI. On the other hand, distinguishing between user-generated content and AI-generated material will pose a unique challenge, especially in terms of applying precedents like the *Christian Louboutin v Nakul Bajaj* case, where passive intermediaries were exempt from liability. As these boundaries blur, professionals will need to sharpen their understanding of AI technology to represent their clients both internal and external.

Copyright Law presents another avenue of growth and complexity for professionals. The current framework, such as the Indian Copyright Act of 1957, does not yet account for AI-generated works, leaving room for creative legal arguments about authorship, ownership, and protection. Should co-authorship between humans and AI be formalized? How can existing copyright provisions be adjusted to accommodate these evolving realities? These questions, while unresolved, offer professionals a unique opportunity to shape the future of intellectual property law in the age of AI.

Simultaneously, the Digital Personal Data Protection (DPDP) Act introduces significant challenges, particularly around rights like the “right to be forgotten.” As AI systems cannot simply unlearn the data they have absorbed, professionals will need to grapple with how to protect individuals’ data privacy in an era where information is woven into the fabric of AI models. Navigating these issues will require an intricate balance of legal expertise, technical understanding, and a forward-thinking approach. The road ahead will require a careful re-evaluation of existing laws and legal structures.

For professionals, this means expanding their expertise into AI-related risks and opportunities, consulting on compliance frameworks, and staying ahead of national and international legal trends as they develop. Those who can master both the technical nuances of AI and the complexities of evolving jurisprudence will find themselves at the forefront of their profession in this transformative era.

DATA-DRIVEN DECISIONS: HOW AI EMPOWERS PROFESSIONALS

Artificial Intelligence (AI) has transcended the realm of science fiction and firmly established itself as a transformative force shaping the professional landscape. This section explores how AI is being harnessed across diverse industries, empowering professionals to excel in their respective domains.

One of the most immediate impacts of AI is the automation of repetitive tasks. For instance, in the legal industry, professionals are increasingly leveraging AI-powered platforms like Luminance, which automates contract review and due diligence. This not only frees

up valuable time for lawyers to focus on strategic legal advice but also ensures greater accuracy and consistency in the review process. Similarly, in the financial sector, AI algorithms are adept at analyzing vast datasets to identify trends and potential risks, allowing financial analysts and risk management professionals to make data-driven decisions with greater confidence.

Pigment AI, a sophisticated financial planning tool built on OpenAI technology, integrates a powerful chatbot directly into spreadsheets and dashboards. By analyzing a company’s extensive data, this innovative software can provide insightful answers to complex questions. For example, it can predict the potential impact of launching a new product three months earlier or offer strategies to double revenue within a year.

In the manufacturing sector, AI-powered robots and automation systems are streamlining production lines, reducing errors, and increasing efficiency. Companies into manufacturing operations use AI to optimize manufacturing processes and predictive maintenance, ensuring minimal downtime and enhanced productivity. In retail, AI-driven inventory management systems help retailers to maintain optimal stock levels, predict demand, and reduce waste. Amazon’s use of AI in its warehouses is a prime example of how automation can revolutionize supply chain management.

Tesla’s Optimus robots offer promising potential in automation, with applications ranging from household chores to industrial tasks. Their ability to perform tasks with dexterity and precision, coupled with their potential for companionship, could significantly improve professional lives. The development of these robots could also drive innovation and create new economic opportunities.

AI’s ability to analyze vast troves of data empowers professionals with invaluable insights. In healthcare, platforms like Jivi.AI utilize AI to conduct initial patient consultations, gather medical histories, and answer basic questions. This frees up valuable time for professionals like doctors, health care staff to focus on complex cases and patient interactions while ensuring a more comprehensive understanding of each patient’s medical background.

Similarly, AI-driven personalized learning platforms like Coursera and edX leverage sophisticated algorithms to analyze learners’ progress and preferences. This allows them to recommend relevant courses and provide targeted feedback, ultimately leading to a more effective and engaging learning experience.

In the media and entertainment industry, AI has emerged as a formidable force in the realms of game development, movie production, and advertising, innovating creative processes across industries. Giants in both the media and entertainment and technology spheres, including Blizzard Entertainment, Walt Disney World, Google, Microsoft, and Intel, have converged their expertise to craft, launch, and refine a plethora of AI-driven innovations, propelling

the industry and professionals into uncharted territories of imagination and spectacle. This thriving sector is poised for remarkable expansion, with a projected CAGR of 26.9% anticipated from 2022 through 2030.

In agriculture, AI applications include precision farming, where AI analyzes data from sensors and drones to optimize crop yields and reduce resource usage. This technology enables farmers to make informed decisions about planting, irrigation, and harvesting, leading to more sustainable and productive farming practices.

In the energy sector, AI is used to predict energy consumption patterns and optimize the distribution of electricity, helping to manage renewable energy sources more effectively and reduce wastage.

Elevating Customer Service with AI-Powered Interactions

Customer service is another area witnessing a significant transformation due to AI. Chatbots and virtual assistants powered by AI can handle routine customer inquiries, answer frequently asked questions, and provide instant support. This not only improves customer satisfaction by offering 24/7 assistance but also frees up human agents to address more complex customer issues that require a personal touch. This seamless blend of human and AI interaction elevates the overall customer service experience.

In the travel and hospitality industry, AI chatbots assist travelers with booking flights, hotels, and providing travel recommendations. Companies like Expedia and Booking.com use AI to enhance customer experience by offering personalized suggestions and real-time assistance. In the banking sector, AI-driven virtual assistants help customers with banking queries, fraud detection, and personalized financial advice. Bank of America's Erica is a notable example of how AI can enhance customer service in the financial industry. Erica represents a new era in banking, harnessing the capabilities of artificial intelligence (AI) to provide customers with a personalized, efficient, and convenient banking experience.

COMPANY SECRETARIES AND COMPLIANCE MANAGERS: A UNIQUE PERSPECTIVE

While the benefits of AI extend across industries, company secretaries and compliance managers stand to gain significant advantages from this technology. The integration of AI into their workflows can lead to transformative changes in how they manage governance, compliance, and risk.

Streamlining Governance Processes: AI can examine large volumes of data and offer insights. These insights could be crucial to business strategy, risk management, and governance. AI can automate many routine governance tasks, such as maintaining statutory registers, drafting routine board and committee meeting materials, generating forms, filing, organising

The future belongs to those who are prepared to harness the full potential of AI, creating a symbiotic relationship between humans and machines that will redefine the professional landscape.

minutes from meetings, maintaining current records and filing regulatory documents. This automation not only enhances efficiency but also ensures accuracy and consistency in these critical tasks. By freeing up valuable time, Company Secretaries can focus on strategic initiatives, such as providing high-level advice to Boards of Directors and ensuring the implementation of good corporate governance practices. For instance, AI may help with the creation of reports and documents for Board Meetings, analyse documents to identify key points of interest, and provide a summary of content. AI-driven document management systems can automatically update and organize statutory records, reducing the risk of human error and ensuring compliance with regulatory requirements. AI virtual assistants can also be useful for arranging meetings, sending reminders, and even assisting with the creation of agendas and minutes.

Enhancing Risk Management: While AI cannot replace the sophisticated judgment and interpersonal skills required of a Company Secretary, it can surely improve the efficiency and effectiveness of their role. At the same time, AI in this role necessitates a shift in mindset and skills. AI-powered tools can analyze vast amounts of data to identify potential compliance risks and predict future issues. This predictive capability allows Company Secretaries and compliance managers to take proactive measures to mitigate risks and ensure their organizations remain compliant. Advanced AI algorithms can monitor regulatory changes and flag potential areas of concern, enabling timely interventions. For example, AI can analyze patterns in financial transactions to detect anomalies that may indicate fraudulent activities, thereby enhancing the organization's risk management framework.

Improving Decision-Making : AI can provide data-driven insights on governance and compliance matters. By analyzing past data and regulatory trends, Company Secretaries and compliance managers can make more informed decisions, leading to improved governance and compliance strategies. AI tools can generate comprehensive reports that highlight key trends and potential risks, facilitating better decision-making. For example, AI can help in scenario planning by simulating the impact of different regulatory changes on the organization, allowing Company Secretaries to develop robust compliance strategies.

Staying Ahead of Regulatory Changes : Regulatory landscapes are constantly evolving, and staying up-

to-date with the latest developments is crucial for compliance. AI can help Company Secretaries and compliance managers stay informed about the latest regulatory changes, ensuring their organizations remain compliant and avoid potential penalties. AI-driven regulatory intelligence platforms can continuously monitor global regulatory updates and provide real-time alerts, enabling swift adaptation to new requirements. This proactive approach not only ensures compliance but also positions the organization as a leader in governance and regulatory adherence.

In conclusion, the integration of AI into the roles of Company Secretaries and compliance managers offers a unique perspective on how technology can enhance governance, risk management, and compliance. By leveraging AI, these professionals can not only streamline their workflows but also elevate their strategic contributions to their organizations, ensuring robust governance and compliance in an increasingly complex regulatory environment. However, there is no substitute for experience. The successful implementation of AI requires a blend of experience and strategic planning. Company Secretaries, with their expertise, play a pivotal role in navigating the complexities of AI adoption. By establishing robust AI governance procedures and due diligence procedures, Company Secretary can harness the potential benefits of this technology while mitigating associated risks. This approach ensures that AI is used responsibly and contributes to long-term value creation.

CHALLENGES AND STRATEGIC SOLUTIONS

While AI holds immense potential, its adoption comes with several challenges that professionals and businesses must navigate:

1. **Data Privacy and Security Concerns :** Implementing AI often requires access to large volumes of data, raising significant concerns about data privacy and security. Ensuring that sensitive information is protected and complies with data protection regulations is a major challenge. Professionals while using confidential data or proprietary information of the company in AI prompts must use only company-approved models behind corporate firewalls and should never use open-source or public LLMs. Further they should implement robust cybersecurity measures and stay updated with evolving data privacy laws to mitigate these risks.
2. **AI's Black Box Problem - A Need for Transparency:** AI systems often function like black boxes, meaning their decision-making processes are hidden from view. This lack of transparency makes it difficult for businesses, users, and regulators to understand how AI algorithms reach their conclusions. This can lead to unintended consequences, such as discrimination or unfair treatment. Professionals can minimize the black box problem by increasing transparency, addressing bias, involving experts, educating stakeholders, and complying with regulations. This involves providing explanations, documenting algorithms, conducting
- audits, using bias detection techniques, consulting experts, educating others, and staying up-to-date on regulations.
3. **High Implementation Costs :** The initial investment required for AI technology can be substantial. This includes costs related to purchasing AI software, hardware, and the necessary infrastructure, as well as training employees to effectively use these new tools. For many organizations, especially small and medium-sized enterprises (SMEs) or less affluent professionals, these costs can be a barrier to adoption. This challenge can be overcome by considering utilizing managed AI services. These services not only eliminate the need for managing infrastructure and model training but also enable businesses to leverage AI capabilities without worrying about computational requirements.
4. **Skill Gaps and Training Needs :** Successful AI implementation requires a workforce with the necessary skills to manage and operate AI systems. There is often a gap between the current skill levels of employees and the expertise needed to leverage AI effectively. Organizations and professionals must invest in training and development programs to bridge this gap and ensure their teams are equipped to handle AI technologies.
5. **Integration with Existing Systems :** Integrating AI with existing legacy systems can be complex and time-consuming. Compatibility issues may arise, requiring significant modifications to current systems and processes. This integration challenge can delay the implementation of AI and increase costs. Change initiatives can be met with resistance. To foster acceptance, it's crucial to involve stakeholders early in the process and ensure that new systems align with their needs and expectations
6. **Regulatory and Compliance Challenges :** The regulatory landscape for AI is still evolving, and professionals must navigate a complex web of regulations and standards. It is important for professionals to stay informed about regulatory updates and adjust AI implementations accordingly. Staying compliant with these regulations while leveraging AI can be challenging, requiring continuous monitoring and adaptation.

To address these challenges and harness the benefits of AI, professionals must develop certain skills and competencies to ensure that its implementation leads to positive and sustainable outcomes.

NAVIGATING THE DIGITAL FRONTIER: ESSENTIAL COMPETENCIES FOR MODERN PROFESSIONALS

The intersection of AI and digital innovation is creating a paradigm shift in the professional world, necessitating a rethinking of skillsets. This digital revolution is demanding a new toolkit of abilities and competencies,

challenging individuals and organizations to adapt or risk becoming obsolete.

To excel in this new era of AI-human collaboration, professionals will need to develop what can be termed as “fusion skills”—intelligent interrogation, judgment integration, and reciprocal apprenticing.

Intelligent Interrogation involves effectively instructing AI systems by way of intelligent prompts to produce better reasoning and outcomes. When prompting AI, professionals need to break down the process it should follow into the constituent parts thinking step by step for increasing the accuracy of the output. For instance, a Company Secretary might use AI to analyze complex regulatory documents, a lawyer to predict case outcomes, or a financial analyst to optimize investment strategies. This skill is about thinking with AI to enhance decision-making processes.

Judgment Integration is crucial for ensuring the reliability and ethical soundness of AI outputs. Professionals must apply their discernment when AI models are uncertain or lack context. This involves knowing when and how to intervene, ensuring that AI-driven decisions are accurate, trustworthy, and aligned with business ethics.

Reciprocal Apprenticing involves training AI systems with rich organizational knowledge to tailor them to specific business contexts. For example, a Company Secretary can input detailed corporate governance data to help AI provide more relevant insights. This mutual learning process enhances both the AI’s capabilities and the professional’s understanding of how to leverage AI effectively.

To navigate this evolving landscape, professionals need to acquire key competencies and skills, such as:

Technological Proficiency

Technological proficiency is a cornerstone of success in the digital age. A solid understanding of Artificial Intelligence (AI), Machine Learning (ML), and Deep Learning (DL) is indispensable for effectively leveraging these transformative technologies. Moreover, data literacy—the ability to analyze, visualize, and interpret data—is crucial for making informed decisions based on data-driven insights. Proficiency in digital tools and platforms, such as cloud computing, automation software, and cybersecurity tools, is equally essential for efficient and secure work.

Problem-solving and Critical Thinking

Problem-solving and critical thinking are vital for navigating the complexities of the digital world. The ability to identify and solve complex problems creatively and efficiently is a hallmark of successful professionals. Additionally, critical thinking—the capacity to analyze information, evaluate arguments, and make sound judgments—is essential for making informed decisions in a rapidly changing environment.



Adaptability and Lifelong Learning

Adaptability and lifelong learning are indispensable in the face of technological advancements. The accelerating pace of change necessitates a commitment to lifelong learning to stay updated with the latest trends and innovations. Furthermore, the ability to embrace change, learn new skills, and adapt to evolving job requirements is crucial for success in the digital age.

Human-centric Skills

Human-centric skills are equally important in the digital workplace. Emotional intelligence—the ability to understand and manage emotions effectively—is essential for building strong relationships and collaborating effectively. Clear and effective communication skills are vital for interacting with colleagues, clients, and stakeholders. Moreover, creativity and innovation are essential for driving progress and staying competitive in a rapidly evolving landscape.

Reskilling for the Digital Age

With the rise of digitalization and AI, professionals need to reskill to adapt to a changing job market. Many back-office functions are expected to become automated in the near future. IBM’s CEO predicts that 30% of these roles could disappear within five years, leading the company to pause hiring for such positions. Microsoft Copilot has the potential to significantly reduce the time it takes for data analysts and other spreadsheet-heavy roles to complete their tasks, potentially decreasing the demand for these positions.

As we delve deeper into the specifics of these competencies, it becomes evident that the future of professional work is not just about technological prowess but also about integrating these skills seamlessly into everyday practice.

ETHICAL CONSIDERATIONS FOR PROFESSIONALS USING AI

As professionals increasingly adopt AI tools into their workflows, it is imperative to prioritize ethical considerations. Ethical AI—the responsible development and deployment of AI systems—ensures that technology is used for the benefit of society while minimizing potential risks.

To ensure the ethical use of AI, professionals must address the following key considerations:

Understanding AI Capabilities and Limitations: Professionals must have a clear grasp of the strengths and weaknesses of AI tools they employ. This includes recognizing potential biases, inaccuracies, and the risk of hallucinations in AI-generated content.

Independent Verification: Relying solely on AI outputs without thorough review is risky. Professionals should implement robust verification processes to ensure accuracy and reliability, especially when dealing with critical tasks.

When using AI in legal or compliance matters, professionals must adhere to the highest ethical standards. This includes ensuring that AI-generated content is not used to make false or misleading claims.

Safeguarding Sensitive Information: Handling client data with utmost care is paramount. Professionals must assess the sensitivity of information before inputting it into AI systems and implement stringent measures to prevent unauthorized access or disclosure.

Informed Consent: Obtaining explicit consent from clients before sharing their data with AI tools is crucial, especially for self-learning algorithms that may retain and process information.

Open Disclosure: Professionals should be transparent with clients about their use of AI, addressing any questions or concerns they may have. This builds trust and fosters open communication.

Avoiding Misleading Information: AI-generated content must be carefully reviewed to ensure it is accurate and not misleading. Professionals should correct any errors or inaccuracies promptly.

Adherence to Professional Codes: Professionals should be aware of and comply with relevant professional codes of conduct, which may have specific guidelines on AI usage.

Oversight and Training: Organizations and professionals must establish clear policies and provide adequate training to ensure that their employees understand the ethical implications of AI and use it responsibly.

Third-Party Risk Management: When outsourcing AI-related tasks, professionals must carefully evaluate third-party providers and ensure they adhere to the same ethical standards.

Bias Mitigation: AI models can inherit biases present in the data they are trained on. Professionals should be vigilant in identifying and mitigating biases to ensure fair and equitable outcomes.

Long-Term Impact: Consider the long-term implications of AI on society and the profession. Professionals should contribute to responsible AI development and advocate for ethical guidelines.

CONCLUSION

The AI revolution is not a distant future; it is unfolding now, with leading companies leveraging this technology to transform processes across industries, functions, and jobs. AI has significantly elevated expectations, compelling us to collaborate with AI, trust its outputs, and continuously refine both the technology and our own skills to achieve superior performance.

This era of digital transformation and AI integration is unique in the history of technological advancements due to its rapid adoption and profound impact. Knowledge work is poised for a transformation that is faster and more powerful than we can currently envision. The future of business will be driven not solely by AI but by the professionals who master its use.

The advent of AI offers a dual-edged sword for professionals: while it challenges traditional legal norms, it simultaneously presents unprecedented opportunities for growth and specialization.

As we navigate this evolving landscape, it is clear that the future of professional work will be defined by those who can seamlessly integrate AI into their daily practices and how well professionals can adapt, innovate, and lead within this fast-evolving technological landscape.

This requires a blend of technological proficiency, critical thinking, adaptability, and human-centric skills. By developing these competencies, professionals can ensure they remain relevant and effective in an AI-driven world.

The journey ahead is one of continuous learning and adaptation. Embracing AI and digital transformation will not only enhance individual capabilities but also drive organizational success. The future belongs to those who are prepared to harness the full potential of AI, creating a symbiotic relationship between humans and machines that will redefine the professional landscape.

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Evolving Governance in MSMEs and Start-Ups: The Expanding Role of Governance Professionals

The article “Evolving Governance in MSMEs and Start-Ups: The Expanding Role of Governance Professionals” discusses the growing role of governance structures in Micro, Small, and Medium Enterprises (MSMEs) and Start-Ups. With the increasing regulatory demands on these entities, the role of governance professionals is significant in moulding strategic decisions in compliance while bringing ethical leadership into practice. The critical governance principles for organizational success are described as follows: accountability, transparency, and responsibility. It, therefore, reveals the complexity of the regulatory requirements and the need for more excellent risk management systems.



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INTRODUCTION

M SMEs and new Start-Ups are some of the main factors responsible for growth in the global economy, innovation, and jobs. High-tech rivalry is now part of daily life, so proper governance is a significant determinant of firm success. Governance represents the structure, strategy, and practices that guide and regulate organizations to make them accountable, transparent, and professional. This paper discusses what governance means for MSMEs and Start-Ups, the evolving role of the governance professional, and how they can shape the governance landscape for such organizations. As regulatory requirements become more complex and business challenges grow, governance professionals increasingly step into expanded roles, becoming integral parts of strategic decision-making.

UNDERSTANDING GOVERNANCE IN MSMES AND START-UPS

Business governance is a framework that sets out a company's direction and directs its operation. Firm governance structures are complex to instill among

MSMEs and Start-Ups when they operate with weak resources and other unique limitations.

The basic principles of governance are fairness, accountability, transparency, and responsibility. These principles find expression in an organization where its stakeholders, from employees to investors, can guarantee that the organization operates in their best interest. Whereas corporate governance is commonly associated with large organizations, business governance for SMEs and Start-Ups is often more flexible and adaptable within the context of the smaller enterprise.

Despite recognizing the importance of governance, MSMEs and Start-Ups frequently encounter significant hurdles, including a lack of awareness of governance practices, resource constraints and a culture that may prioritize rapid growth over structured governance. Poor governance can lead to mismanagement, fraud, and business failure. Thus, fostering a solid governance framework early on can safeguard these businesses' long-term viability and growth.

ROLE OF GOVERNANCE PROFESSIONALS

Governance professionals are involved in the formation and execution of organizational governance frameworks. Typically, they integrate knowledge of law, finance, and ethical practices to handle the complications and strictures of the regulatory environment. They advise senior management, support their organization's strategic goals, ensure adherence to the principles of laws and regulations, and ensure compliance with corporate governance policies.

In the role of strategic collaborator, governance professionals have substantial insight for determining critical business decisions. Their expertise in facilitating constructive dialogue among stakeholders enhances the incorporation of diverse insights into the decision-making process, thus leading to more holistic strategies. Furthermore, with the continued drift toward decentralization and decentralized groups' need for greater autonomy in organizations, governance professionals will play a crucial role in ensuring that decentralized units are responsive to organizational objectives.

EVOLVING RESPONSIBILITIES OF GOVERNANCE PROFESSIONALS

The increasing demands of this complex business environment on the jobs of governance professionals in MSMEs and Start-Ups grow significantly. Four critical aspects are described below: Increasing regulatory requirements, playing a role in risk management and compliance, ensuring ethical leadership and corporate social responsibility, and supporting sustainability initiatives.

5.1. Increasing Regulatory Burdens

Recently, the regulatory obligations framework has grown increasingly complicated and a field where business houses have to navigate the jigsaw puzzle of local, national, and international regulations. Some factors that mainly influence this feature include globalization, technological advancements, increased consumer awareness, and responsible business practices and conduct.

1. **Holistic Regulatory Framework:** Governance professionals should converse with and implement several regulatory regimes relevant to their organizations. These include financial reporting regulations, labour rights, taxation, data protection, environmental requirements, and industry-specific compliance directives.
2. **Data Security and Privacy:** Increasing regulations, such as the GDPR in Europe or CCPA in the United States, have made organizations more responsible for protecting the data of their customers and employees. Data governance specialists and standards concerning optimal data protection policies and workshops for compliance audits and other activities are needed.
3. **Augmented Penalties:** The prospective legal ramifications associated with non-compliance have intensified, encompassing considerable financial repercussions and potential harm to the organization's reputation. Consequently, governance professionals must diligently oversee compliance, perform audits, and undertake corrective actions to prevent violations.
4. **Role in Training and Awareness:** Governance professionals will communicate the regulatory mandates and compliance protocols to the employees. By undertaking training and workshops, they ensure that all involved parties know their role in acting by compliance.
5. **Advisory Role in Strategic Decisions:** As regulations change, governance professionals are increasingly sought after in strategic planning processes to identify early how their developments can impact regulatory compliance. Their insights will help executive teams steer business

strategies through the regulatory risks, ensuring alignment of business strategies with compliance requirements.

5.2. Role in Risk Management and Compliance:

Risk management and compliance are fundamental components of sound governance that directly affect an organization's operational resilience and long-term viability. Governance professionals spearhead identifying, assessing, and mitigating diverse risks that MSMEs and Start-Ups face.

1. **Risk Identification:** Governance practitioners conduct regular assessments to understand the business risks encountered by the organization, whether operational, financial, strategic, or compliance risks. Using instruments such as SWOT analysis (Strengths, Weaknesses, Opportunities, and Threats) and risk matrices, they can identify weaknesses in the organizational framework.
2. **Risk Management Framework:** After identifying the risks, governance professionals should establish a risk management framework. This framework should comprise policies and procedures for evaluating risk, measures to mitigate risks, and a plan to deal with any eventuality.
3. **Compliance Monitoring:** Governance professionals implement systems to monitor adherence to regulatory requirements and internal policies. This includes conducting audits, reviewing processes, and assessing compliance measures' effectiveness. They also design feedback mechanisms for continuous improvement based on the outcomes of risk monitoring.
4. **Crisis Management:** Governance professionals are instrumental in deciding crisis management strategies in case of financial recessions, environmental catastrophes, or reputation damage. Their strategic acumen can help the organization navigate challenging times, ultimately translating into continuing functional operations.
5. **Inter-functional Collaboration:** Effective risk management requires inter-functionality collaboration, including the finance, operations, and human resources departments. Governance professionals facilitate communication and information-sharing to ensure a holistic risk management and compliance approach.

5.3 Promoting Ethical Leadership and Corporate Social Responsibility

Governance professionals are now being asked to serve as catalysts for ethical leadership and corporate social responsibility (CSR) in MSMEs and Start-Ups.

Their role goes beyond mere compliance, instilling an ethical culture and long-lasting responsibility toward all stakeholders.

1. **Developing Ethical Guidelines:** Governance professionals are instrumental in creating and disseminating ethical standards and codes of conduct within organizations. These guidelines are the foundation for ethical decision-making and establish clear expectations for employee behavior.
2. **Promoting Transparency:** Ethical governance requires openness and transparency in decision-making. Governance professionals develop practices that ensure accurate reporting, stakeholder engagement, and disclosure of potential conflicts of interest, enhancing trust.
3. **Ethical Leadership Training:** Governance professionals commonly develop training programs that showcase the precepts of ethical leadership. As such, organizations build an environment that values integrity and rational decision-making by providing the leaders and employees with skill and moral frameworks.
4. **Environmental and Social Initiatives:** Governance professionals work towards involving organizations in community development initiatives and sustainable sourcing practices to encourage them to participate in CSR initiatives, as defined by society's and the environment's needs. This improves society and enhances organizational reputation.
5. **Stakeholder Engagement:** Effective governance requires engaging stakeholders, including employees, customers, suppliers, and the community. Governance professionals facilitate this engagement.

5.4 Enabling Sustainability Initiatives

As international concern for the environment rises, governance professionals in MSMEs and Start-Ups are constantly challenged to integrate sustainability into the organization's governance framework. Such an effort fulfills regulatory and consumer expectations of a business and positions the business among responsible corporate citizens in the competitive marketplace. Below are some critical aspects of how governance professionals support sustainability initiatives.

1. **Developing Sustainability Policies**
Governance professionals play a vital role in formulating and implementing sustainability policies defining organizational stewardship for the environment and social responsibilities. It entails:
 - **Impact Evaluations:** Conduct assessments to measure the current environmental

impact of the organization, including resource consumption, waste generation, and carbon emissions.

- **Setting Goals:** Clear, measurable sustainability goals aligned with the mission and stakeholder expectations, such as reducing energy usage and waste or providing responsibly sourced products.
 - **Procedures Installation:** Creating policies and standard operating procedures to guide operations towards sustainability and ensure that all business activities incorporate the best practices in environmental management.
2. **Sustainability in Strategic Planning**
Governance professionals have a role to play in embedding sustainability into the organization's strategic planning processes. This means:
 - **Extended Strategic Outlook:** Encourage leadership to adopt an extended strategic outlook, where sustainability is embraced alongside profit, as sustainable methods can contribute to brand loyalty and productivity.
 - **Risk Assessment:** Integrating sustainability-related risks, such as regulatory alterations and supply chain interruptions resulting from climate change, into the organizational risk assessment process, ensuring that sustainability elements are incorporated into the comprehensive risk management framework.
 - **Reporting and tracking:** Developing reporting and monitoring of sustainability outcomes to report to stakeholders, thereby increasing accountability and transparency in sustainability performance. Reporting regularly helps the organizations fulfill their accountability obligation before the environmental reporting bodies for that calendar year.

AUGMENTING STAKEHOLDER INVOLVEMENT

Effective initiatives for sustainability require collaboration and commitment from a wide array of stakeholders. Governance professionals facilitate the engagement of these stakeholders through:

- **Stakeholder Engagement:** Hosting forums or conducting surveys to elicit the attitudes of workers, customers, suppliers, and community stakeholders about their perception of sustainability concerns and initiatives.
- **Partnerships and Collaborations:** Identifying potential partnerships with local organizations, NGOs, and industry groups that might lead to enhanced sustainability efforts through the organization itself. Collaborations may also provide

opportunities for knowledge sharing and resource reallocation to implement more effective programs.

- **Employee Engagement:** Create programs to engage employees in sustainability issues. These can include training sessions, volunteer opportunities for environmental initiatives, and recognition programs for sustainable practices within the organization.
- 4. Promotion of Sustainable Chain Practices**
Professionals in governance play a critical role in facilitating sustainability in the supply chain. These include:
- **Supplier selection:** The development of specifications to evaluate suppliers by their sustainability practices and high ethical standards. This makes responsible sourcing and transparency in the supply chain.
 - **Sustainable procurement:** Using procurement policies that guarantee the acquisition of products and services with positive environmental impacts to support a market for green products and reduce the organization's ecological footprint.
 - **Supply Chain Audits:** Suppliers are regularly audited to assess their sustainability activities and compliance with set standards. Ensuring suppliers adhere to environmental regulations helps reduce reputation damage and conformance risk.
- 5. Sustainability Outcome Monitoring and Record-Keeping**
Sustainability performance metrics are evaluated and reported by governance professionals to various organizations, including:
- **Key Performance Indicators (KPIs):** Establishing KPIs related to sustainability, such as energy usage, waste management, and carbon emissions, to quantify impacts and progress toward sustainability goals.
 - **Sustainability Reporting:** Sustainability reports are prepared to disclose an organization's environmental performance, challenges, and future objectives. Such reporting may also be based on well-recognized frameworks such as GRI or SASB, adding value.
 - **Continuous Improvement:** Using feedback mechanisms to identify opportunities for improvement in sustainability practices and policies. The governance professional can guide the organization toward making changes based on data-driven insights, facilitating a continuous sustainable development cycle.
- 6. Fostering Innovation through Sustainable Practices**
Ultimately, governance professionals are best placed to lead sustainable practices and innovation. These include:

Governance professionals must ensure that the Start-Ups IP is protected domestically and internationally.

- **Advocate for Research and Development:** Encourage resource investment in research and development activities for innovative, sustainable technologies and methods likely to lead to new products and/or processes that lighten environmental burdens.
 - **Promote a Sustainable Corporate Culture:** The organization's culture facilitating sustainability should be promoted with stimuli for innovative thinking to solve environmental problems. Encouraging such a culture will inspire employees to suggest improvements in sustainability.
- 6. Challenges Faced by Governance Professionals**

Conversely, CS, Legal Advisors, and Compliance Officers handling governance directly for MSMEs and Start-Ups in India face distinguishable problems. These organizations are inherently dynamic and informal and have complexities in India's regulatory environment.

1. Adherence to Regulations and Complexity Challenge

Most MSMEs and Start-Ups encounter problems with regulatory compliance since they are relatively small and resource-constrained, cutting across all the legislation enacted in this regard, such as the Companies Act 2013, the Goods and Services Tax Act, labor law, and industry-specific Acts.

Example: In India, Start-Ups operating in sectors like Fintech or health tech must comply with regulations from specialized agencies (e.g., the Reserve Bank of India (RBI) or the Indian Council of Medical Research (ICMR)). This can overwhelm governance professionals, as the ever-evolving regulations add layers of complexity.

Impact: The governance professionals are often expected to perform many compliance tasks without an exclusive team, which creates an overburden of work. It is an MSME in the manufacturing sector that probably does not understand labour law requirements for compliance, resulting in non-compliance or last-minute rushes to meet deadlines.

2. Lack of Awareness and Understanding about Governance

Challenge: Start-Ups and MSMEs do not truly recognize governance frameworks, and internal controls or compliance structures are often not taken seriously. Founders focus more on growth and product development rather than corporate governance.

In a rapidly growing Start-Up, its founders might be more interested in funding or expanding their operations than forming governance. Governance practitioners may face resistance in pushing for the need for board-level discussions, statutory meetings, or audit requirements, as these are perceived to be cumbersome and/or unnecessary.

Effects: Poor initial investment in governance infrastructure risks problems later in funding rounds or in an M&A process where investors do strict, line-by-line scrutiny of corporate structures and compliance documents. An example: A Chennai, India-headquartered technology Start-Up might hit roadblocks during the due diligence process due to a lack of proper documentation for board meetings or poor-quality compliance documentation that might hamper the progression of investment talks.

3. Cash Flow and Resource Restrictiveness

Challenge: MSMEs and Start-Ups work on shoestring budgets and typically face cash flow challenges, so allocating enough funds for governance and compliance activities becomes difficult. They could delay hiring full-time governance professionals or invest minimally in legal and compliance infrastructure.

Example: A Bengaluru-based tech Start-Up could delay hiring a full-time Company Secretary to save costs and may use an external consultant whenever it felt necessary. This results in fragmented governance, where statutory filings or secretarial audits often get delayed, leading to penalties and non-compliance.

Result: Governance professionals were highly affected as they practiced juggling numerous responsibilities using insufficient resources. Start-ups may be penalized for untimely presentations or forced to close their business operations.

4. Constant updates in the legal framework

Problem: The Indian regulatory framework is quite dynamic, especially for MSMEs and Start-Ups. The GST regime, labor codes, and sector-specific regulations constantly change.



It is challenging for governance professionals to keep track of all such changes and ensure that the company remains compliant.

Example: In India, new labor codes introduced in 2021 created confusion over wage structures, social security contributions, and compliance deadlines among MSMEs and the latest Start-Ups. Governance professionals were challenged while interpreting the new law, thus keeping the payroll systems updated.

Result: Constant changes in regulatory environments require governance professionals to spend significant time training, updating procedures, and often dealing with crises to avoid non-compliance. This can lead to non-compliance from misunderstandings of changes or delays in implementing the new regulations.

5. Unconventional and Fluid Organisational Frameworks

Problem: A flat organizational structure typically defines Start-Ups. With a tight band of core groups of people, the founder makes most decisions without the usual depth of oversight in larger organizations. Fluidity does not lend itself easily to traditional governance mechanisms. A new food delivery Start-Up won't have existing departments or well-defined reporting structures. The founders usually hold the majority of centralized authority, and governance professionals face challenges in ensuring compliance with statutory obligations, including recording all the appropriate board approvals and accurately maintaining meeting minutes.

Impact: Formalization can lead to governance lapses, such as failing to record decisions, which may lead to lawsuits over funding rounds or exit. For instance, a Start-Up company with lousy governance will be involved in legal disputes over shareholding or intellectual property rights with the investors or co-founders.

6. Challenges in Capital Acquisitions and Due Diligence Processes

Challenge: Start-Ups and MSMEs seeking to raise capital from investors or through debt financing must undertake strict due diligence processes. This means that governance professionals must ensure that the company's financials, statutory filings, and compliance records are in order.

Example: An MSME involved in textiles, operating from Mumbai, may experience rejections in availing loans since its tax compliance or labor laws compliance may not be updated; therefore, it causes warnings for lenders or investors.

Effect: Governance professionals need to quickly show that they are compliant and transparent to impress investors. Without governance frameworks, capital investments may be rejected or delayed, and an organization's potential growth may be limited.

7. Cyber Security and Data Protection Issues

Challenge: As more new entrants in Fintech or e-commerce digitalize their platforms, data protection regulations like the Personal Data Protection Bill or the Information Technology Act gain relevance. However, MSMEs and Start-Ups lack the resources or expertise to build proper data governance frameworks.

Example: A small e-commerce house based in Delhi will not have strict data protection arrangements, so it will not adhere to the PDPB upon its implementation. Governance professionals must ensure that the organization develops necessary data protection policies, trains staff in data handling, and implements cybersecurity.

Effect: Noncompliance with data protection regulations has legal ramifications and can damage a company's reputation. For example, if a fintech start-up suffers a data breach due to poor governance, it may face fines from regulators and lose customers' confidence.

8. Management of Intellectual Property (IP)

Challenge: Intellectual property—such as patents, trademarks, or proprietary technology—often forms a critical part of Start-Ups' value proposition. However, governance professionals must navigate complex IP registration and protection processes, which many Start-Ups overlook.

Example: A tech Start-Up in Pune, developing a unique software platform, may not register its software's source code or perhaps fail to protect its trademark in its early years, exposing it to other companies copying ideas.

Influence: Failure to secure IP early can lead to legal battles and financial losses when competitors try to exploit the situation. Governance professionals must ensure that the Start-Ups IP is protected domestically and internationally.

CONCLUSION

They have expanded into MSMEs and Start-Up governance professionals, addressing increased risk management, fair practice, sustainable initiatives, and growing demands for regulatory compliance. These professionals are strategic partners who shape the governance landscape as they push organizations toward becoming resilient and responsible with practices. The contributions end there as stakeholders demand accountability, transparency, and sustainability.

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Governance in MSMEs: CS Insights

The MSME sector is a vital component of India's entrepreneurial ecosystem, driving innovation, economic growth, and employment generation across various sectors. Despite challenges, such as limited resources and regulatory complexities, MSMEs play a crucial role in reducing regional disparities and promoting social inclusion. Regulatory frameworks, including the Companies Act, 2013 and various SEBI regulations, aim to ensure transparency and accountability in corporate governance.



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INTRODUCTION

The MSME sector has long been a cornerstone of India's entrepreneurial landscape, driving innovation and economic growth. Spanning various sectors of the economy, these enterprises produce a diverse range of goods and services, catering to both domestic and global markets. Notably, MSMEs play a pivotal role in employment generation, particularly in rural and underdeveloped regions, thereby contributing to the reduction of regional disparities and the equitable distribution of national income and wealth.

As per the 73rd round of the National Sample Survey (NSS) conducted by the National Sample Survey Office, Ministry of Statistics & Programme Implementation in 2015-16, India had an impressive 63.388 million unincorporated non-agricultural MSMEs. Of these, the micro sector overwhelmingly dominated, accounting for approximately 99% of the total MSMEs. Although smaller in number, the small and medium sectors also play a key role in contributing to the dynamism of the MSME sector.

In terms of ownership patterns, a notable trend emerges, with a predominant presence of male-owned enterprises, accounting for nearly 80% of all MSMEs. However, socially backward groups also have a substantial stake in the sector, with significant ownership by Other Backward Classes (OBCs), albeit with relatively lower representation from Scheduled Castes (SC) and Scheduled Tribes (ST). This ownership pattern persists across urban and rural

areas, reflecting a broader societal dynamic. Despite these ownership dynamics, the MSME sector remains a vital contributor to employment, with an estimated 11.10 crore jobs created across rural and urban areas. Micro enterprises, in particular, stand out as the primary job creators, employing around 97% of the total workforce in the sector. However, challenges persist in ensuring gender parity in employment, with a significant majority of employees being male.

In the light of the above, the MSME sector in India serves as a beacon of entrepreneurship, fostering economic development and social inclusion. As we examine deeper into the dynamics of this sector, it becomes evident that nurturing MSMEs is not only essential for economic growth but also for fostering a more equitable and prosperous society.

CORPORATE GOVERNANCE REGULATIONS IN INDIA

The regulatory framework for corporate governance in India is a comprehensive system of laws, regulations, guidelines, and standards aimed at ensuring transparency, accountability, and fairness in the management and operations of companies. This framework is essential for protecting the interests of various stakeholders, including shareholders, employees, creditors, and the public. However, a brief overview of the key components of the regulatory framework for corporate governance in India:

- **Companies Act, 2013:** The Companies Act, 2013 is the primary legislation governing corporate governance in India. It mandates the establishment of Boards of directors, outlines their duties and responsibilities, and prescribes rules for financial reporting, specifically on half yearly basis as on 31st March and 30th September, every year within a period of thirty days for reporting the amount remains unpaid for a period exceeding 45 days from the date of supply of material or services to the MSMEs as well as in the Schedule III of the Companies Act, 2013 requires to report the amount outstanding as a liability towards MSMEs, with the name of the parties aging, status as disputed or undisputed etc. auditor has to verify the disclosure also. The Act also incorporates provisions related to shareholder rights, minority protection, and corporate social responsibility (CSR).

- **Securities and Exchange Board of India (SEBI) Regulations:** SEBI, the regulatory authority for securities markets in India, has issued several regulations and guidelines to enhance corporate governance standards among listed companies. These include the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which specify disclosure requirements, board composition norms, and obligations related to audit committees, independent directors, and related-party transactions.
- **Securities Contracts (Regulation) Act, 1956:** The Securities Contracts (Regulation) Act, 1956, and its subsequent amendments empower SEBI to regulate the securities market in India. SEBI utilizes this authority to promulgate regulations that promote transparency, fairness, and investor protection in corporate governance practices.
- **National Financial Reporting Authority (NFRA):** The NFRA was established under the Companies Act, 2013, to oversee the quality of financial reporting by certain classes of entities, including listed companies and large unlisted public companies. NFRA plays a crucial role in ensuring compliance with accounting standards and promoting transparency and accuracy in financial reporting.
- **Institute of Company Secretaries of India (ICSI):** ICSI, a statutory professional body, regulates the profession of Company Secretaries in India. It formulates standards and guidelines for corporate governance practices, provides training and certification for company Secretaries, and promotes adherence to ethical norms and professional standards among its members.
- **Corporate Governance Code:** In addition to statutory requirements, various voluntary corporate governance codes and guidelines have been developed by industry associations, regulatory bodies, and professional organizations. These codes, such as the Corporate Governance Voluntary Guidelines issued by the Ministry of Corporate Affairs, provide recommendations and best practices to enhance governance standards beyond legal compliance.
- **Judicial Precedents:** Judicial decisions and precedents also play a role in shaping corporate governance practices in India. Courts and tribunals interpret and enforce corporate laws, adjudicate disputes related to governance issues, and provide clarity on legal obligations and responsibilities of corporate entities and their stakeholders.

RELEVANT LAWS AND REGULATIONS GOVERNING MSMEs IN INDIA – AN OVERVIEW

Analyzing the legal framework governing Micro, Small, and Medium Enterprises (MSMEs) in India reveals key insights into the laws designed to support and regulate this sector. Below is an overview of some of the most important laws and regulations:

By advocating for governance reforms, promoting ethical conduct, and providing strategic guidance, Company Secretaries contribute to MSMEs' growth, resilience, and stakeholder trust.

- **Micro, Small, and Medium Enterprises Development Act, 2006:** This Act establishes the criteria for classifying MSMEs based on their investment in plant, machinery, or equipment. It offers several benefits for MSMEs, including priority sector lending, credit facilities, and reservations in government procurement. The Act also created the National Board for Micro, Small, and Medium Enterprises (NBMSME) to oversee MSME policies and programs.
- **Goods and Services Tax (GST) Act:** GST has transformed taxation for MSMEs, affecting their compliance obligations. MSMEs must register under GST if their annual turnover exceeds certain thresholds, which differ based on business type. GST simplifies the indirect tax system, eliminates tax cascading, and facilitates business operations through input tax credits.
- **Companies Act, 2013:** The Companies Act governs the formation, management, and regulation of companies, including MSMEs. It imposes compliance requirements such as maintaining statutory registers, filing annual financial statements, and holding board meetings. The Act also outlines corporate governance and disclosure standards to ensure transparency and accountability in MSMEs.
- **Insolvency and Bankruptcy Code, 2016 (IBC):** The IBC provides a streamlined process for resolving insolvency and bankruptcy, with special provisions for MSMEs. These provisions aim to promote a healthy business environment by offering timely resolutions to financial distress, safeguarding the economic value of smaller enterprises.
- **Labour Laws:** MSMEs must comply with a range of labour laws, such as the Minimum Wages Act, Payment of Bonus Act, and Employees' Provident Funds Act, which govern employment conditions, wages, and social security. Recent government reforms have aimed to simplify compliance while protecting worker welfare.
- **Intellectual Property (IP) Laws:** IP laws, including the Patents Act, Trademarks Act, and Copyright Act, protect MSMEs' intellectual property. MSMEs can use these laws to safeguard their innovations, brands, and creative works, enhancing their market competitiveness. Government initiatives like the IPR Policy promote awareness and use of IP rights within the sector.
- **Regulatory Authorities and Schemes:** Various authorities, such as the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), and

Ministry of MSME, oversee the regulatory environment for MSMEs. Numerous government schemes, such as the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) and Prime Minister's Employment Generation Programme (PMEGP), provide financial and operational support to foster MSME growth.

GOVERNANCE IN MSMEs – THE CS IMPACT

Observing the role of Company Secretaries in fostering corporate governance within Micro, Small, and Medium Enterprises (MSMEs) offers valuable insights into how these professionals contribute to organizational effectiveness and compliance. However, an analysis of the relationship between Company Secretaries and corporate governance in MSMEs

- Their responsibilities include maintaining statutory registers, filing necessary documents with regulatory authorities, and ensuring adherence to corporate laws such as the Companies Act and other relevant regulations. Through these duties, they help MSMEs stay aligned with governance standards and legal frameworks.
- Through their expertise in corporate governance practices, Company Secretaries advise MSME boards on matters related to board composition, director responsibilities, and corporate ethics, thereby promoting transparency, accountability, and integrity within the organization.
- By identifying and addressing potential risks, such as financial mismanagement or regulatory violations, Company Secretaries help safeguard MSMEs' assets and reputation, ensuring long-term sustainability and resilience.
- Through transparent reporting and communication channels, Company Secretaries help build trust and credibility with stakeholders, fostering investor confidence and facilitating access to capital for MSMEs.
- They offer insights into corporate governance best practices, emerging regulatory trends, and industry standards, enabling MSMEs to make informed decisions and adapt to changing business environments.
- Through continuous learning and skill development initiatives, Company Secretaries empower MSMEs to strengthen their corporate governance frameworks and navigate complex regulatory landscapes effectively.

PROMOTING CORPORATE GOVERNANCE IN MSMEs – OPERATIONAL CONSTRAINTS

Some key challenges faced by Company Secretaries in advancing corporate governance in MSMEs.

- **Inadequate Resources and Capacity:** MSMEs frequently operate with limited financial resources in addition manpower, making it thought-provoking for Company Secretaries to implement robust corporate governance practices. The lack of dedicated compliance personnel and infrastructure hampers efforts to ensure timely and accurate regulatory compliance.

- **Awareness and Understanding:** Many MSMEs, especially those in traditional sectors or family-run businesses, may lack awareness and understanding of corporate governance principles and their importance. Company Secretaries encounter resistance or apathy from management and stakeholders who perceive governance requirements as bureaucratic or unnecessary.
- **Cost Constraints:** These enterprises may view corporate governance initiatives as additional costs rather than investments in organizational efficiency and sustainability. Company Secretaries face challenges in convincing MSMEs to allocate resources for governance-related activities such as training, technology adoption, and external audits.
- **Complexity of Regulatory Landscape:** The regulatory environment governing MSMEs is complex and subject to frequent changes, posing challenges for Company Secretaries to stay updated and ensure compliance. Navigating multiple regulatory frameworks, reporting requirements, and industry-specific regulations adds to the complexity of governance oversight.
- **Limited Access to Expertise:** MSMEs may lack access to specialized expertise in corporate governance, legal compliance, and risk management. Company Secretaries often operate in isolation or with minimal support, without access to external consultants or advisory services, which limits their effectiveness in addressing governance challenges.
- **Resistance to Change:** Implementing corporate governance reforms within MSMEs may encounter resistance from entrenched management practices, traditional decision-making structures, and cultural norms. Company Secretaries face challenges in advocating for governance reforms and overcoming inertia or opposition from stakeholders resistant to change.
- **Informal Management Structures:** Many MSMEs operate with informal management structures and decentralized decision-making processes, which can impede the implementation of formal governance mechanisms. Company Secretaries must adapt governance frameworks to suit the unique organizational dynamics and cultural context of MSMEs.
- **Compliance Burden:** MSMEs face a disproportionate compliance burden compared to larger enterprises, as they are subject to similar regulatory requirements but lack the scale and resources to manage them efficiently. Company Secretaries struggle to streamline compliance processes and alleviate the administrative burden on MSMEs.
- **Lack of Board Independence and Diversity:** MSME boards may lack independence, diversity, and expertise, which undermines their effectiveness in providing oversight and governance leadership. Company Secretaries encounter challenges in advocating for board reforms and enhancing board composition to reflect diverse perspectives and skills.
- **Succession Planning and Continuity:** MSMEs often face challenges in succession planning and ensuring

continuity of governance practices across generations or leadership transitions. Company Secretaries play a vital role in facilitating smooth transitions and institutionalizing governance norms to sustain organizational stability and growth.

STRATEGIES FOR MSMEs TO STRENGTHEN CORPORATE GOVERNANCE PRACTICES

Strengthening corporate governance practices is essential for MSMEs to enhance transparency, accountability, and sustainability. Some strategies for MSMEs to strengthen their corporate governance practices.

- **Establish a Comprehensive Governance Framework:** Create a well-defined governance framework that clearly outlines roles, responsibilities, and decision-making processes within the organization. This should include the formation of governance structures, committees, and reporting lines to enhance accountability and transparency.
- **Appoint Competent Board Members:** Ensure the appointment of qualified and independent directors who take along diverse skills, expertise, and perspectives to the board. Foster a culture of constructive debate, collaboration, and ethical leadership to guide strategic decision-making.
- **Foster a Compliance Culture:** Cultivate a culture of compliance by promoting awareness of regulatory requirements, ethical standards, and organizational policies among employees at all levels. Provide regular training, communication, and reinforcement of compliance expectations.
- **Enhance Financial Reporting and Transparency:** Implement strong financial reporting processes and internal controls to ensure the accuracy, reliability, and transparency of financial information. Timely and clearly disclose relevant information to stakeholders, following regulatory requirements and industry best practices.
- **Strengthen Risk Management Practices:** Develop a systematic approach to identify, assess, and mitigate risks across the organization. Implement risk management policies, procedures, and monitoring mechanisms to proactively address operational, financial, and compliance risks.
- **Foster Stakeholder Engagement:** Engage with stakeholders such as shareholders, employees, customers, suppliers, and communities to foster trust, accountability, and long-term relationships. Actively seek feedback, address concerns, and integrate stakeholder perspectives into the decision-making process.
- **Implement Ethical Standards and Code of Conduct:** Establish and uphold a code of conduct that clearly defines the organization's ethical values, principles, and expected behaviors for both employees and management. Encourage integrity, honesty, and fairness in all business activities and interactions.

- **Embrace Technology and Innovation:** Leverage technology solutions, digital tools, and automation platforms to streamline governance processes, enhance reporting efficiency, and facilitate real-time monitoring of compliance activities. Embrace innovation to drive continuous improvement and adaptability in governance practices.
- **Conduct Regular Board Evaluations:** Conduct periodic evaluations of board performance, effectiveness, and composition to identify strengths, areas for improvement, and training needs. Use board evaluations as a tool for enhancing governance practices, board dynamics, and decision-making effectiveness.
- **Seek External Expertise and Advisory Support:** Engage external advisors, consultants, or governance experts to provide independent assessments, guidance, and recommendations for enhancing governance practices. Leverage external expertise to address specific governance challenges, compliance gaps, or strategic priorities.

CONCLUSION

Company Secretaries play a multifarious role in advancing corporate governance privileged Indian MSMEs. Their expertise in compliance, risk management, and board support is instrumental in directing regulatory complexities and fostering transparency. By advocating for governance reforms, promoting ethical conduct, and providing strategic guidance, Company Secretaries contribute to MSMEs' growth, resilience, and stakeholder trust. As MSMEs carry on to evolve and face new contests, the role of Company Secretaries will remain indispensable in driving governance excellence and ensuring long-term sustainability in the dynamic business landscape of India.

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Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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Motto

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RESEARCH PAPER

Invitation For Research Papers In CS Journal – December 2024 Issue

We invite Research papers/ Manuscripts to publish in 'Chartered Secretary' with the objective of creating proclivity towards research among its members both in employment and practice. As research is an integral part of the scientific approach towards an issue for arriving at concrete solutions, in view of this it is essential to ensconce the research-oriented approach. Further, research is pervasive, i.e., it is not restricted to a particular field. Whether it is engineering, management, law, medicine, etc. without proper research, it is almost next to impossible to ascertain the solution of a problem.

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 papers 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 **Monday, November 25, 2024** for the **December 2024** issue of Chartered Secretary Journal at cs.journal@icsi.edu

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

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

Regards,

Team ICSI

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RESEARCH CORNER



- STRENGTHENING EFFECTIVE GOVERNANCE & SUSTAINABILITY IN BANKING
SECTOR: CS AS GOVERNANCE PROFESSIONAL AND SUSTAINABILITY EXPERT
-

Strengthening Effective Governance & Sustainability In Banking Sector: CS as a Governance Professional and Sustainability Expert

Strong and efficient Financial system is a pre-request for development of a nation. Bank's safety and soundness are the important ingredients to the financial sustainability. Governance faults in banks can result in problem across the banking sector and the economy as a whole. The article is an endeavor to articulate on the importance of corporate governance and sustainability in the Banking industry and the role of Company Secretaries in steering the bank in right direction by determining ways to take effective strategic decisions.



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INTRODUCTION

Banking sector is considered as a strong pillar of a nation that supports its economic growth and development. Bank's success and failure can be co-related to the entire economy. Strong and resilient economy with the sound banking system will make the nation a superpower. Banking sector in India has undergone drastic changes particularly digital banking during the era of Digitalisation. The Digital India is a pilot program of Indian Government that showcases a vision to transform India into a digitally empowered society and knowledge economy. It has evidenced that transformation from paper-based banking system to digitally driven paperless banking platform. The role of technology at core and the effective governance in letter and spirit are driving force for the growth of banking system and the economy as a whole. With the development in banking sector and complication in India's financial system accentuated the significance in strengthening the effective governance standards in Banks. The Banking system plays a crucial role in channelizing the idle funds of savers and depositors and allocating such resources to the activities efficiently that support the organisation

for productive purpose and thereby economic growth. Thus, strong and efficient Financial system is a pre-request for development of a nation. Bank's safety and soundness are the important ingredients to the financial sustainability. Governance faults in banks can result in problem across the banking sector and the economy as a whole. Hence, no one who could deny the fact that banks play important role in economic stability of any economy.

The prime objective of governance in any organisation is to safeguard stakeholders' interest and promotes their confidence including shareholders, debenture holders, deposit holders, other security holders and public at large. Corporate governance in Banks determines best management practices; setting up of business strategy and target to achieve; allocation of authority, responsibilities and accountability; adherence of ethical standard (ie., in a safe and sound manner with transparency and integrity) for effective management; compliance of laws in letter and spirit; discharge of social obligation as a responsible corporate by spending wealth for the sustainability of the economy.

This article promulgates the importance of corporate governance and sustainability in the Banking industry and the role of Company Secretaries in steering the bank in right direction by determining ways to take effective strategic decisions.

ABOUT BANKING INDUSTRY AND REGULATORY FRAMEWORK

Currently, Banking system in India consists of Scheduled Banks, Non-scheduled banks and development Banks (like IFC, NABARD, EXIM Bank, NHB). Under Scheduled Banks, these banks comprise of commercial banks and co-operative banks (state co-operative bank and urban co-operative banks). Commercial banks include public sector banks (SBI and other nationalised banks), Private sector banks, Regional Rural Banks and foreign banks. These banks are regulated by following different statutes:

Sl. No.	Statutes	related Banks
1	The Banking Regulation Act, 1949 and other directives/ regulations/ guidelines/ instructions issued by RBI.	All Banks
2	State Bank of India Act, 1955	State Bank of India
3	Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.	Nationalized banks
4	Companies Act, 2013 and rules made thereunder	Private sector banks
5	SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015	All listed Banks

Key Ingredients of good governance in Banking sector

- Board Diversity with ideal mix of Executive Directors and Non-Executive Directors with Independent Directors having diverse experience.
- Transparency in functioning of Board and Board Committees ethically which provide effective leadership for independent judgement for achieving the Bank's vision.
- Well documented long term business strategy with annual plans, achievable performance targets and its appraisal.
- Professional development programs and continuous trainings are pre-requisite for the Board of Directors to keep abreast of latest changes in corporate world.
- Right composition of senior managerial personnel (core management team) with definite duties and responsibilities for driving each department.
- Investors'/ Analyst Meet on a regular basis. Thereby establishing strong relationship of trust with stakeholders.
- Identification of risk with remedial measures and its periodical assessment.
- Effective vigil mechanism wherein employees may report unethical behaviour, suspected fraud and violation of code of conduct. Adequate safeguard to protect such victims.
- Due importance must be given for social responsibility, environment concern and regulatory Compliance.

Banks which conform to the above ingredients/components of the Corporate Governance, delivers following end results:

- Improved corporate performance either in form of share price or profitability.
- Easy mode of raising finance from stock market/ financial institutions across globe.
- To combat and prevent corruption/ fraud.
- Transparency is directly connected to the investors' trust on management which in turn increase goodwill.
- Effective management practices ensure risk mitigation in place that helps to prevent crisis/ scandals.

Role of RBI in ensuring Governance in Banks

Reserve Bank of India (RBI) is a guardian for formulating, promoting and implementing the Corporate Governance standards in the Indian banking system. Through the effective governance, Banks can keep a track and to monitor the prevention of the money laundering, financial immoral, financial crimes and terrorist financing to the great extent. The most recent act of RBI was demonetization through which it had cancelled the legal tender status of currency unit in circulation. RBI observes the important terms of reference mentioned by Board of Financial Supervision (BFS) which supervise the Bank through its CAMELS approach (Capital adequacy, Asset quality, Management, Earnings, Liquidity, and Systems & control). RBI plays key role in implementing the governance mechanism as follows:

- Disclosure and transparency:** In a governance structure of banking industry, submission of disclosure and bringing transparency are key ingredients. RBI through the requirements under Banking Regulation Act, 1949 advise for certain disclosure of financial transactions and operations to keep a track of bank's activity. Any violations in compliance requirements may lead to hefty penalty along with the suspension/ cancellation of license of banks operations.
- Off-site surveillance:** RBI on an annual basis performs on-site inspection of records of the Bank. But off-site surveillance mechanism is also carried out by central bank strictly to monitor the operations of the bank to improve its governance structure. Such surveillance is conducted mainly to monitor the financial strength of banks between 2 on-site inspections, which reveals financial deterioration and helps RBI to take remedial action.
- Prompt Corrective Action:** RBI has set some targets on the basis of CRAR, NPA and ROA mainly to boost the governance in the banks. Based on such target, banks must undergo an action plan known as Structured Action Plan or Mandatory Action Plan. Besides Mandatory Action Plan, RBI has set Discretionary Action Plans. Some of the action plans are necessary to reinstate the financial strength of banks which shall be mandatorily undertaken by the banks while some other action plan will be conducted at the discretion of RBI depending upon the size and nature of each bank.

Regulatory Actions against Banks in the recent years

RBI has identified several common governance issues that lead to enforcement actions against banks:

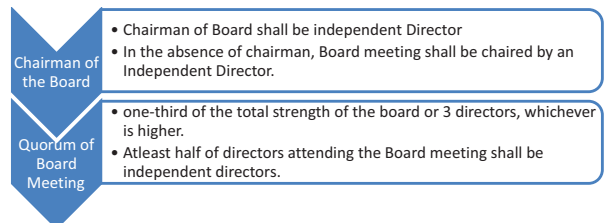
1. **Violation of Prudential Norms:** This includes non-compliance with capital adequacy requirements, exposure norms, and other prudential guidelines.
2. **Non-Compliance with Fair Practice Code:** Banks are expected to adhere to fair practices in their dealings with customers. Violations in this area often lead to enforcement actions.
3. **Liquidity Risk Management:** Inadequate management of liquidity risk, including failure to maintain sufficient liquidity buffers, can result in regulatory action.
4. **KYC and AML Violations:** Non-compliance with Know Your Customer (KYC) and Anti-Money Laundering (AML) regulations are significant governance issue that attracts enforcement actions.
5. **Failure to Meet Corporate Governance Standards:** This include issues related to Board composition, independence of Directors, and overall governance framework.
6. **Inadequate Internal Controls and Risk Management:** Weaknesses in internal controls and risk management practices can lead to regulatory scrutiny and enforcement actions.
7. **Managerial Misconduct:** Instances of managerial misconduct, including unethical behaviour and lack of accountability, are common governance issues.
8. **Concentration of Power:** Excessive concentration of power in the hands of a few individuals can lead to governance failures.
9. **Dubious Incentive Structures:** Incentive structures that promote short-term gains over long-term stability can result in governance issues.
10. **Lack of Market Discipline:** Inadequate market discipline and oversight can lead to governance problems.
11. **Inadequacies of External Oversight:** Weak external oversight, including ineffective audits and regulatory reviews, can contribute to governance failures.

Practising Company Secretaries can also become Sustainability expert for which professionals need to be updated with latest ESG reporting framework. Some of the reporting are Global Reporting Initiative (GRI), Business Responsibility and Sustainability Reporting (BRSR), Sustainability Accounting Standards Board (SASB) and Task Force on Climate-related Financial Disclosures (TCFD) to name a few.

GOVERNANCE IN BANKING INDUSTRY

Banks are adhering to the RBI instruction on comprehensive review of the framework for governance in commercial banks dated April 26, 2021, which shall be applicable to private sector bank including Small Finance Bank and Wholly owned subsidiary of Foreign Banks. In respect of State Bank of India and Nationalized Banks, these guidelines would apply to the extent, the stipulations are not inconsistent with the provisions of specific statutes applicable to these banks or instructions issued under the statutes. RBI has issued the instructions regarding the Chairman and meetings of the Board, composition of certain committees of the Board, age, tenure and remuneration of directors, and appointment of the whole-time Directors (WTDs).

a. Chairman and Board Meeting



b. Mandatory Board Committees

Sl. No.	Particulars	Audit Committee of the Board (ACB)	Risk Management Committee of the Board (RMCB)	Nomination and Remuneration Committee (NRC)
1	Number of non-executive director	All	With majority of non-executive director	All
2	Chairman	Independent Director who shall not be chairman of other Committees	Independent Director who shall not be chairman of Board or other committee along with having expertise in risk management	Independent Director
3	Quorum	3 members	3 members	3 members
4	No of Independent Directors	2/3 rd of members attending the meeting	½ of members attending the meeting	At least ½ of the members attending the meeting of the NRC shall be independent directors, of which one shall be a member of the RMCB.

5	No. of meeting	Once in quarter	Once in quarter	as and when required
6	Qualification of members	All members should have ability to understand finance statement and at least one member should have professional expertise	at least one member shall have professional expertise/ qualification in risk management	-
7	Other requirements	Chairman of the Board shall not be a member of ACB.	The Chair of the board may be a member of the RMCB only if he/she has the requisite risk management expertise.	The Chair of the board shall not chair the NRC.

Other Mandatory Board Committees based on RBI Master Directions/ other circulars

Sl. No.	Board Committee	RBI Master Director/ other Circular	Provision
1	Special Committee of the Board for Monitoring and follow up of cases of frauds (SCMBF)	Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and all India Financial Institutions dated July 15, 2024.	SCMBF is to be constituted with a minimum of 3 members of the Board, consisting of Whole Time Director and a minimum of 2 Independent Director/ Non-Executive Directors. SCMBF shall be headed by one of Independent Director/ Non-Executive Director. SCMBF shall oversee the effectiveness of the fraud risk management in the Bank. The coverage and periodicity of such reviews shall be decided by the Board of the Bank.
2	Credit, Investment & Raising Capital Committee	13A of Nationalized Banks (Management and Miscellaneous Provisions) Amendment Scheme, 2011.	Sanction of credit proposals up to certain limit as prescribed and OTS proposals for recovery.
3	Stakeholders Relationship Committee	Reg 20 of SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 read with Sec 178(5) of Companies Act, 2013 along with Companies (Meeting of Board and its Power) Rules, 2014.	<ul style="list-style-type: none"> To specifically review various aspects of interest of shareholders, debenture holders and other security holders. Chairperson shall be Non-Executive Director. At least three Directors, with at least one being an Independent Director, shall be members of the Committee. Committee shall meet at least once in a year.
4	IT Strategy Committee	Master Direction on Information Technology Governance, Risk, Controls and Assurance Practices dated November 7, 2023.	<ul style="list-style-type: none"> Shall have an effective IT strategic planning process; assessing and managing IT and cybersecurity risks; the adequacy and effectiveness of the Business Continuity Planning and Disaster Recovery Management. Minimum three Directors, Chairperson shall be Independent Director who is IT expert, Members are technically competent. Shall meet quarterly.
5	Customer Service Committee	RBI circular	Review the status of customer service, complaint management and innovative measures for enhancing quality of customer satisfaction.
6	Human Resource Committee #	Mandatory	Dealing in matters relating to HR, people development, succession planning, Recruitment & Promotion Policy & Training Policy

7	CSR Committee	Section 135 of Companies Act, 2013 read with Companies (Corporate Social Responsibility Policy) Rules, 2014.	<ul style="list-style-type: none"> Company having net worth of Rs. 500 crores or more, or turnover of Rs. 1000 crores or more or a net profit of Rs. 5 Crores or more during the immediately preceding financial year, shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more Directors, out of which at least one Director shall be an Independent Director. Mainly to constitute CSR Policy in line with Sch VII, recommend the expenditure for CSR activities and monitor CSR policy from time to time.
8	Review Committee of the Board on Non-Cooperative Borrowers and Identification of Wilful Defaulters	Master Direction on Treatment of Wilful Defaulters and Large Defaulters dated June 30, 2024.	<ul style="list-style-type: none"> The decision regarding classification & declassification of Non-Cooperative Borrowers. Reviews the order of the Internal Committee that identifies accounts to be reported as wilful default. Is to be headed by MD & CEO and two other Independent Directors as members.

There is no specific circular for constituting the HR Committee

c. Age and tenure of Directors

Non Executive Directors	<ul style="list-style-type: none"> Maximum age -75 years Total tenure - 8 years cool off period for appointment after completion of total tenure -3 years Remuneration - upto 30 lakhs p.a. in addition to sitting fees and expenses related to attending meetings of the board and its committees as per extant statutory norms/ practices
Tenure of MD & CEO/ Whole Time Director	<ul style="list-style-type: none"> Upper age limit - 70 year (for Private sector bank). Maximum tenure - 15 years. Promoter/major shareholder's tenure (who is MD/CEO/WTD) - 12 years. cool off period for appointment after completion of total tenure -3 years

Note: The above provisions are in addition to Companies Act, 2013 and SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015.

Basel Committee of Corporate Governance

Basel Committee on Banking Supervision (BCBS) released Guidelines on Corporate Governance for Bank in July 2015 consists of thirteen principles which inter-alia includes:

- Board Responsibilities:** The Basel Committee's principles emphasize the Board's overall responsibility for the bank's strategic objectives, governance framework, and corporate culture. This includes approving and overseeing the implementation of the bank's business strategy and ensuring financial soundness.
- Risk Governance:** The principles highlight the importance of risk governance as part of the overall corporate governance framework. This includes the roles played by business units, risk management teams, and internal audit and control functions.

- Board Composition:** The Basel Committee recommends that the Board should have an appropriate balance of skills, diversity, and expertise. Board members should be qualified and able to exercise sound and objective judgment.
- Compensation Systems:** The principles recognize that compensation systems are a key component of the governance and incentive structure. They should convey acceptable risk-taking behaviour and reinforce the bank's operating and risk culture.

RBI has put in place governance structure of Banking industry, limiting term of Directors including MD & Executive Directors and place more responsibility on the Board of Directors of banks.

Fit and Proper Criteria for elected Directors on the Bank of SBI and Nationalised Banks

The term "Fit and proper" refer to ability to fulfil the duties (fitness) as well as Integrity and suitability (Propriety). The Board of Directors shall examine the Fit and proper criteria of elected Directors at the Board Meeting. These requirements shall be complied as per Reserve Bank of India ('Fit and Proper' Criteria for Elected Directors on the Boards of PSBs) Directions, 2019 (the "Fit and Proper directions"). These directions are applicable to public sector banks.

SUSTAINABILITY PRACTICES ACROSS THE GLOBE

International Sustainability Standards Board's (ISSB) General Sustainability - related Disclosures Standard (S1) defines Sustainability as "the ability for a company to sustainably maintain resources and relationships with and manage its dependencies and impacts within its whole business ecosystem over the short, medium,

and long term.” In other words, Sustainability means a situation in which a person recognises the importance of natural resources and thereby ensuring that the same is preserved for the future, but at same time properly utilised or re-cycled for the present. The concept “Environment Social Governance” (ESG) emerged as a corporate credibility which is appraised based on contributions which a company has made towards environmental and social factors. Now a days, investors as well as lenders are specifically looking at those socially responsible companies which have contributed towards environmental, governance and social concern rather than merely profitability and other factors. The United Nations in the year 2015 has adopted Sustainable Development Goals (SDG) also known as global goal mainly to abandon the poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity. Presently, there are 17 SDGs i.e., Eliminate Poverty, Erase Hunger, Establish Good Health and Well-Being, Provide Quality Education, Enforce Gender Equality to name a few, which are integrated to balance the economic, social and environment sustainability. The Sustainable Development Goals Report 2024 emphasised on climate change, prolonged after-effect of COVID-19 pandemic, global challenges like wars followed by health issue, lack education, air pollution and biodiversity loss.

Delegates from 190 nations had promised in the United Nations Climate Change Conference or Conference of Parties (CoP27) held at Egypt in the year 2022, to effectively act against climate change with focus on sustainable development. Sustainability reporting has gained importance over decade around globe due to environment deterioration due to wipe out of resources, breaking of ecosystem and issues of climatic changes. The Body Corporates need to be ensured that the manufacturing facility is embedded with low carbon emission and take the opportunities of sustainable development. Statutory regulations coupled with investors pressure and general sentiment around climatic changes compelling the company to adopt ESG in their business practices. Corporates should adhere to sustainability principles in letter and spirit and publish the information regarding the activities which have done through Business Responsibility and Sustainability Report annually. Such report helps to measure and evaluate the performance in areas of ESG framework.

ESG IN BANKING INDUSTRY

The Banking Industry is focusing more on delivering the digital experience to its customers through various innovations. On the other hand, Banks are expected to implement the sustainable development around which it is operating. The Banks are crucial in ESG Ecosystem and more aware of its vital role in transforming to low-carbon economy. Banks take efforts to de-carbonise the economy but at same time, they provide finance to those business that discharge carbon dioxide. In both these cases, Banks function as a medium that can transform climatic change worldwide. In the year 2023, Net-Zero Banking Alliance which was organized by United Nation with 138 members

from across forty-four nations to address net zero goals as a part of sustainable banking practices. Globally, the banking sector has taken challenge to do its operations in line with net-zero GHG emissions by 2050 in pursuance of Paris Agreement.

On October 12, 2023, Mr. Swaminathan J, Deputy Governor, Reserve Bank of India in his speech mentioned that entire world is moving towards sustainable finance. Globally, financial institutions bring combination of ESG criteria into their investment and lending decisions, which lead towards more profitable, strong with good, valued consumer base. The global sustainable finance market is expected to grow from USD 3.6 trillion in 2021 to USD 23 trillion by 2031. In India, importance of sustainable finance is also increased manifold due to awareness about the sustainable development.

During the interim budget 2024, Ms. Nirmala Sitharaman, Finance Minister had announced Rs. 350 billion for the zero-net transition. Capital Market regulator, SEBI has also proposed a new framework for raising funds (i.e., for projects that align with ESG objectives) from the Stock market by introducing new category of securities which include social bonds, sustainable bond, sustainable-linked bonds in addition to green-debt securities.

Green Banking Practices and Green Finance initiatives

Banks can pursue with the implementation of Green Banking Practices for sustainable environment performance which are as follows:

- a. **Adoption of Green Banking practices in day-to-day operation:** The concept green banking emphasis on social and environmental factors with the view to protect the nature and resources like green infrastructure with sufficient lightening and natural air, solar energy on their own and waste recycling plant. Banker which adopts the green banking practices provides green products and services which are not hazardous to the nature. Green banking activities helps to transform the resources efficiently with low carbon emission and improve asset quality for the future. Banking industry has adopted green banking practices with digital platforms and fintech services to attract investment, brand building and to reduce the pollution.
- b. **Green Banking Financial Products for sustainable development:** Green Banking financial products like green loan for sustainability projects, Green Credit Card, Online Banking etc., gained its importance among public for sustainable development priorities. For Instance, India's largest public sector bank i.e., State Bank of India (SBI) in recent past had successfully raised USD 250 million through Green floating rate notes which was referred to as “the Green Note” to fund sustainable projects. The issue was conducted through private placement and listed on India International Exchange. The Bank of Maharashtra had signed MoU with Indian Renewable Energy Development Agency



(IREDA) to facilitate and promote co-lending and loan syndication for diverse spectrum of renewable energy project across nation. Canara Bank also offers various products under Pradhan Mantri Kisan Urja Suraksha evam Uttham Mahabhiyan (PM-KUSUM) Scheme for Setting up of Renewable Energy based Power Plants by farmers on their land and Installation of Solar Agriculture Pumps. HSBC has introduced the concept “HSBC Credit card” wherein card holders will contribute to protecting the environment each time you make a purchase. For each transaction, card holders make, HSBC will donate a sum equivalent to 0.1% of your spending to the “HSBC Green Roof for Schools” programme that is jointly coordinated with the University of Hong Kong, which aims to create a green environment for younger generation.

Role of CS as Governance Professional and Sustainability expert

Company Secretaries both in employment and practice can play a pivotal role in ensuring ESG practices within the organisation. While executing ESG principles, utmost important which Company Secretaries should have to confirm is “G” which stand “Governance”. Effective Corporate Governance leads to following end results:

- Increase in investors’ confidence:** Shareholders have invested their hard earned money in the corporates with an intention to gain good return. Protecting the interest of investors are the ultimate objective in Corporate Governance and thereby company’s valuation.
- Minimum Risk and Maximum Compliance:** Both Risk and Compliance are inter-related. If an organisation functions ethically with sound business principles which helps to reduce risk and ensure the compliance in letter and spirit.
- Significant during Corporate Restructuring:** Better Governance pays a significant role in Corporate Restructuring like Takeover, Merger & Amalgamation, Demerger, slump sale etc. Due diligence becomes easier during such restructuring.

- Brand building:** Corporates can build through brand image to effective governance. For instance, ICSI has been presenting prestigious award for excellence in corporate governance to the best governed Companies.

On the other hand, Practising Company Secretaries can also become Sustainability expert for which professionals need to be updated with latest ESG reporting framework. Some of the reporting are Global Reporting Initiative (GRI), Business Responsibility and Sustainability Reporting (BRSR), Sustainability Accounting Standards Board (SASB) and Task Force on Climate-related Financial Disclosures (TCFD) to name a few. Company Secretaries can play a crucial role in ensuring drafting ESG strategy and Compliance of BRSR core (applicable for to listed 250 companies) and BRSR lite (non-mandatory disclosure requirement for small and unlisted companies).

REFERENCES:

- RBI instructions vide notification no. RBI/2021-22/24 DOR.GOV.REC.8/29.67.001/2021-22 dated April 26, 2021, on Corporate Governance in Banks - Appointment of Directors and Constitution of Committees of the Board.*
- Discussion paper on Governance in Commercial Banks in India dated June 11, 2020.*
- United Nations - Department of Economic and Social Affairs, Sustainable Development <https://sdgs.un.org/goals>*
- RBI website: www.rbi.org.in*
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3

LEGAL WORLD



- NATIONAL TEXTILE WORKERS UNION ETC. v P.R. RAMKRISHNAN & ORS [SC]
- KAILASH MOTILAL KAKRANIA & ANR v. APURVA OIL AND INDUSTRIES PVT LTD [NCLAT]
- CENTURY ALUMINIUM COMPANY LTD v. RELIGARE FINVEST LTD [NCLAT]
- ADICO FORGE KAMGAR SANGATHANA v. CA RAMCHANDRA DALLARAM CHOUDHARY & ORS[NCLAT]
- AMREESH NEON PRIVATE LTD & ANR v. COMPETITION COMMISSION OF INDIA & ORS[NCLAT]
- SHRIRAM INVESTMENTS v. THE COMMISSIONER OF INCOME TAX -III, CHENNAI [SC]
- ASHOK LEYLAND LTD v. THE COMMISSIONER VALUE ADDED TAX [DEL]
- KALAMKARI LIFESTYLE TECH PVT LTD v. MSME FACILIATION COUNCIL MUMBAI & ANR[DEL]
- OKINAWA AUTOTECH INTERNATIONAL PVT LTD & ANR v. UNION OF INDIA [Del]



Corporate Laws

Landmark Judgement

LMJ 11:11:2024

NATIONAL TEXTILE WORKERS UNION ETC. v P.R. RAMKRISHNAN & ORS [SC]

Civil Appeals Nos. 4065- 67 of 1982

P.N. Bhagwati, O. Chinnappa Reddy, E.S. Venkataramiah, Baharul Islam & Amarendra Nath Sen, JJ. [Decided on 10/12/1982]

Equivalent citations: 1983 AIR 75; 1983 (1) SCC 228; (1983) 1 LBLJ 45; (1983) 53 Comp Cas 184.

Companies Act, 1956- section 433- winding up of company- provisional liquidator appointed- right of employees to have a hearing- whether employees have right of hearing – Held, Yes. [By majority]

Brief facts:

The respondents were two groups of shareholders of a private limited company which had a thousand persons under its employment. A group of shareholders filed a petition for winding-up the company under section 433 of the Indian Companies Act, 1956 along with applications for an interim injunction and for appointment of a provisional liquidator. The Company Judge passed an order of injunction restraining the company from borrowing any moneys from banks, financial institutions or others without the prior permission of the court. Three trade unions representing the employees of the company filed applications for being impleaded as respondents/interveners in the winding up petition claiming that the interests of the employees had been adversely affected by the interim order. The Company Judge rejected these applications. A Division Bench of the High Court turned down the appeal preferred by one of the unions and that union sought special leave to appeal against the order of the Division Bench while the other two unions sought special leave to appeal against the order of the Company Judge. The Court granted special leave to all the three unions and permitted the Company Judge to pass orders on the application pending before him for appointment of a provisional liquidator with the direction that the liquidator shall not take any steps which would prejudicially affect the employees.

These three appeals by special leave raise a short but interesting question of law relating to the right of workmen employed in a company to appear and oppose a petition for winding up of the company.

We may now proceed to consider the question that arises for determination before us. The question, briefly stated, is: when a petition for winding up a company is filed in court, are the workmen of the company entitled to ask the court to implead them as parties in the winding up petition or to allow them to appear and contest the winding up petition or they have no locus standi at all so far as winding up petition is concerned and they must helplessly watch the proceedings as outsiders though the result of the winding up petition may be to bring about termination of their services and thus affect them vitally by depriving them of their means of livelihood?

Considerable reliance was however placed on the statement of the law on this point contained in the leading textbooks on company law. Respondent Nos. 6 to 9 drew our attention to Palmer Company Precedents (17th Edn.) volume 2 at page 77 where it is stated that any creditor or shareholder may appear to support or oppose the petition but no one else can do so even if he has an indirect interest in the continued existence of the company. So also in Buckley on the Companies Act (14th Edn.) at page 546 the law has been stated in the following terms, namely, “the only persons entitled to be heard are the company, its creditors and contributories .. the court may in its discretion hear other persons who have an interest in order to learn what public grounds there are in favour of, or in opposition to, the winding up.. but such persons can be heard only as amici curiae and cannot appeal.”

Our attention was also invited to Halsbury's Laws of England 4th Ed. Vol. 7 where a similar statement of the law is to be found at page 614 paragraph 1028. Now it is undoubtedly true that according to the statement of the law contained in these three leading textbooks, it is only the company, the creditors and the contributories who are entitled to appear on the winding up petition and no other persons have a right to be heard, but this statement of the law is based on the old decision in Re. Bradford Navigation Company which was carried in appeal and decided as Re. Bradford Navigation Company. This decision given by the English Courts over a hundred years ago when a company was regarded merely as a legal device brought into being as a result of a contractual arrangement between the shareholders for the purpose of carrying on trade or business and the workers were looked upon as no more than employees of the company working under a master and servant relationship and the interest of the public as consumers or otherwise was a totally irrelevant consideration and it can have no validity in the present times when the entire concept of a company has changed and it has been transformed into a dynamic socio-economic institution in which capital and labour are both equal partners, possibly with heavy weightage in favour of labour and the interest of the public as consumers as also the general welfare and common good of the community constitute a vital consideration. We cannot allow the dead hand of the past to stifle the growth of the living present.

Law cannot stand still; it must change with the changing social concepts and values. If the bark that protects the

tree fails to grow and expand along with the tree, it will either choke the tree or if it is a living tree, it will shed that bark and grow a new living bark for itself. Similarly, if the law fails to respond to the needs of changing society, then either it will stifle the growth of the society and choke its progress or if the society is vigorous enough, it will cast away the law which stands in the way of its growth. Law must therefore constantly be on the move adopting itself to the fast changing society and not lag behind. It must shake off the inhibiting legacy of its colonial past and assume a dynamic role in the process of social transformation. We cannot therefore mechanically accept as valid a legal rule which found favour with the English courts in the last century when the doctrine of *laissez faire* prevailed. It may be that even today in England the courts may be following the same legal rule, which was laid down almost a hundred years ago, but that can be no reason why we in India should continue to do likewise. It is possible that this legal rule might still be finding a place in the English textbooks because no case like the present one has arisen in England in the last 30 years and the English courts might not have had any occasion to consider the acceptability of this legal rule in the present times. But whatever be the reason why this legal rule continues to remain in the English textbooks, we cannot be persuaded to adopt it in our country, merely on the ground that it has been accepted as a valid rule in England. We have to build our own jurisprudence and though we may receive light from whatever source it comes, we cannot surrender our judgment and accept as valid in our country whatever has been decided in England. The rule enunciated in *re: Bradford Navigation Company case* (supra) does not commend itself to us and though it has been followed by a single Judge of the Bombay High Court in *re Edward Textiles Limited* (supra), we do not think it represents correct law.

We may also mention that on behalf of the appellants some reliance was placed on Rule 34 of the Companies (Court) Rules 1959 in support of their contention that not only the creditors and the contributories but also other persons are entitled to appear at the hearing of a winding up petition and the workers cannot therefore be excluded. This Rule provides that every person who intends to appear at the hearing of a winding up petition, whether to support or to oppose it, shall serve on the petitioner or his advocate notice of his intention at the address given in the advertisement and such notice shall be in form No. 9 and where such person intends to oppose the winding up petition, the grounds of his opposition or a copy of his affidavit if any shall be furnished along with the notice. The appellants contended that under this Rule anyone who wants to appear in a winding up petition can do so, provided he serves on the petitioner or his advocate, notice of his intention at the address given in the advertisement and complies with the other requirements of this Rule and therefore if the workers desire to appear at the hearing of the winding up petition, they are entitled to do so. The answer given on behalf of respondent Nos. 6 to 9 to this contention was that Rule 34 is applicable only after a winding up petition is admitted and an order is made for advertisement of the winding

up petition and it has no application at the stage when the winding up petition is before the court only for the purpose of deciding whether or not it should be admitted and advertised. It was also urged on behalf of respondent Nos. 6 to 9 that in any event Rule 34 does not confer a right on any and every person to appear at the hearing of the winding up petition, intends so to appear he must take various steps set out in that Rule beginning with service of notice on the petitioner or his advocate before he can be heard on the winding up petition. We are inclined to agree with this contention of respondent Nos. 6 to 9.

It is obvious that the object and purpose of Rule 34 is not to confer a right on any one to appear at the hearing of the winding up petition but merely to provide the procedure to be followed before a person who is otherwise entitled to appear in a winding up petition can be heard in support or opposition of the winding up petition. This rule cannot therefore be relied upon by the appellants as conferring a right on the workers to appear at the hearing of a winding up petition. But, one thing is clear that this Rule does postulate that apart from the creditors and contributories there may be other persons who are entitled to appear at the hearing of the winding up petition because it is not confined in its application to the creditors and contributories but uses the generic impression "every person" and to this limited extent it does undoubtedly lend some support to the contention of the appellants.

We are therefore of the view that the workers are entitled to appear at the hearing of the winding up petition whether to support or to oppose it so long as no winding up order is made by the court. The workers have a locus to appear and be heard in the winding up petition both before the winding up petition is admitted and an order for advertisement is made as also after the admission and advertisement of the winding up petition until an order is made for winding up the company. If a winding up order is made and the workers are aggrieved by it, they would also be entitled to prefer an appeal and contend in the appeal that no winding up order should have been made by the Company Judge. But when a winding up order is made and it has become final, the workers ordinarily would not have any right to participate in any proceeding in the course of winding up the company though there may be rare cases where in a proceeding in the course of winding up, the interest of the workers may be involved and in such a case it may be possible to contend that the workers must be heard before an order is made by the court. We think that even when an application for appointment of a provisional liquidator is made by the petitioner in a winding up petition, the workers would have a right to be heard if they so wish because the appointment of a provisional liquidator may adversely affect the interest of the workers. But we may make it clear that neither the petitioner nor the court would be under any obligation to give notice of such application to the workers. It would be for the workers to apply for being heard and if they do so, they would be entitled to appear and be heard on the application for appointment of provisional liquidator. The workers therefore in the present case had a right to be heard before the provisional liquidator was appointed by

the Company Judge but the circumstance that the workers were not so heard would not have the effect of vitiating the order appointing provisional liquidator, because on the view taken by us, it would be open to the workers to apply to the court for vacating that order and it would be for the court after considering the material produced before it and hearing the parties to decide whether that order should be vacated or not.

We accordingly allow the appeals, set aside the order, dated 14th September 1981 made by a Single Judge of the High Court and confirmed by the Division Bench on 13th September 1981 and direct that the three Unions shall be entitled to appear and be heard in the winding up petition. There will be no order as to costs of these appeals.

LW 79:11:2024

KAILASH MOTILAL KAKRANIA & ANR v. APURVA OIL AND INDUSTRIES PVT LTD [NCLAT]

Company Appeal (AT) (Insolvency) No. 1257 of 2023

Rakesh Kumar Jain & Ajai Das Mehrotra. [Decided on 15/10/2024]

Insolvency and Bankruptcy Code, 2016- section 7- CIRP by financial creditor- counter claim of corporate debtor- NCLT rejected the application on the ground of wrong calculation of interest and counter claim- whether correct-Held, No.

Brief Facts:

The Appellant No.1 was a shareholder and erstwhile Director of the Corporate Debtor and Appellant No.2 wife of Appellant No.1 was a shareholder of the Corporate Debtor. The Appellants in their petition under Section 7 of the Code have claimed a default of Rs. 1,22,42,927/- which includes Rs. 1,01,50,009/- towards principal amount and Rs. 20,92,918/- towards interest calculated at the rate of 9% per annum till 30.06.2021 as per the Balance Sheet of the Corporate Debtor.

The petition of Appellants was rejected by the Ld. NCLT vide impugned order dated 14.07.2023 primarily for the reason that the Appellants do not meet the threshold prescribed under Section 4 of the Code as no interest on the said loan appears to have been agreed by the Corporate Debtor in the relevant period and that there was a counter claim of the Corporate Debtor of Rs. 10,85,850/- which brought the debt to less than Rs. One Crore.

Decision: Allowed.

Reason:

We have considered the oral and written submissions and have gone through the records. It is admitted by both the sides that there was a financial debt of Rs. 1,01,50,009/- collectively payable to Mr. Kailash Motilal Kakrania (Rs. 88,79,026/-) and his wife Mrs. Manju Kailash Kakrania (Rs. 12,70,983/-). The said outstanding is reflected continuously in the earlier balance sheets and the balance

sheet of Financial Year 2021-22 (at page 540 of the Appeal Paper Book). Since the amount has been continuously shown in the balance sheet, and duly acknowledged, there is no dispute that it is within limitation. The financial debt of Rs. 1,01,50,009/- is due and payable and is within limitation is thus an admitted fact.

It is the claim of the Respondent/Corporate Debtor that an amount of Rs. 10,85,850/- is due from Mr. Kailash Motilal Kakrania which is reflected in the Other Current Assets of the balance sheet of Financial Year 2021-22 at page 541 of the Appeal Paper Book. It is alleged by the Respondent/Corporate Debtor that the Appellants have collected these amounts from tenants by misrepresenting himself as Authorized Representative or Director of the Corporate Debtor and this amount is due and recoverable from the Appellant.

The alleged entry in the ledger account is given in page 523 of the Appeal Paper Book. Apparently, the entire entries are made on a single date showing amount receivable from Mr. Kailash Motilal Kakrania of Rs. 10,85,850/- relating to 8 (eight) transactions. The voucher nos. are in seriatim from voucher no. 1 to voucher no. 8 and all entries are made on 10.07.2021. The Corporate Debtor in his written submissions has nowhere stated that any demand of the said amount was ever made on Mr. Kailash Motilal Kakrania. There is no entry in the balance sheet, prior to the date of filing of petition under Section 7, regarding the said amount. Even in the books of account of the Corporate Debtor, the amounts are not adjusted against the financial debt, and are shown separately in the balance sheet as on 31.03.2022.

In the present case, there is no dispute regarding financial debt of Rs. 1,01,50,009/- which is duly reflected in the balance sheets for various years, including for financial year 2021-22. The debt is due and is within limitation. We find that the Adjudicating Authority has erred in allowing adjustment of Rs. 10,85,850/- against the financial debt for the reasons aforesaid. The order of the Ld. NCLT dated 14.07.2023 is set aside and is remanded back to the Ld. NCLT for passing necessary consequential order admitting Corporate Debtor in CIRP under Section 7 of the Code. The Appeal is accordingly allowed. No order as to costs. All connected I.As, if any, are also disposed of.

LW 80:11:2024

CENTURY ALUMINIUM COMPANY LTD v. RELIGARE FINVEST LTD [NCLAT]

Company Appeal (AT) (Insolvency) No. 1719 of 2024

Ashok Bhushan, Barun Mitra & Arun Baroka. [Decided on 29/10/2024]

Section 7 of the Insolvency and Bankruptcy Code, 2016 read with section 8 of the arbitration and Conciliation Act, 1996 - CIRP by financial creditor- corporate debtor filed application to refer the dispute to arbitration after filing reply- NCLT dismissed the application- whether correct-Held, Yes.

Brief facts:

In the Year 2015, The appellant Corporate Debtor approached the respondent Financial Creditor and obtained loan against the Property for an amount of Rs.12,50,00,000/-. The loan agreement provided for the unilateral appointment of sole arbitrator by the respondent. Corporate Debtor created Security Interest by hypothecation of assets and equitable mortgage in favour of the Financial Creditor, State Bank of India and Canara Bank, being factory, land 9.34 acres, building and other constructions. Corporate Debtor failed to maintain financial discipline and made several defaults and expressed its acknowledgement of outstanding liability vide letter dated 22.08.2019 and 25.05.2022.

The Respondent initiated arbitration proceedings in the year 2019 but the arbitrator recused on the ground that his appointment is invalid. Thereafter the respondent initiated CIRP proceedings before the NCLT by filing an application under Section 7 of the Code for Financial Debt of Rs.16,89,54,976.03/-.

Corporate Debtor filed its Reply to the Section 7 Application. After filing of the Reply by the Corporate Debtor, an Application was filed being I.A. 542/2024 on 12.03.2024, seeking reference to Arbitration under Section 8 of the Arbitration and Conciliation Act, 1996. This application was rejected by the NCLT. Aggrieved by the Order of the Adjudicating Authority, rejecting the I.A., this Appeal has been filed.

Decision: Dismissed.**Reason:**

Application under Section 7 was filed by the Financial Creditor in the Year 2023. The thrust of submission of the Appellant is that Financial Creditor itself has initiated Arbitration Proceeding by unilaterally appointed an Arbitrator on 26.07.2019, hence Section 7 Application ought not to have been proceeded and the Adjudicating Authority ought to have allowed the Application filed by the Corporate Debtor under Section 8 of the Arbitration Act. There is no dispute to the fact that Financial Creditor has unilaterally appointed a sole Arbitrator and sole Arbitrator, however, terminated the Arbitration Proceeding on 26.10.2021 holding that appointment of Arbitrator is contrary to the law laid down by the Hon'ble Supreme Court in *Perkins Eastman Architects DPC & Anr v. HSCC (India) Limited*. The Counsel for the Appellant submits that the termination of the Arbitration can be done only under Section 32 and recusal of Arbitrator from proceeding is not a termination of Arbitration. Corporate Debtor has also referred to Notice given by the Corporate Debtor subsequent to initiation of Section 7 Application for initiating the Arbitration Proceeding.

Learned Counsel for both the Parties have referred to the Judgment of the Hon'ble Supreme Court in *Indus Biotech Pvt. Ltd.* (Supra). From the law laid down by the Hon'ble Supreme Court, it is clear that if an Application under Section 8 of the Arbitration and Conciliation Act,

1996, is filed, the Adjudicating Authority is duty bound to proceed first to decide the Application under Section 7 by recording a satisfaction with regard to their being default or not. The fact that whether Arbitration Proceedings are pending on the date when Section 7 Application is filed or it is sought to be initiated subsequent to filing of Section 7 Application is immaterial. The remedy under Section 7 is a special remedy, keeping the object and purpose of the IBC Code. When it is brought in the notice of the Adjudicating Authority that a Corporate Debtor needs a resolution it having committed default in payment of debt, the Court is obliged to consider the Section 7 Application to find out as to whether there is a debt and default. The Insolvency Resolution of a Corporate Debtor which needs Insolvency Resolution can await adjudication of Arbitration Proceedings nor the Application under Section 7 can be kept pending till the adjudication of Arbitration Proceeding is completed. Allowing the Application under Section 8 filed by the Corporate Debtor amounts to asking the Adjudicating Authority to wait till Arbitration Proceedings are decided which is not in accord with the scheme of the IBC and shall defeat the entire purpose and object of the IBC. Adjudicating Authority in the Impugned Order has rightly rejected Application under Section 8 filed by the Corporate Debtor for referring to the dispute between the parties to the Arbitrator. As noted above, the Application under Section 8 was filed much subsequent to the filing of the Reply by the Corporate Debtor.

We, thus find substance in the submission of the Counsel for the Respondent that by not filing of Application under Section 8 at the time of filing of a Reply to Section 7, Corporate Debtor has forfeited his right to file his Application under Section 8. We, thus are satisfied that no error has been committed by the Adjudicating Authority in rejecting the I.A. No. 542/2024, filed by the Appellant. There is no merit in the Appeal. The Appeal is dismissed.

LW 81:11:2024**ADICO FORGE KAMGAR SANGATHANA v. CA RAMCHANDRA DALLARAM CHOUDHARY & ORS[NCLAT]****Company Appeal (AT) (Insolvency) No.1645 of 2024**

Ashok Bhushan, Barun Mitra & Arun Baroka. [Decided on 29/10/2024]

Insolvency and Bankruptcy Code, 2016- section 7- CIRP by financial creditor- resolution plan fully considering the dues of the workers- NCLT approved the resolution plan- appellant union challenged the resolution plan- whether tenable -Held, No.

Brief facts:

The Respondent Financial Creditor initiated the CIRP against the Corporate Debtor. IRP was appointed by the NCLT. The Appellant - Union filed their claim with the IRP. Total claim of the workers of Rs.8,19,47,918/- was admitted and also included in the resolution plan for payment. IA No.5826 of 2023 was filed by the RP

for approval of the Plan. The Adjudicating Authority by the impugned order has allowed the Application and approved the Resolution Plan. Aggrieved by which order, this Appeal has been filed.

Decision: Dismissed.

Reason:

The learned Counsel for the Appellant challenging the order contends that the Resolution Plan does not secure rights of the workmen, which include, but are not limited to continued employment after the Successful Resolution Applicant ("SRA") took over the Corporate Debtor ("CD") or retiral/ termination benefits. The learned Counsel for the Appellant also contended that the Resolution Plan also need to take care of the provident fund and gratuity to which the workers are entitled and the same have to be paid in full.

The entire admitted claim in question for provident fund and gratuity having been paid in the Resolution Plan, we do not find any ground to interfere with the order of the Adjudicating Authority of approving the Resolution Plan.

The jurisdiction of the NCLT and NCLAT while considering the Plan approved by the Committee of Creditors ("CoC") has a limited jurisdiction. The remit of the jurisdiction is to examine as to whether the Plan is in compliance of Section 30, sub-section (2) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC"). Judgment of the Hon'ble Supreme Court in K. Sashidhar vs. Indian Overseas Bank and Ors. - (2019) 12 SCC 150 is referred in this context.

The gratuity and provident fund having been admitted in full and paid in full in the Resolution Plan, compliance of provisions of IBC are fully met. We, thus, are of the view that no error has been committed by the Adjudicating Authority in approving the Resolution Plan. There are no grounds to interfere Company Appeal (AT) (Insolvency) No.1645 of 2024 6 with the impugned order. The Appeal is dismissed. Pending IAs, if any, are also disposed of. There shall be no order as to costs.



Competition Laws

LW 82:11:2024

AMREESH NEON PRIVATE LTD & ANR v. COMPETITION COMMISSION OF INDIA & ORS[NCLAT]

Competition Appeal (AT) No. 30 of 2022

Rakesh Kumar Jain, Naresh Salecha & Indevvar Pandey. [Decided on 16/10/2024]

Competition Act,2002- CCI rendered judgement holding that cartelisation existed- punishments by way of penalty were also awarded- appellants challenged the penalty and requested for reduction- whether tenable- Held, No.

Brief facts:

This appeal has been filed challenging the final order and judgment passed by the Competition Commission of India. The Appeal challenges the order passed by the Commission in *Suo Moto Case No. 02 of 2020* dated 03.02.2020, wherein the Commission held that the appellants had contravened Sections 3(3)(c) and 3(3)(d) r/w Section 3 (1) of the Act. The Appellant No.1 and 2 along with other parties were found guilty of bid rigging and cartelisation in a Tender process initiated by SBI Infra Management Solutions Pvt. Ltd. (SBIIMS).

Decision: Dismissed.

Reason:

We have heard the Ld. Counsels in detail and gone through the records of the case. In his arguments and the written submissions the counsel for appellants have restricted his prayer to reduction in penalty awarded to Appellant No.1. He has not argued the case on its merits.

The only issue under consideration here is whether the penalty imposed on Appellant No.1 is proportionate to the offence and whether it meets the criteria laid down in *Excel Crop Care Ltd. vs CCI* (supra).

The CCI has made the reference to the *Excel Crop Care Ltd. vs CCI* (supra) in its order and mentions that the principle of proportionality as laid down by Hon'ble SC was in the context of multi- product companies only. The Competition Appeal (AT) No. 30 of 2022 CCI noted that in the present matter the OPs are engaged in the business of supply of printed advertising/ marketing material which includes signages. It is not possible to classify different types of signages in multiple products in terms of Hon'ble SC's Judgment in *Excel Crop* (supra) rather the signages constitute different varieties of the same product. The CCI also differentiated that the contention of the OPs that turn over derived from impugned tender alone should be considered is in the teeth of *Excel Crop Care* Judgment supra.

In this context, we have looked into the aforesaid Judgment of *Excel Corp Care* (supra) closely, regarding the facts of the case and whether the aforesaid ratio applies squarely to the present appeal. In the present case the appellant's main business is that of signage and the other items of turnover relates to the same business activity. Such artificial distinction in segmental turnover cannot be accepted. We have also seen that CCI has taken a very lenient view while levying Monetary Penalties upon the OPs most of whom are MSMEs. The Section

27 of the Act provides for Penalty up to 10% of the average of the turnover or income, as the case may be, for the last 3 preceding financial years, but the CCI taking a lenient view has only imposed penalty of 1% of the average and average of their relevant turnover for the 3 financial years i.e. 2015-16 to 2017-18.

We are of the view that the CCI has passed a well-considered order in the instant case which has been upheld in two separate appeals by this Tribunal. In one of the matter Hon'ble Supreme Court has dismissed the appeal and in another matter no appeal was preferred so the order has attained finality. In view of the facts and circumstances of the present case, we do not find any merit in the present appeal and the same is hereby dismissed. There would be no order as to costs.



Tax Law

LW 83:11:2024

SHRIRAM INVESTMENTS v. THE COMMISSIONER OF INCOME TAX -III, CHENNAI [SC]

Civil Appeal No. 6274 of 2013

Abhay S Oka & Augustine George Masih, JJ. [Decided on 04/10/2024]

Income tax Act, 1961- section 139- filing of two revised returns- second revised return filed after the prescribed period- assessing officer rejected the second revised return and completed the assessment- on appeal ITAT remanded the case back to the assessing officer- revenue appealed to the High Court against the remand which was allowed- whether the High Court was correct- Held, Yes.

Brief facts:

The appellant-assessee filed a return of income and also a revised return later on. Again another revised return was filed by the appellant. The assessing officer did not take cognizance of the said second revised return. Therefore, the appellant preferred an appeal before the Commissioner of Income Tax (Appeals), which was dismissed on the ground that in view of Section 139(5) of the IT Act, the revised return filed on 29th October 1991 was barred by limitation.

Being aggrieved, the appellant-assessee preferred an appeal before the Income Tax Appellate Tribunal, which partly allowed the appeal by remanding the case back to the file of the assessing officer. The

assessing officer was directed to consider the assessee's claim regarding the deduction of deferred revenue expenditure. The respondent Department preferred an appeal before the High Court of Judicature at Madras. By the impugned judgment, the High Court proceeded to set aside the order of the Tribunal on the ground that after the revised return was barred by time, there was no provision to consider the claim made by the appellant.

Decision: Dismissed.

Reason:

We have carefully considered the submissions made across the bar. We have carefully perused the judgment of this Court in the case of *Wipro Finance Ltd, 2022 (137) taxmann.com 230 (SC)*. The issue which arose before this Court was not regarding the power of the assessing officer to consider the claim after the revised return was barred by time. This Court considered the appellate power of the Appellate Tribunal under Section 254 of the IT Act.

In the case of *Goetzge (India) Ltd*, this Court held that the assessing officer cannot entertain any claim made by the assessee otherwise than by following the provisions of the IT Act. In this case, there is no dispute that when a revised return dated 29th October 1991 was filed, it was barred by limitation in terms of section 139(5) of the IT Act.

Coming to the decision of the Tribunal, we find that the Tribunal has not exercised its power under Section 254 of the IT Act to consider the claim. Instead, the Tribunal directed the assessing officer to consider the appellant's claim. The assessing officer had no jurisdiction to consider the claim made by the assessee in the revised return filed after the time prescribed by Section 139(5) for filing a revised return had already expired. Therefore, we find no reason to interfere with the impugned judgment of the High Court. The appeal is, accordingly, dismissed.

LW 84:11:2024

ASHOK LEYLAND LTD v. THE COMMISSIONER VALUE ADDED TAX [DEL]

W.P.(C) No. 11708 of 2023

Yashwant Varma & Ravinder Dudeja, JJ. [Decided on 16/10/2024]

Delhi Value added Tax- section 28- refund- assessee deposited Rs.3.5 crore with the department at the request of the department- later refund of the same was claimed- department rejected the refund claim- whether correct- Held, No.

Brief facts:

Writ Petitioner was constrained to approach this Court by way of the instant writ petition consequent

to a failure on the part of the respondents to refund an amount of Rs. 3,50,00,000/- along with applicable interest as also interest on refunds issued for Assessment Years 2012-13.

Decision: Allowed.

Reason:

The refund of Rs. 3,50,00,000/- has been rejected on the following grounds:-

- the said amount has not been reflected in the returns filed for the relevant period, nor adjusted against the demands;
- no revised return filed within one year to claim the refund as envisaged under Section 28 of the DVAT Act;
- refund has been claimed after a gap of more than five years.

It is clear from the language of Section 28 of the DVAT Act that if there is any discrepancy in the return furnished for the tax period, the assessee is liable to furnish a revised return. It is not the case of the respondent that there was any discrepancy in the return furnished by the petitioner and therefore the petitioner was not under any obligation to file the revised return under Section 28 of the DVAT Act, inasmuch as, the amount of Rs. 3,50,00,000/- deposited by the petitioner was not a tax but an amount deposited with the department, out of which, tax amount, if any, was to be deducted.

Admittedly, the assessment for the AY 2012-13 was framed vide order dated 31.03.2017 and the objections filed by the petitioner before SOHA were decided vide order dated 08.10.2018. The instruction given by the petitioner while depositing the amount of Rs. 3,50,00,000/- was that the said amount be retained as payment against demand if any raised on account of inspection conducted at their premises on 11.03.2013. The cause of action for claiming refund accrued only after passing of orders by SOHA, when it was found that no further tax was payable or to be adjusted out of Rs. 3,50,00,000/- already deposited. Soon thereafter i.e. on 12.10.2018, petitioner submitted form DVAT-21 claiming refund of Rs. 3,50,00,000/-. There is no inordinate delay in submitting the claim for refund after passing of the orders by SOHA. We also take note that Section 38(2) of the DVAT Act uses the expression "recovery of any other amount due under this Act." The Commissioner in terms of Section 38(2) is entitled to apply any amount found to have been paid by the assessee in excess of the amount due from him before making a refund only if there exists an enforceable demand against the assessee. As is manifest on a conjoint reading of Section 35(2) and 38(2) of the DVAT Act, as long as objections remained pending with OHA, any amount claimed by the respondent would clearly not answer the description of an amount due or payable as contemplated under Section 38(2). Respondent, therefore, cannot possibly seek to justify the retention of the refund claim on account of being barred by limitation. The delay in

processing the refund is endemic to the DVAT authorities and if the same is considered, the delay, even if any, on the part of the petitioner approaching the authorities is not long. Respondent cannot possibly seek to justify the retention of refund claim on account of its having been deposited voluntarily or being barred by limitation. It is a clear case of unjust retention of the money of petitioner. Respondent clearly appeared to have acted arbitrarily in illegally depriving the petition of the refund as claimed, in flagrant violation of the mandate of Section 38 of the DVAT Act.

Once the taxpayer succeeds in upsetting the assessments framed under Section 32 & 33 of the DVAT Act, which results in vindicating its claim for refund either in part or as a whole as claimed by either furnishing a return or Form DVAT-21, interest under Section 42(1)(a) of the DVAT Act would be payable from such date as the refund was due to be paid to the taxpayer. The expression "the date that the refund was due to be paid" must be construed as the date when such a refund ought to have been paid to the taxpayer. After the assessee succeeds in vindicating its stand that its claim for refund was correct, it would follow that that the assessee would be refunded the amount claimed and interest would be payable. A harmonious reading of Section 38 and 42 makes it clear that the interest is payable to the petitioner from the date when it accrued in terms of Section 38(3)(a)(ii) of 2004 Act.

In terms of statutory time - frame which stands constructed by Section 38(3)(a)(ii) of the DVAT Act, the said amount had become refundable within the time - frame stipulated under Section 38(3) of the DVAT Act. Since the payment of refund was delayed, petitioner automatically becomes entitled to the interest under Section 42 of the DVAT Act. Similarly, the petitioner would also be entitled to interest along with refund of Rs. 3,50,00,000/- in terms of Section 42(1) of the DVAT Act. In view of the afore-going discussion, the instant writ petition is allowed.



**General
Laws**

LW 85:11:2024

KALAMKARI LIFESTYLE TECH PVT LTD v. MSME FACILIATION COUNCIL MUMBAI & ANR[DEL]

W.P.(C) 14572/2024

Sanjeev Narula, J. [Decided on 18/10/2024]

MSME Act- section 18- disputes as to payment-arbitration by MSFC under the Act- MSME seller in Mumbai and the buyer in Delhi- seller initiation

arbitration in Mumbai- buyer challenged the venue and sought for transfer of the proceedings to Delhi-whether tenable-Held, No.

Brief facts:

The Respondent No.2 is a Mumbai based MSME entity with whom the Delhi based Petitioner had entered into a contract for the provision of certain services. Disputes arose with respect to the payment and the Respondent No.2 referred the payment complaint to Respondent No.1. the MSME Facilitation Council in Mumbai. Therefore, aggrieved by the actions of Respondent No. 2, the Petitioner has filed the present writ petition seeking directions for transferring the venue of the proceedings from Mumbai to Delhi.

Decision: Dismissed.

Reason:

The Court has carefully considered the contentions raised by the Petitioner but remains unconvinced. The allegations concerning the contractual disputes between the Petitioner and relating to non-fulfilment of obligations under the Agreement dated 15th November, 2022, are not the subject of examination by this Court, as the Petitioner's grievance pertains solely to the issue of territorial jurisdiction of the Facilitation Council. Specifically, the Petitioner challenges Respondent No. 1's authority to entertain the claims and disputes raised by Respondent No. 2 in Mumbai.

In the opinion of the Court, on this issue, one would have to refer to Section 18(4) of the MSMED Act. The aforementioned provision unequivocally establishes that the Facilitation Council or the designated centre has the jurisdiction to act as an arbitrator or conciliator in disputes between a supplier located within its territorial jurisdiction and a buyer located anywhere across India. In the present case, Respondent No. 2 being the supplier, is based in Mumbai, which places the jurisdiction squarely within the purview of Respondent No. 1, the MSME Facilitation Council in Mumbai, to entertain the claims brought by Respondent No. 2.

Furthermore, the Petitioner's reliance on Section 20 of the CPC is misplaced in the present context. Given the statutory provisions under the MSMED Act, the question of jurisdiction, as raised by the Petitioner, becomes redundant. The MSMED Act's specific jurisdictional framework, as outlined in Section 18(4), takes precedence over general provisions under CPC, particularly when disputes involve suppliers located within the territorial jurisdiction of a particular Facilitation Council, in this case, Mumbai. Therefore, the argument concerning the cause of action under Section 20 of the CPC holds no merit. Additionally, the Agreement dated 15th November, 2022, expressly acknowledges that it was entered into in Delhi/ Mumbai, further undermining the Petitioner's claim that

the proceedings should solely be conducted in Delhi. Clause 13 of the Agreement, which deals with governing law and jurisdiction, explicitly provides that both Delhi and Mumbai courts have concurrent jurisdiction. This clause clearly permits Respondent No. 2 to invoke proceedings either in Delhi or Mumbai, based on where the cause of action arose or the supplier is located. Given that Respondent No. 2 is based in Mumbai, it cannot be said that part of the cause of action has not arisen there. Thus, the jurisdiction of the MSME Facilitation Council in Mumbai stands justified. In light of the foregoing, the present writ petition is devoid of merits and accordingly the same is disposed of.

LW 86:11:2024

OKINAWA AUTOTECH INTERNATIONAL PVT LTD & ANR v. UNION OF INDIA [Del]

LPA No. 957 of 2024, and C.M. APPL. Nos. 55939-41 of 2024

Manmohan & Tushar Rao Gedela, JJ. [Decided on 16/10/2024]

Faster Adoption & Manufacturing of Electric Vehicles Scheme [FAME]- Appellant participated in the scheme and availed subsidy- ARI findings disclosed violation of localisation norms- initially the appellant was de-registered and later a show cause notice was issued to blacklist it- Appellant's writ petition was dismissed by the Single judge- whether the dismissal is correct-Held, Yes.

Brief facts:

The Appellant company participated in the Scheme namely Faster Adoption and Manufacturing of Electric Vehicles in India, Phase II (in short 'FAME-II Scheme') floated by the respondent for promotion of electric and hybrid vehicles and claimed subsidy for sale of its vehicle models from the respondent from time to time. Based on the findings of ARAI through strip down analysis alleging violation of localization norms/PMP Guidelines with regard to four components by the appellant company and otherwise, the Respondent de-registered the Appellant company from the FAME II Scheme and thereafter issued a after issuing a show cause notice blacklisting the Appellant. The writ petition filed by the Appellant , challenging the show cause notice , was dismissed by the Single Judge. Aggrieved, the Appellant had preferred the present Letters Patent Appeal before the Division Bench.

Decision: Dismissed.

Reason:

It is no more res integra that ordinarily, a Writ Court may not exercise its discretionary jurisdiction in entertaining a writ petition challenging a Show Cause Notice unless the same appears to have been issued without jurisdiction or in abuse of process of law.

It is not disputed that the respondent had passed an order dated 9th October, 2023 de-registering the appellant company on the grounds, which are subject matter of challenge in another writ petition bearing W.P.(C) 15125/2023. The same appears to be premised on the alleged violations of the conditions set out in FAME - II Scheme and PMP Guidelines. It has been vehemently argued by the appellants that the impugned Show Cause Notice is entirely predicated upon the de-registration order alone. It was stated that there are no other palpable grounds on which the Show Cause Notice has been issued. On that basis, it was argued that the said Show Cause Notice has been issued with a predetermined mind and following the procedures of granting an opportunity of filing a reply thereto and possibly affording an opportunity of hearing would then, surely be an empty formality. According to the appellants, the Supreme Court has not only deprecated, but has also quashed Show Cause Notices in such circumstances.

Though at the first blush, the aforesaid argument appears to be attractive, yet, on a closer scrutiny and consideration, it is fallacious. This is for the reason that, though an order for de-registration and blacklisting may be predicated on the same set of facts, yet the consideration as to whether a party may only be penalised with de-registration or to take it to the next severe level of blacklisting, may be different. Merely because the appellant company has been de-registered by the respondent would not, ipso facto, imply that the Show Cause Notice intending blacklisting, would also be decided against the appellant. Moreover, the appellant would be afforded an opportunity to file its reply which would be considered by the Competent Authority in accordance with law. This Court has also perused the Show Cause Notice carefully and does not find the same to be predetermined. Apart from referring to the order of de-registration, the recitals do not betray the mind of the issuing authority. Since it appears that the background facts are similar, a reference to the de-registration order may have been made. Other than that, this Court does not find any palpable reason to conclude a 'predetermined mind'. It can also not be assumed at this stage that a reasonable opportunity of defence would not be provided to the appellants.

As an analogy, in service jurisprudence, on the same set of facts, two sets of proceedings could be possible. One, in respect of disciplinary proceedings and the other could be the parallel proceedings initiated before the Criminal Court. It is trite that both proceedings could commence and be adjudicated simultaneously. These are two independent proceedings entailing two different consequences altogether. Though, at times, there could be exceptions to the above rule.

So far as the second submission regarding the same authority having issued the Show Cause Notice, who

had also, on a previous occasion, passed an order de-registering the appellant company is concerned, there is no allegation of bias nor has the learned senior counsel for the appellants submitted any such issue, except to state that the same person who had passed the order de-registering the appellant could not have issued the Show Cause Notice entailing consequence of blacklisting. Learned senior counsel for the appellants had also expressed apprehension that there could be a possibility of a natural bias to uphold the findings of de-registration and apply the same to blacklisting too. We do not find any substance in the said submission. There are multiple reasons for the said opinion, (i) there is no prohibition for the same person in authority to have passed both, the de-registration order as well as issuing the Show Cause Notice proposing action of blacklisting; (ii) there is no restriction or prohibition either, for the same authority to pass an order of penalty and consider the issuance of Show Cause Notice for a major penalty or action, if the situation or facts so warrant/necessitate; (iii) there is no restriction or prohibition against an authority, circumscribing its power of blacklisting an entity on the same set of facts, vide which the previous penalty, in the present case, de-registration was passed; (iv) there is no restriction in exercising its power, so long as the authority concerned acts in accordance with the principles of natural justice envisaged in administrative law. This Court also notices that there are no allegations of personal bias against the officer concerned. The officer concerned appears to be holding a position warranting different roles and responsibilities in the same capacity. Merely because of such position and status, it cannot be inferred that there would be a natural bias, inbuilt or inherent. On the above principles, this Court does not find any reasons to interdict the Show Cause Notice at this stage. In any case, the appellants can raise all its contentions before the authority while filing the reply to the Show Cause Notice, taking all the objections that are possibly available with them.

The action proposed to be now undertaken vide the Show Cause Notice is separate and distinct from the order of de-registration and thus, pendency of the writ challenging the de-registration order would not be an impediment to the issuance of Show Cause Notice for blacklisting. Suffice to state that this Court reiterates the reasoning rendered by the learned Single Judge in the aforementioned paragraph. Moreover, as observed above, the Show Cause Notice, in the present case, does not betray a predetermined mind as apprehended by the appellant.

That said, this Court does not find any reason to interfere with the sound reasoning rendered by the learned Single Judge in the impugned judgement dated 11th September, 2024. Consequently, the appeal is dismissed along with pending applications, if any, without costs. □

4

FROM THE GOVERNMENT



- THE COMPANIES (ADJUDICATION OF PENALTIES) SECOND AMENDMENT RULES, 2024
- THE INVESTOR EDUCATION AND PROTECTION FUND AUTHORITY (FORM OF ANNUAL STATEMENT OF ACCOUNTS) AMENDMENT RULES, 2024
- APPOINTMENT OF CHAIRPERSON, IEPFA
- (A) ANNUAL COMPLIANCE CERTIFICATE FOR CLIENT LEVEL SEGREGATION BY NONINDIVIDUAL INVESTMENT ADVISERS; (B) TIMELINE FOR SUBMISSION OF PERIODIC REPORTS
- PERIODIC REPORTING FORMAT FOR RESEARCH ANALYSTS AND PROXY ADVISERS
- CLARIFICATION WITH RESPECT TO ADVERTISEMENT CODE FOR RESEARCH ANALYSTS (RAs)
- MODIFICATION IN ANNEXURE TO COMMON APPLICATION FORM (CAF)
- ASSOCIATION OF PERSONS REGULATED BY THE BOARD AND THEIR AGENTS WITH CERTAIN PERSONS
- INCLUSION OF MUTUAL FUND UNITS IN THE SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015
- CLARIFICATION WITH REGARD TO USAGE OF 3 – IN – 1 TYPE ACCOUNTS FOR MAKING AN APPLICATION IN PUBLIC ISSUE OF SECURITIES
- INTRODUCTION OF LIQUIDITY WINDOW FACILITY FOR INVESTORS IN DEBT SECURITIES THROUGH STOCK EXCHANGE MECHANISM
- MONITORING OF POSITION LIMITS FOR EQUITY DERIVATIVE SEGMENT
- MONITORING SHAREHOLDING OF MARKET INFRASTRUCTURE INSTITUTIONS (MIIs)
- CORRIGENDUM TO CIRCULAR ON EASE OF DOING BUSINESS IN THE CONTEXT OF STANDARD OPERATING PROCEDURE FOR PAYMENT OF “FINANCIAL DISINCENTIVES” BY MARKET INFRASTRUCTURE INSTITUTIONS (MIIs) AS A RESULT OF TECHNICAL GLITCH
- CHANGE IN TIMING FOR SECURITIES PAYOUT IN THE ACTIVITY SCHEDULE FOR T+1 ROLLING SETTLEMENT
- EXTENSION OF TIMELINE FOR IMPLEMENTATION OF SEBI CIRCULAR SEBI/HO/MIRSD/MIRSD-POD1/P/CIR/2024/75 DATED JUNE 05, 2024
- SPECIFIC DUE DILIGENCE OF INVESTORS AND INVESTMENTS OF AIFs
- TIMELINES FOR DISCLOSURES BY SOCIAL ENTERPRISES ON SOCIAL STOCK EXCHANGE (“SSE”) FOR FY 2023-24
- RELAXATION FROM COMPLIANCE WITH CERTAIN PROVISIONS OF THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015 – REG.
- REVIEW OF STRESS TESTING FRAMEWORK FOR EQUITY DERIVATIVES SEGMENT FOR DETERMINING THE CORPUS OF CORE SETTLEMENT GUARANTEE FUND (CORE SGF)
- MEASURES TO STRENGTHEN EQUITY INDEX DERIVATIVES FRAMEWORK FOR INCREASED INVESTOR PROTECTION AND MARKET STABILITY
- DIRECTIONS FOR CENTRAL COUNTERPARTIES (CCPs)
- DESIGNATION OF ONE ORGANISATION UNDER SECTION 35(1) (A) AND 2(1) (M) OF THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967 AND ITS LISTING IN THE FIRST SCHE DULE OF THE ACT- REG.
- RESERVE BANK OF INDIA (ACCESS CRITERIA FOR NDS-OM) DIRECTIONS, 2024
- FACILITATING ACCESSIBILITY TO DIGITAL PAYMENT SYSTEMS FOR PERSONS WITH DISABILITIES – GUIDELINES
- SUBMISSION OF INFORMATION TO CREDIT INFORMATION COMPANIES (CICs) BY ARCs
- IMPLEMENTATION OF CREDIT INFORMATION REPORTING MECHANISM SUBSEQUENT TO CANCELLATION OF LICENCE OR CERTIFICATE OF REGISTRATION
- INTEREST EQUALIZATION SCHEME (IES) ON PRE AND POST SHIPMENT RUPEE EXPORT CREDIT
- DUE DILIGENCE IN RELATION TO NON-RESIDENT GUARANTEES AVAILED BY PERSONS RESIDENT IN INDIA



Corporate Laws

01 The Companies (Adjudication of Penalties) Second Amendment Rules, 2024

[Issued by the Ministry of Corporate Affairs [E. No. 1/25/2013-CL-V(Part)] dated 09.10.2024.]

In exercise of the powers conferred by section 454 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Adjudication of Penalties) Rules, 2014, namely: -

- (1) These rules may be called the Companies (Adjudication of Penalties) Second Amendment Rules, 2024.
- (2) They shall come into force from the date of their publication in the official gazette.
- In the Companies (Adjudication of Penalties) Rules, 2014, in sub-rule (1) of rule 3A, the following proviso shall be inserted, namely:-

“Provided that the proceedings pending before the Adjudicating Officer or Regional Director on the date of such commencement shall continue as per provisions of these rules existing prior to such commencement.”

MANOJ PANDEY
Additional Secretary

02 The Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Amendment Rules, 2024

[Issued by the Ministry of Corporate Affairs [E. No. 05/01/2023-IEPF] dated 03.10.2024.]

In exercise of the powers conferred by sub-section (11) of section 125 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Rules, 2018, namely:-

- (1) These rules may be called the Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Amendment Rules, 2024.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- In the Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Rules, 2018, in rule 5, in sub-rule (2), for the words “one Member”, the words “the chief executive officer” shall be substituted.

ANITA SHAH AKELLA
Joint Secretary

03 Appointment of Chairperson, IEPFA

[Issued by the Ministry of Corporate Affairs [E. No. 05/03/2020-IEPF] dated 03.10.2024.]

In exercise of the powers conferred by sub-sections (5) and (6) of section 125 of the Companies Act, 2013 (18 of 2013) read with rules 5 and 7 of the Investor Education and Protection Fund Authority (Appointment of Chairperson and Members, holding of meetings and provision for offices and officers) Rules, 2016, the Central Government hereby appoints Smt. Deepti Gaur Mukerjee as chairperson to the Investor Education and Protection Fund Authority from the date she assumes her office as such and for that purpose makes the following further amendments in the notification of the Government of India in the Ministry of Corporate Affairs published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1647 (E), dated the 5th May, 2016, namely:-

In the said notification, for serial number 1 and the entries relating thereto, the following serial number and the entries shall be substituted, namely: -

“1. Smt. Deepti Gaur Mukerjee, – Chairperson, ex officio;”

Secretary, Ministry of Corporate Affairs, Shastri Bhawan, New Delhi

ANITA SHAH AKELLA
Joint Secretary

04 (A) Annual Compliance Certificate for Client Level Segregation by nonindividual Investment Advisers; (B) Timeline for submission of periodic reports

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/147 date 25.10.2024]

(A) Annual Compliance Certificate for Client Level Segregation by nonindividual Investment Advisers

- SEBI, vide Circular no. SEBI/HO/IMD/DF1/CIR/P/2020/182 dated September 23, 2020 and Master Circular for Investment Advisers dated May 21, 2024 (hereinafter mentioned as ‘Master Circular’), inter alia, specified that a non-individual investment adviser (IA) shall maintain on record an annual certificate from its statutory auditor confirming compliance with the client level segregation requirements as specified in Regulation 22 of the IA Regulations¹.
- As a step towards ease of doing business and in terms of recommendation of the working group for review of compliance requirements for Investment Advisers and Research Analysts, as in case of an individual IA, it has been decided to allow a non-individual IA to obtain annual compliance certificate from any auditor in respect of abovementioned requirement.
- In view of the above, the paragraph 1.2 (i) (i) of the Master Circular shall stand modified as under:

“1.2. (i) Client Level Segregation of Advisory and Distribution Activities

- (i) The IAs shall maintain on record an annual certificate from an auditor confirming compliance with the client level segregation requirements as specified in Regulation 22 of the IA Regulations. Such annual certificate 1 IA Regulations- SEBI (Investment Advisers) Regulations, 2013 shall be obtained within 6 months of the end of the financial year and form part of compliance audit, in terms of Regulation 19(3) of the IA Regulations.”

(B) Timeline for submission of periodic reports - 30 days from the end of reporting period

4. SEBI, vide Circular no. SEBI/HO/MIRSD/MIRSD-PoD-2/P/CIR/2024/38 dated May 7, 2024 and Master Circular dated May 21, 2024, specified periodic reporting format for IAs. As a step towards ease of doing business, it has been decided to grant a period of 30 days to make submission of periodic reports to IAASB.

Accordingly, paragraph 20.6.ii of the Master Circular shall stand revised as under:

“20.6.ii

For the subsequent half-yearly periods, IAs shall submit periodic reports within 30 days from the end of the half-yearly period for which details are to be furnished.”

5. The provisions of this circular shall come into force with immediate effect.
6. IAASB is directed to:
- 6.1. bring the provisions of this circular to the notice of the investment advisers and also disseminate the same on its website;
 - 6.2. make necessary amendments to the relevant Bye-laws, Guidelines, Standard Operating Procedures, Rules and Regulations for the implementation of the above decisions.
7. This circular is issued in exercise of powers conferred under Section 11(1) of Chapter IV of the Securities and Exchange Board of India Act, 1992, Regulation 14, 15(12) and 22(5) of the IA Regulations, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.
8. This circular is available on SEBI website at www.sebi.gov.in under the category: ‘Legal → Circulars’.

ARADHANA VERMA
General Manager

05 Periodic reporting format for Research Analysts and Proxy Advisers

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/148 date 25.10.2024]

1. In terms of Regulation 24(4) of Chapter III of the Securities and Exchange Board of India (Research

Analysts) Regulations, 2014 (“RA Regulations”), Research Analysts (RAs) are required to furnish to SEBI, information and reports as may be specified by SEBI from time to time. Further, in terms of Regulation 23(1) of Chapter III of the RA Regulations, all the provisions of Chapter II, III, IV, V and VI shall apply mutatis mutandis to the proxy advisers (PAs). It has been decided to specify a standardized format for periodic reporting for RAs and PAs.

2. SEBI has recognized BSE Limited as Research Analyst Administration and Supervisory Body (“RAASB”) for the purpose of administration and supervision of RAs under regulation 14 of the RA Regulations.

Consultative process for development of periodic reporting format

3. Based on the recommendations received from Industry Standards Forum (“ISF”) for RAs (including PAs), a consultation paper on ‘Periodic reporting format for Research Analysts and Proxy Advisers’ was published on August 9, 2024 and was open for public comments till August 30, 2024. Pursuant to public consultation and further discussions with industry participants, the periodic reporting formats for RAs and PAs are provided at Annexure I and Annexure II respectively.

Periodicity and timeline of reporting

4. RAs shall submit their periodic report to RAASB and PAs shall submit their periodic reports to SEBI. The periodic reports shall be submitted by RAs/PAs within 30 days from the last date of the reporting period.
5. RAs/PAs shall submit periodic report for half-yearly periods ending on September 30 and March 31 of every financial year. The first reporting period shall be half yearly period ending on March 31, 2025 and reports thereof shall be required to be submitted by April 30, 2025. Hence, a time of around six months has been provided to RAs and PAs for submission of their first periodic report to give them sufficient time for making necessary arrangements for providing the required data.

Applicability of circular

6. This circular shall become applicable with immediate effect.
7. RAASB is directed to:
- 7.1. make necessary arrangements for obtaining periodic reports from RAs in the format specified in Annexure I;
 - 7.2. bring the provisions of this circular to the notice of the RAs and also disseminate the same on its website;
 - 7.3. make necessary amendments to the relevant Bye-laws, Guidelines, Standard Operating Procedures, Rules and Regulations for the implementation of the above decisions.

8. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 14, Regulation 23(1) and Regulation 24(4) of the RA Regulations to protect the interests of investors in securities market and to promote the development of, and to regulate the securities market.
9. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal > Circulars", "Info For > Research Analysts".

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

06 Clarification with respect to advertisement code for Research Analysts (RAs)

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/146 date 24.10.2024]

1. SEBI, vide Circular no. SEBI/HO/MIRSD/MIRSD-PoD-2/P/CIR/2023/51 dated April 5, 2023 and Master Circular for Research Analysts dated May 21, 2024 (hereinafter mentioned as 'Master Circular'), specified provisions related to advertisement code to be followed by a Research Analyst in their advertisements.
2. SEBI is in receipt of certain queries with respect to applicability of provisions of advertisement code on a Research Report issued by an RA. In this regard, it is clarified that Research Report and research recommendations of an RA are not considered advertisement unless anything contained in the research report is in the nature of promotion of products or services offered by an RA. Accordingly, the paragraph 8.1 a. ii. of the Master Circular shall read as under:

"The forms of communications, to which the advertisement code shall be applicable, shall include pamphlets, circulars, brochures, notices or any other literature, document, information or material published, or designed for use in any publication or displays (such as newspaper, magazine, sign boards/hoardings at any location), in any electronic, wired or wireless communication (such as electronic mail, text messaging, messaging platforms, social media platforms, radio, telephone, or in any other form over the internet) or over any other audio-visual form of communication (such as television, tape recording, video tape recordings, motion pictures) or in any other manner whatsoever.

Further, a research report, irrespective of the mode of its dissemination to any investor or prospective investor, shall be construed as an advertisement if anything contained in the said research report is either expressly or impliedly in the nature of promotion of products or services offered by an RA."

3. This circular is issued in exercise of powers conferred under Section 11(1) of Chapter IV of the Securities and Exchange Board of India Act, 1992 and Regulation 24(2) of the SEBI (Research Analysts) Regulations, 2014, to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.
4. This circular is available on SEBI website at www.sebi.gov.in under the category: 'Legal → Circulars'.

ARADHANA VERMA
General Manager

07 Modification in Annexure to Common Application Form (CAF)

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/AFD/AFD-POD-3/P/CIR/2024/145 date 22.10.2024]

1. Vide Circular dated June 27, 2024, SEBI modified the Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors No. SEBI/HO/AFD/AFD-PoD-2/P/CIR/P/2024/70 dated May 30, 2024 ("FPI Master Circular") to provide flexibility of having up to hundred percent aggregate contribution by NRIs, OCIs and RI individuals in the corpus of FPIs based in International Financial Services Centres ("IFSCs") in India and regulated by International Financial Services Centres Authority ("IFSCA").
2. In this regard, to provide the flexibility to existing and new FPIs, the 'Annexure to Common Application Form' attached as Annexure B to the FPI Master Circular is modified as follows:
 - 2.1. The following additional option is inserted under 'Section B-II: NRI/OCI/RI – Entitlement in FPI' in Para 5 of Part B titled 'Additional information' and shall be applicable only in case of applicants based in IFSCs in India:

"We confirm that NRIs/OCIs/RIs as investors in the FPI and contributions by single NRI/OCI/RI including those of NRI/OCI/RI controlled Investment Manager are below 25 percent of the corpus of the FPI. The aggregate contributions by NRI/OCI/RI are intended to be above 50% / are above 50% of the corpus of the FPI and we shall at all times be in compliance with the SEBI (Foreign Portfolio Investors) Regulations, 2019 and Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors as amended from time to time.

[Applicable only in case of eligible applicants from International Financial Services Centres in India]"

3. Further, the information, documents and declaration required to be submitted by an FPI based in IFSC in India that have/intends to have up to hundred percent NRI/RI/OCI participation in terms of the aforementioned Circular dated June 27, 2024, shall be provided in the format at Annexure - 1.

4. The provisions of this circular shall come into force with immediate effect.
5. The Depositories are advised to make appropriate modifications in the CAF module hosted on their respective websites.
6. This Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulations 4(c) and 44 of SEBI (Foreign Portfolio Investors) Regulations, 2019 to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
7. This Circular is available at www.sebi.gov.in under the link "Legal -Circulars".

MANISH KUMAR JHA
Deputy General Manager

08 Association of persons regulated by the Board and their agents with certain persons

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MIRSD/ MIRSD-PoD-1/P/CIR/2024/143 dated 22.10.2024]

1. Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024, Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Fourth Amendment) Regulations, 2024 and Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2024 have been notified by SEBI on August 26, 2024.
2. These regulations inter alia provide that persons regulated by the Board (including recognised stock exchanges, clearing corporations and depositories), and agents of such persons shall not have any direct or indirect association with another person who-
 - (i) provides advice or any recommendation, directly or indirectly, in respect of or related to a security or securities, unless the person is registered with or otherwise permitted by the Board to provide such advice or recommendation; or
 - (ii) makes any claim, of returns or performance expressly or impliedly, in respect of or related to a security or securities, unless the person has been permitted by the Board to make such a claim.

The aforesaid provisions are not applicable in respect of an association through a "specified digital platform".

The person regulated by the Board (including recognised stock exchanges, clearing corporations and depositories) is required to ensure that any person associated with it or its agent does not engage in the activities mentioned in clauses (i) or (ii) above without the necessary permission.

3. In terms of these regulations, a "specified digital platform" shall mean digital platform as specified by the Board, which has a mechanism in place to take preventive as well as curative action, to the satisfaction of the Board, to ensure that such a platform is not used for indulging in any activity as referred to in clauses (i) or (ii) of paragraph 2 of this circular.
4. It has been clarified that the term "another person" shall not include a person who is engaged in investor education, provided that such a person does not, directly or indirectly, indulge in any activity as referred to in clauses (i) or (ii) of paragraph 2 of this circular.
5. While the guidelines on the preventive and curative measures for the digital platforms for their recognition as specified digital platform are being specified separately, the persons regulated by the Board (including recognised stock exchanges, clearing corporations and depositories), and their agents are advised to terminate their existing contracts, if any, with persons engaged in the activities mentioned in clauses (i) or (ii) of paragraph 2 of this circular, within three months from the date of issuance of this circular.
6. This circular is issued in exercise of powers conferred under section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 16A of Securities and Exchange Board of India (Intermediaries) Regulations, 2008, Regulations 44B of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 and Regulation 82B of Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018, to protect the interests of investors in securities market and to promote the development of, and to regulate the securities market.
7. This circular is available on the SEBI website at www.sebi.gov.in under the category "Legal →Circulars".

ARADHANA VERMA
General Manager

09 Inclusion of Mutual Fund units in the SEBI (Prohibition of Insider Trading) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/IMD/IMD-PoD-1/P/CIR/2024/144 date 22.10.2024]

1. In order to strengthen the regulatory framework in relation to prohibition of insider trading in units of mutual funds, vide notification dated November 24, 2022 (link), mutual funds units were included under the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as 'PIT Regulations'). The amendments notified through the notification dated November 24, 2022 shall be applicable from November 01, 2024 (link to the Gazette notification).
2. In order to streamline the implementation of the above-mentioned amendments, a working group

consisting of representatives from AMCs, AMFI, Stock Exchanges, RTAs and Depositories was constituted which provided its recommendations on implementation of the abovementioned amendments. After considering the recommendations of the working group, the following has been decided:

- 2.1. In terms of Regulation 5(E)(1) of PIT Regulations, AMCs shall disclose the details of the holdings of Designated Persons of AMCs, trustees and their immediate relatives on aggregate basis from November 1, 2024 on quarterly basis. The holdings as on October 31, 2024 shall be disclosed on the platform of the Stock Exchanges by November 15, 2024. Thereafter, for all subsequent calendar quarters AMCs shall provide the information within 10 calendar days from the end of the quarter. Further, the holdings shall be disclosed in the format specified at Annexure A.
- 2.2. In terms of Regulation 5(E)(2) of PIT Regulations, details of all the transactions in the units of its own mutual funds, above the threshold amount which aggregates to a value in excess of INR 15 Lakhs, in one transaction or a series of transactions over any calendar quarter, per PAN across all schemes excluding the exempted schemes, executed by the Designated Persons of asset management company, trustees and their immediate relatives shall be reported by the concerned person to the Compliance Officer of AMC within two business days from the date of transaction.
- 2.3. In terms of Regulation 5(E)(3) and 5(E)(4) of PIT Regulations, the transactions reported under Regulation 5(E)(2) of PIT Regulations shall be disclosed in the format specified at Annexure B.
- 2.4. In terms of Clause 12 of Schedule B1 and Clause 11A of Schedule C of PIT Regulations, the observed violations of PIT Regulations shall be disclosed in the format specified at Annexure C.
3. Further, in order to harmonize the framework of investment/trading restriction in securities by employees of the AMCs and Trustees prescribed under Clause 6.6 of Master Circular for Mutual Funds dated June 27, 2024 ('Master Circular') with the amended PIT Regulations, the Clause 6.6 of Master Circular is modified as under:
 - 3.1. Clause 6.6 of the Master Circular shall not be applicable for investments and redemption of mutual fund units. For mutual funds units, Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, as amended from time to time, shall be followed strictly by the Trustees, Asset Management Companies and their employees and directors.
 - 3.2. Clause 6.6.2.1 (a) of the Master Circular stands modified as under:
 - 3.3. The following is inserted as Clause 6.6.2.1 (b)(4) in the Master Circular:

"Investments in units of schemes floated by mutual funds /AMCs where the concerned persons (in terms of the applicability stated at 6.6.1.1.a above) are employed."
 - 3.4. Clause 6.6.2.3(f) of the Master Circular stands modified as under:

"All employees shall refrain from profiting from the purchase and sale or sale and purchase of any security within a period of 30 calendar days from the date of their personal transaction. However, in cases where it is done, the employee shall provide a suitable explanation to the Compliance Officer, which shall be reported to the Board of the AMC and the Trustees at the time of review."
 - 3.5. Clause 6.6.4 of the Master Circular stands deleted.
 4. The Circular shall be applicable from November 1, 2024.
 5. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 5(E), 5(F)(1) and 5(F)(2) of PIT Regulations, to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
 6. This circular is available at www.sebi.gov.in under the link "Legal ->Circulars".

"These Guidelines cover transactions for purchase or sale of any securities such as shares, debentures, bonds, warrants, derivatives."

- 3.3. The following is inserted as Clause 6.6.2.1 (b)(4) in the Master Circular:

"Investments in units of schemes floated by mutual funds /AMCs where the concerned persons (in terms of the applicability stated at 6.6.1.1.a above) are employed."

- 3.4. Clause 6.6.2.3(f) of the Master Circular stands modified as under:

"All employees shall refrain from profiting from the purchase and sale or sale and purchase of any security within a period of 30 calendar days from the date of their personal transaction. However, in cases where it is done, the employee shall provide a suitable explanation to the Compliance Officer, which shall be reported to the Board of the AMC and the Trustees at the time of review."

- 3.5. Clause 6.6.4 of the Master Circular stands deleted.

4. The Circular shall be applicable from November 1, 2024.
5. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 5(E), 5(F)(1) and 5(F)(2) of PIT Regulations, to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
6. This circular is available at www.sebi.gov.in under the link "Legal ->Circulars".

PETER MARDI

Deputy General Manager

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10 Clarification with regard to usage of 3 – in – 1 type accounts for making an application in public issue of securities

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/DDHS/DDHS-PoD-1/P/CIR/2024/142 dated 18.10.2024]

1. Para 2 of Chapter I (Application process in case of public issues of securities and timelines for listing) of the Master Circular no. SEBI/HO/DDHS/PoD1/P/CIR/2024/54 dated May 22, 2024, (hereinafter referred as 'Master Circular') issued by SEBI, prescribes provisions pertaining to application process in case of public issue of securities under SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015 and SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008.

2. SEBI has received feedback that there is a need to explicitly specify the usage of 3-in-1 type accounts for making an application in public issue of debt securities, non-convertible redeemable preference shares, municipal debt securities and securitised debt instruments.
3. Accordingly, it is clarified that, in addition to existing modes of making an application in public issue of securities as specified under para 2 of the aforesaid Master Circular and notwithstanding the provision specified under para 2 of SEBI circular SEBI/HO/DDHS/DDHS-PoD-1/P/CIR/2024/128 dated September 24, 2024, investors may continue to submit the bid-cum application form online using the facility of linked online trading, demat and bank account (3-in-1 type accounts).
4. This Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 55 (1) of the SEBI (Issue and Listing of Non-convertible Securities) Regulations, 2021, Regulation 29 of SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015 and Regulation 48 of SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008 to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
5. This Circular is available at www.sebi.gov.in under the link "Legal → Circulars".

ROHIT DUBEY
General Manager

11 Introduction of Liquidity Window facility for investors in debt securities through Stock Exchange mechanism

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/DDHS/DDHS-PoD-1/P/CIR/2024/141 dated 16.10.2024]

1. The Corporate bond market serves as a critical source of funding for the issuers whilst providing an investment avenue for the investors. SEBI has been undertaking various measures to widen the investor base and also to encourage participation and transparency in the corporate bond market. Some of the measures include introduction of the electronic book Provider platform (EBP Platform) for debt securities issued on private placement basis, exceeding issue size Rs 50 crores, 'Request for Quote' (RFQ) platform for secondary market transactions, reduction in the face value of debt securities issued on private placement basis (proposed to be listed), introduction of framework for Online Bond Platforms (refer <https://www.sebi.gov.in/online-bond-platform-providers.html>), introduction of corporate bonds repo platform operated by AMC Repo Clearing Limited (refer www.arclindia.com), etc.
2. One of the factors that drives investor participation in a market is the availability of liquidity. Low levels of secondary market transactions in corporate bonds

(including due to a large number of institutional investors holding such bonds to maturity) has resulted in the corporate bond market being perceived as illiquid. To address the issue of liquidity for investors, especially retail investors, and pursuant to discussions with issuers / potential issuers of debt securities, it is felt that establishing a framework of providing a Liquidity Window facility by the issuers through use of put options exercisable on pre-specified dates or intervals will provide uniform norms for such issuer(s) to consider adopting Liquidity Window facility in the manner specified. Such uniform norms and instituting a Liquidity Window facility as contemplated in this circular will also be of immense utility to investors, especially retail investors, and can serve to enhance their investment in such debt securities.

3. In this regard, reference is made to Regulation 15 of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (NCS Regulations) which inter-alia enables an Issuer to provide a right of redemption of debt securities¹ prior to the maturity date (put option) to all the investors or only to retail investors². Accordingly, it is proposed to introduce a Liquidity Window facility framework by use of put options as specified under Regulation 15 of the NCS Regulations, exercisable on pre-specified dates or intervals in the manner outlined in this circular.
4. Choice of the Issuer: An entity issuing debt securities, which are proposed to be listed, may at its option/ discretion provide the Liquidity Window facility as envisaged in this circular for the debt securities, on an ISIN basis, at the time of issuance of such debt securities and make such Liquidity Window facility available to the eligible investors as specified in para 6.3 of this circular.
5. Prospective applicability: The Liquidity Window facility can be provided only for prospective issuances of debt securities through public issue process or on a private placement basis (proposed to be listed) as specified in paragraph 7 below.

ROHIT DUBEY
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 Monitoring of position limits for equity derivative segment

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/140 dated 15.10.2024]

1. Para 1.3.2.3 and para 2.3.2.3 of Chapter 5 of the Master Circular on Stock Exchanges and Clearing Corporations (SECC), dated October 16, 2023, specifies the overall position limit at the Trading member (TM) level (proprietary + client) to be higher of INR 500 crores or 15% of the total Open Interest (OI) in market. This position limit is separately applicable for all open positions on futures and options contracts, in a particular underlying index.

2. Based on the feedback received from market participants, the deliberations held in the Secondary Market Advisory Committee (SMAC) and further internal discussions, the following has been decided:
 - 2.1 The position limits for TMs, cumulatively for client and proprietary trades, in index Futures and Options contracts may be set at higher of INR 7,500 crore or 15% of the total OI in the market.
 - 2.2 As per the extant practice, the position limits will be applicable for index futures and index options separately.
3. It is also noted that that open interest of both the participants and the market is dynamic and changing throughout the day. With a view of providing better clarity to the market participants in terms of their position limits, the following has been decided:
 - 3.1 In conformity with the extant practice in currency derivatives segment, positions of market participants in the equity derivatives segment (index and stocks) shall also be monitored based on total open interest of the market at the end of previous day's trade.
 - 3.2 In case of a drop in market OI compared to the previous day's market OI, market participants may breach the specified position limits even if their positions have remained unchanged throughout the day.
 - 3.3 For such cases of passive breaches, market participants would not be penalised and not be required to unwind their positions.
4. The provisions of this circular shall come into effect as follows:
 - 4.1 The provisions mentioned at para 2 above, would come into effect immediately.
 - 4.2 The provisions mentioned at para 3 above, would come into effect from April 01, 2025.
5. The Stock Exchanges and Clearing Corporations are accordingly advised to:
 - 5.1 Make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision, as may be necessary/ applicable.
 - 5.2 Bring the provisions of this circular to the notice of the market participants (including TMs) and to disseminate the same on their website.
6. This circular is being 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.

VISHAL SHUKLA
General Manager

13 Monitoring Shareholding of Market Infrastructure Institutions (MIIs)

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/139 dated 14.10.2024]

1. Paragraph 2.4 of Chapter 6 of SEBI Master Circular No. SEBI/HO/MRD2/PoD-2/CIR/P/2023/171 dated October 16, 2023 for 'Stock Exchanges and Clearing Corporations', paragraph 4.76 of Section 4 of SEBI Master Circular No. SEBI/HO/MRD/MRD-PoD-2/P/CIR/2023/166 dated October 06, 2023 for 'Depositories' and paragraphs 15.1.1 (IV) & (V) of Chapter 15 of SEBI Master Circular No. SEBI/HO/MRD/MRD-PoD-1/P/CIR/2023/136 dated August 04, 2023 for 'Commodity Derivatives Segment' prescribes the procedure for ensuring compliance with Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporation) Regulations, 2018 ('SECC Regulations, 2018') by listed Stock Exchanges.
2. SEBI vide letter dated July 17, 2017 addressed to depositories and stock exchanges issued guidelines on monitoring of ownership and other provisions of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 and SEBI (Depositories and Participants) Regulations, 2012 for listed stock exchanges and listed depositories.
3. In order to ensure ease of compliance and effective monitoring of the provisions related to minimum public shareholding, other shareholding limits and fit & proper criteria under SECC Regulations, 2018 and SEBI (Depositories and Participants) Regulations, 2018 (D&P Regulations, 2018) by Stock Exchanges, Clearing Corporations and Depositories (collectively referred as Market Infrastructure Institutions (MIIs)), based on the recommendations of Secondary Markets Advisory Committee of SEBI and subsequent deliberations, it has been decided that –
 - 3.1. The framework for monitoring and ensuring compliance with shareholding norms currently applicable to listed Stock Exchanges and listed Depositories shall be applicable to all MIIs (i.e. both listed and unlisted); and
 - 3.2. All MIIs shall disclose their shareholding pattern as per the requirements and formats specified for listed companies under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations, 2015) on their respective websites.
4. In view of the above, the framework for monitoring of the shareholding norms of MIIs is as under:
 - 4.1. Every MII shall appoint a depository as "Designated Depository (DD)" for the purpose of monitoring of their shareholding limits as per SECC Regulations, 2018 and D&P Regulations, 2018, as applicable. The DD of an MII, shall not be an associate (as defined under SECC Regulations,

2018) of the MII. In case of depository, the other depository shall be appointed as DD for monitoring its shareholding limits.

However, in case the ISIN of any MII is frozen for debits by the company (MII), the appointment of DD is not required for monitoring the shareholding limits of that MII. In such case, the MII shall verify the shareholding limits prior to recording the transfer of its shares.

- 4.2. All MIIs shall disclose their shareholding with category wise breakup as per the requirements and formats specified for listed companies under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations, 2015) on a quarterly basis on their respective websites. In case of listed MII, the stock exchange where the shares are listed, shall also display the above information.
- 4.3. The MIIs shall at the time of appointment of the DD provide the details of paid-up equity share capital including the number of shares to the DD and as and when there are changes, the same shall be informed to the DD on End of Day (EoD) basis.
- 4.4. The DD shall monitor and inform the MII and stock exchange on which its shares are listed (in case of listed MII), as and when the threshold limit of 5% or 15%, as applicable under SECC Regulations, 2018 and D&P Regulations, 2018, is breached and take appropriate consequential actions, as mentioned at paragraph 4.9 of this circular.
- 4.5. The DD shall monitor and inform the MII and stock exchange on which its shares are listed (in case of listed MII), as and when threshold limit of combined holding of 49% of all persons' resident outside India (directly or indirectly, either individually or together with persons acting in concert) in the paid-up equity share capital of an MII is breached and take consequential actions as mentioned at paragraph 4.9 of this circular.

HRUDA RANJAN SAHOO
Deputy General Manager

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14 **Corrigendum to Circular on Ease of Doing Business in the context of Standard Operating Procedure for payment of "Financial Disincentives" by Market Infrastructure Institutions (MIIs) as a result of Technical Glitch**

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MRD/TPD-1/P/CIR/2024/138 dated 14.10.2024]

1. Vide Circular SEBI/HO/MRD/TPD-1/P/CIR/2024/124 dated September 20, 2024, amendments with regard to Standard Operating Procedure for payment of

"Financial Disincentives" by Market Infrastructure Institutions (MIIs) as a result of Technical Glitch have been issued. The abovementioned Circular is applicable to all the MIIs including the Commodity Derivatives Exchanges/Clearing Corporations. However, the aforesaid amendment does not explicitly give reference to relevant sections of the Master Circular for Commodity Derivatives Segment dated August 04, 2023.

2. Accordingly, references to relevant sections of Master Circular for Commodity Derivatives Segment dated August 04, 2023, to be read with the following paragraphs of above-mentioned SEBI Circular dated September 20, 2024, are as under.
 - 2.1. Para 1 and 4 of SEBI Circular dated September 20, 2024, shall include reference to para 16.8 of Master Circular for Commodity Derivatives Segment dated August 04, 2023.
 - 2.2. Para 4.1 of SEBI Circular dated September 20, 2024, shall include para 16.8.1 of Master Circular for Commodity Derivatives Segment dated August 04, 2023.
 - 2.3. Para 4.2 of SEBI Circular dated September 20, 2024, shall include Clauses 3,4,5 of Annexure-ZF to the Master Circular for Commodity Derivatives Segment dated August 04, 2023.
 - 2.4. Para 4.3 of SEBI Circular dated September 20, 2024, shall include Clause 6 of Annexure-ZF to the Master Circular for Commodity Derivatives Segment dated August 04, 2023.
 - 2.5. Para 4.4 of SEBI Circular dated September 20, 2024, shall include Clauses 7 and 8 of Annexure-ZF to the Master Circular for Commodity Derivatives Segment dated August 04, 2023.
3. Further, in line with Para 4.5 of SEBI Circular dated September 20, 2024, following text shall be inserted after Clause 2.4 of Annexure-ZE of the Master Circular for Commodity Derivatives Segment dated August 04, 2023.
 - 2.5 SEBI on identification of the Technical Glitch resulting into Financial Disincentive to the MIIs, or upon receipt of the information of any such instance shall provide an opportunity to the concerned MIIs to make their submissions in respect of the facts of the case.
 - 2.6 MIIs shall carry out internal examination pertaining to occurrence of technical glitches to ascertain individual accountability and take appropriate action including suitable recording and reckoning in the performance appraisal of those individuals. SEBI would retain the right to initiate enforcement action against the individuals at the MII, if there is sufficient ground to do so.

- This Circular is being 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.
- This Circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Circulars".

ANSUMAN DEV PRADHAN

General Manager

15 Change in timing for securities payout in the Activity schedule for T+1 Rolling Settlement

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/137 dated 10.10.2024]

- SEBI vide circular reference number SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/75 dated June 5, 2024, has mandated that the pay-out of securities be credited directly to the client account by the Clearing Corporations (CC).
- As prescribed in the aforementioned Circular, under Phase -1, the securities for pay-out in the equity cash segment (including netted cash and F&O Physical Settlement) shall be credited directly to the respective client's demat account by the Clearing Corporations.
- As a consequence of the above, the timing of the payout of securities shall be revised from 1:30 PM to 3:30 PM. Thus, as a result of Direct Payout, the securities shall be credited to the clients' demat account on the same settlement day instead of one working day from the receipt of pay-out from the Clearing Corporation.
- The extant Activity Schedule for T+1 Rolling Settlement, under Para 1.4 of the Chapter 3 of the SEBI Master circular on Stock Exchanges and Clearing Corporations dated October 16, 2023 also stands revised w.r.t to the timing of pay-out of securities.
- The Stock Exchanges, Clearing Corporations and Depositories are accordingly advised to:
 - Make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision, as may be necessary/applicable.
 - Bring the provisions of this circular to the notice of the Market Participants and to disseminate the same on their website.
- This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 and Section 19 of the Depositories Act, 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 at "Legal → Circulars".

VISHAL SHUKLA

General Manager

16 Extension of timeline for implementation of SEBI Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/75 dated June 05, 2024

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/136 dated 10.10.2024]

- In order to protect client's securities as part of enhancement of operational efficiency and risk reduction, SEBI vide circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/75 dated June 05, 2024 mandated pay-out of securities directly to the client's demat account. The circular was to come in to effect from October 14, 2024.
- In this regard, the final operational guidelines/implementation standards were to be issued by CCs to the market by August 05, 2024. However, the said guidelines were issued by CCs at the end of August 2024 on account of extensive consultation in Brokers' Industry Standards Forum (Brokers' ISF). Further, based on the review meeting held by SEBI with MIIs and based on representation received from Brokers' ISF, it has been decided that the circular shall come into effect from November 11, 2024, in order to ensure smooth implementation of pay-out of securities directly to the client's demat account, without any disruption to the markets players and investors.
- Stock Exchanges, Depositories and CCs are directed to:
 - bring the provisions of this circular to the notice of their members / participants and also disseminate the same on their websites;
 - put in place appropriate systems and procedures to ensure compliance of the provisions of this circular;
 - make necessary amendments to the relevant Bye-laws, Rules and Regulations for the implementation of the above decision;
- This circular is issued in exercise of powers conferred under Section 11(1) of Chapter IV of the Securities and Exchange Board of India Act, 1992, and Section 19 of Chapter IV of the Depositories Act, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.
- This circular is available on SEBI website at www.sebi.gov.in under the category: 'Legal → Circulars'.

ARADHANA VERMA

General Manager

17 Specific due diligence of investors and investments of AIFs

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/AFD/AFD-POD-1/P/CIR/2024/135 dated 08.10.2024]

- In terms of Regulation 20(20) of SEBI (Alternative Investment Funds) Regulations, 2012 ('AIF Regulations'), inserted vide notification dated April

25, 2024, every AIF, Manager of the AIF and Key Management Personnel of the Manager and the AIF shall exercise specific due diligence, with respect to investors and investments of the AIF, to prevent facilitation of circumvention of such laws, as may be specified by SEBI from time to time.

2. In this regard, the specific due diligence to be carried out by AIFs, managers of AIFs and their Key Management Personnel, with respect to investors and investments of the AIF, to prevent facilitation of circumvention of the following regulatory frameworks, are being specified in this circular -

- I. Provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ('ICDR Regulations'), and other regulations of SEBI wherein benefits or relaxations have been provided to entities designated as Qualified Institutional Buyers (QIBs).

- II. Provisions of the 'Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002' (SARFAESI Act) wherein benefits are provided to entities designated as Qualified Buyers (QBs).

- III. Prudential norms specified by Reserve Bank of India (RBI) for regulated lenders with respect to Income Recognition, Asset Classification, Provisioning and restructuring of stressed assets.

- IV. Rule 6 of Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (NDI Rules) for investment from countries sharing land border with India (read with Press Note 3 dated April 17, 2020 of FDI Policy 2020).

3. Investors availing benefits designated for QIBs through AIFs:

- 3.1. AIFs have been designated as QIBs in terms of Regulation 2(1)(ss) of ICDR Regulations. There are certain benefits available to QIBs under ICDR Regulations and other SEBI Regulations.

- 3.2. In order to prevent AIFs from facilitating investors who are otherwise ineligible for QIB status on their own, in availing benefits designated for QIBs, the following is specified -

- 3.2.1. For every scheme of AIFs having an investor, or investors belonging to the same group, who contribute(s) 50 percent or more to the corpus of the scheme, necessary due diligence as per the implementation standards formulated by Standard Setting Forum for AIFs ('SFA'), shall be carried out prior to availing benefits available to QIBs under ICDR Regulations and other SEBI Regulations.

4. Investors availing benefits designated for Qualified Buyers (QBs) through AIFs:

- 4.1. AIFs have been notified as QBs in terms of clause (u) of sub-section (1) of section 2 of SARFAESI

Act, and therefore, are eligible to subscribe to Security Receipts (SRs) issued by an Asset Reconstruction Company (ARC).

- 4.2. In order to prevent AIFs from facilitating investors who are otherwise ineligible for QB status on their own, in availing benefits designated for QBs the following is specified:

- 4.2.1. For every scheme of AIFs having an investor, or investors belonging to the same group, who contribute(s) 50 percent or more to the corpus of the scheme, necessary due diligence as per the implementation standards formulated by SFA, shall be carried out prior to making any investments in SRs issued by ARCs or availing benefits designated for QBs under the SARFAESI Act.

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

18 Timelines for disclosures by Social Enterprises on Social Stock Exchange ("SSE") for FY 2023-24

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/CFD/PoD-1/P/CIR/2024/134 dated 07.10.2024]

1. SEBI vide Circular SEBI/HO/CFD/PoD-1/P/CIR/2024/0059 dated May 27, 2024 had prescribed outer timelines for annual disclosures and annual impact report under Regulation 91C(1) and Regulation 91E(1) respectively of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") by Social Enterprises on Social Stock Exchange for FY 2023-24.

2. In partial modification to the said Circular, the outer timeline for annual disclosures under Regulation 91C(1) and annual impact report under Regulation 91E(1) of LODR Regulations by Social Enterprises on Social Stock Exchange, for FY 2023- 24 has been extended upto January 31, 2025.

3. A copy of this circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework → Circulars".

YOGITA JADHAV

General Manager

19 Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 – Reg.

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/CFD/CFD-PoD-2/P/CIR/2024/133 dated 03.10.2024]

1. SEBI, vide circular dated October 7, 2023, had relaxed the applicability of regulation 36(1)(b) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") for Annual General Meetings (AGMs) and regulation 44(4) of the

LODR Regulations for general meetings (in electronic mode) held till September 30, 2024 based on the relaxations provided by MCA vide General Circular no. 09/2023 dated September 25, 2023.

2. Recently, MCA, vide General Circular No. 09/2024 dated September 19, 2024, has extended the relaxation from sending physical copies of financial statements (including Board's report, Auditor's report or other documents required to be attached therewith) to the shareholders, for the AGMs conducted till September 30, 2025. SEBI has also received representations to extend the relaxations mentioned at para 1 above.
3. In view of the above, it has been decided to extend the relaxations mentioned at para 1 above till September 30, 2025.
4. It is reiterated that the listed entities shall ensure compliance with the conditions stipulated at para 5.1 and 5.2 of section VI-J of chapter VI of the Master Circular dated July 11, 2023 on compliance with the provisions of the LODR Regulations while availing the relaxations specified above.
5. This Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 101 of the LODR Regulations and the relaxations contained herein are subject to the provisions of the Companies Act, 2013 and rules made thereunder, as modified from time to time.
6. This Circular is available at www.sebi.gov.in under the link "Legal→Circulars".

RAJ KUMAR DAS
Deputy General Manager

20 Review of Stress Testing Framework for Equity Derivatives segment for determining the corpus of Core Settlement Guarantee Fund (Core SGF)

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/131 dated 01.10.2024]

Background

1. SEBI vide Chapter 3 Master Circular No. SEBI/HO/MRD2/PoD-2/CIR/P/2023/171 dated October 16, 2023, has, inter-alia, laid down guidelines for determining the credit exposure of Clearing Corporations (CCs) towards its participants.
2. In this regard, SEBI has specified the stress testing methodologies to be adopted for determining the credit risk of a CC towards its participants. The current stress testing methodologies are grouped into hypothetical and historical scenarios.
3. For the equity derivatives segment, the stress testing methodologies prescribed by SEBI for determining loss on close-out of client/proprietary positions,

under hypothetical and historical stress scenarios, comprising of price movement in respect of each underlying, are tabulated below:

Table-1

Scenario	Direction	Movement
1a	Up	$PSR + 1.5^1 \times \text{sigma } (\lambda=0.995) \times \sqrt{2}$
1b	Up	$PSR + 1.5^1 \times \text{sigma } (\lambda=0.94) \times \sqrt{2}$
2a	Down	$-PSR - 1.5^1 \times \text{sigma } (\lambda=0.995) \times \sqrt{2}$
2b	Down	$-PSR - 1.5^1 \times \text{sigma } (\lambda=0.94) \times \sqrt{2}$
3	Up	Max 1 day rise over past 10 years
4	Down	Max 1 day fall over past 10 years

1. Multiple of 1.5 for indices and 1.75 used stocks

Adoption of new stress testing methodologies

4. Taking into account the changing market dynamics of the equity derivatives segment, with a view to have a more comprehensive understanding of the prevalent tail risk in the equity derivatives segment, SEBI, after consultation with relevant market participants in its Risk Management Review Committee, has decided to introduce the following additional hypothetical stress testing scenarios/methodologies for determining the Minimum Required Corpus (MRC) of Core SGF in the equity derivatives segment:

- 4.1. Stressed VaR
 - 4.1.1. Uses the variance-covariance matrix from a stress period to determine the price movements of the underlying.
 - 4.1.2. Volatility observed during the stress period is to multiplied by a factor of 2.
 - 4.1.3. Montecarlo simulations are carried out assuming multivariate normality of daily returns.
 - 4.1.4. The resultant figure gives the price movement for each underlying.
 - 4.1.5. For revaluing options, the volatility would be shocked by 100% for each underlying.
- 4.2. Filtered Historic Simulation
 - 4.2.1. Adjust past data in a way so that it captures the prevailing volatility.
 - 4.2.2. Historical returns are divided by contemporaneous estimated volatility and then multiplied by latest estimate of volatility.

VISHAL SHUKLA
General Manager

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21 Measures to Strengthen Equity Index Derivatives Framework for Increased Investor Protection and Market Stability

[Issued by the Securities and Exchange Board of India vide Circular SEBI/HO/MRD/TPD-1/P/CIR/2024/132 date 01.10.2024]

- Derivatives market assist in better price discovery, help improve market liquidity and allow investors to manage their risks better. Stock Exchanges and Clearing Corporations together provide the platform and products for trading in derivatives market, while ensuring online real time risk management, adequate surveillance, as well as smooth settlement of trades.
- The role of product offering, risk management, and surveillance by Stock Exchanges and Clearing Corporations is crucial in ensuring integrity of securities market ecosystem. This is particularly heightened in view of the changing market dynamics in derivatives segment in recent years, with increased retail participation, offering of short tenure index options contracts, and heightened speculative trading volumes in index derivatives on expiry day. Regulation 28 (2) read with Part–C of Schedule II of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (SECC Regulations, 2018), considers Risk Management, Surveillance, and Product development functions of Stock Exchanges and Clearing Corporations as core functions. In addition, Clearing and Settlement is considered as a core function of Clearing Corporations.
- The Securities and Exchange Board of India Act, 1992 (“SEBI Act”), inter alia, mandates SEBI to protect the interest of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit. One of the measures to achieve the aforesaid mandate as provided in the SEBI Act is to regulate the market through measures that may enable regulating the business of Stock Exchanges.
- In order to review the existing regulatory measures for investor protection while ensuring the orderly development and strengthening of equity derivatives market, as well as to identify measures to assist stock exchanges in carrying out their aforementioned core functions, SEBI formed an Expert Working Group (EWG) on derivatives, to suggest measures for investor protection and market stability.
- On the basis of the measures recommended by the EWG and subsequent deliberations in the Secondary Market Advisory Committee (SMAC) of SEBI, a consultation paper was issued by SEBI on July 30, 2024, in the matter. The comments received were examined by SEBI, and the matter was further discussed with Stock Exchanges and Clearing Corporations, subsequent to which it has been decided to put in place the following measures to strengthen the equity index derivatives framework.

ANSUMAN DEV PRADHAN

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

22 Directions for Central Counterparties (CCPs)

[Issued by the Reserve Bank of India vide RBI/2024-2025/85 DPSS.CO.RLVPD.No.S789/02.07.038/2024-25 dated 28.10.2024]

- Please refer to the circular DPSS.CO.OD No.2565/06.08.005/2018-2019 dated June 12, 2019 prescribing the directions relating to capital requirements and governance framework for CCPs as also providing a framework for recognition of foreign CCPs.
- Based on a periodic review of the Directions for CCPs, the updated directions governing the functioning of CCPs are given in the Annex.
 - The Direction for Central Counterparties dated June 19, 2019 stands repealed.

SUDHANSHU PRASAD

Chief General Manager

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23 Designation of one organisation under Section 35(1) (a) and 2(1) (m) of the Unlawful Activities (Prevention) Act, 1967 and its listing in the First Schedule of the Act- Reg.

[Issued by the Reserve Bank of India vide RBI/2024-25/84 DOR.AML.REC.48/14.06.001/2024-25 dated 19.10.2024]

In terms of Section 51(c) of our Master Direction on Know Your Customer dated February 25, 2016 as amended on January 04, 2024, “The procedure laid down in the UAPA Order dated February 2, 2021 (Annex II of this Master Direction) shall be strictly followed and meticulous compliance with the Order issued by the Government shall be ensured.” Further, Section 51(b) of the aforementioned Master Direction states that, “Details of accounts resembling any of the individuals/entities in the lists shall be reported to FIU-IND apart from advising Ministry of Home Affairs as required under UAPA notification dated February 2, 2021 (Annex II of this Master Direction)”. In this regard, it is reiterated that the UAPA Order in Annex II of the MD on KYC, 2016 shall also apply to amendments carried out in Schedule IV and I of the UAPA, 1967 apart from the UNSC lists mentioned in the Order.

- In this connection, please refer to the Gazette notification dated October 10, 2024 of the MHA in respect of one organization which has been declared as ‘Terrorist Organisation’ and has been listed in the Schedule I of the UAPA 1967, under Section 35 (1) (a) and 2(1) (m) of UAPA 1967. The Statutory Order (S.O.) number and the respective entry are as provided below:

S.O. Number	Entries
4391(E)	“45. Hizb-Ut-Tahrir (HuT)’ and all its manifestations and front organisations”

- Regulated Entities (REs) are advised to take note of the aforementioned Gazette notification issued by MHA for necessary compliance. REs shall also take note of any future amendments to Schedule I of the UAPA, 1967, for immediate necessary compliance.

VEENA SRIVASTAVA

Chief General Manager

24

Reserve Bank of India (Access Criteria for NDS-OM) Directions, 2024

[Issued by the Reserve Bank of India vide RBI/FMRD/2024-25/124 FMRD. MIOD.No.04/11.01.041/2024-25 dated 18.10.2024]

A reference is invited to circulars IDMD.DOD. No.5893/10.25.66/2007-08 dated May 27, 2008 and IDMD. DOD.No.13/10.25.66/2011-12 dated November 18, 2011 issued by the Reserve Bank on guidelines relating to access to Negotiated Dealing System-Order Matching (NDS-OM) electronic trading platform.

- The access criteria for the NDS-OM platform contained in the aforesaid circulars have been reviewed. Direct access to NDS-OM has been extended to a broader set of regulated entities and the process for seeking direct access to NDS-OM under these Directions or through the procedure stipulated under the Master Directions on Access Criteria for Payment Systems (Master Direction DPSS.CO.OD.No.1846/04.04.009/2016-17 dated January 17, 2017) as amended from time to time, has been streamlined.
- Directions to notify the revised access criteria for NDS-OM platform are being issued herewith.
- Accordingly, circulars IDMD.DOD. No.5893/10.25.66/2007-08 dated May 27, 2008 and IDMD.DOD.No.13/10.25.66/2011-12 dated November 18, 2011 issued by the Reserve Bank shall stand withdrawn. Direct access to NDS-OM granted in terms of these circulars shall be deemed to have been granted under these Directions and shall be governed by these Directions from the date they come into effect.
- These Directions have been issued by the Reserve Bank in exercise of the powers conferred under section 45W of the Reserve Bank of India Act, 1934 and of all the powers enabling it in this behalf.
- These Directions shall be applicable with immediate effect.

DIMPLE BHANDIA

Chief General Manager

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25

Facilitating accessibility to digital payment systems for Persons with Disabilities – Guidelines

[Issued by the Reserve Bank of India vide RBI/2024-25/83 CO.DPSS.POLC. No.S-708/02-12-004/2024-25 dated 11.10.2024]

A reference is invited to Reserve Bank's Master Circular on Customer Service in Banks dated July 01, 2015, which, among other things, contains instructions for scheduled commercial banks to ensure banking services for Persons with Disabilities. In this context, reference is also invited to 'Accessibility Standards and Guidelines for Banking Sector' as notified by the Ministry of Finance, Government of India on February 02, 2024.

- All sections of population, including differently abled persons, are increasingly adopting digital payment systems. To promote effective access, payment system

participants (PSPs, that is, banks and authorised non-bank payment system providers) are advised to review their payment systems / devices in terms of accessibility to Persons with Disabilities. Based on the review they may carry out the necessary modifications, such that all their payment systems and devices, such as Point-of-Sale machines, can be accessed and used by Persons with Disabilities with ease. In this connection, the Accessibility Standards issued by the Ministry of Finance referred to above may also be adhered to, as applicable, by all PSPs. While selecting potential solutions for the purpose, care should be taken to ensure that the modifications / enhancements do not compromise security aspects of their systems.

- PSPs shall submit to the Reserve Bank, within one month of the date of issue of this circular, details of their systems / devices that need to be modified, along with a time bound plan of action for achieving the same. The action plan may be sent to the Department of Payment and Settlement Systems, Reserve Bank of India at dpssfeedback@rbi.org.in along with details of a Nodal Officer who could be contacted, if required, for further queries / clarifications.
- This directive is issued under Section 18 read with Section 10 (2) of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

GUNVEER SINGH

Chief General Manager-in-Charge

26

Submission of information to Credit Information Companies (CICs) by ARCs

[Issued by the Reserve Bank of India vide RBI/2024-25/82 DoR.FIN.REC. No.46/26.03.001/2024-25 dated 10.10.2024]

In terms of circular no. DNBS (PD-SC/RC). CC. No. 23/26.03.001/2010-11 dated November 25, 2010 on 'Submission of information to Credit Information Companies', ARCs had been advised to become a member of at least one CIC. In order to align these guidelines with the guidelines applicable to banks and NBFCs and with a view to maintain a track of borrowers' credit history after transfer of loans by banks and NBFCs to ARCs, these guidelines have been revised as under.

- Membership of CICs: ARCs shall become members of all CICs and submit the requisite data to CICs as per the Uniform Credit Reporting Format prescribed² by the Reserve Bank, as amended from time to time.
- Submission of information: ARCs shall keep the information collected/ maintained by them, updated regularly on a fortnightly³ basis or at such shorter intervals as mutually agreed upon between the ARC and the CIC in terms of Regulation 10 (a) (i) and (ii) of the Credit Information Companies Regulations, 2006.
- Rectification of rejected data: ARCs shall rectify the rejected data received from CICs and upload the same with the CICs within seven days of receipt of such data.
- Adoption of best practices: ARCs shall have a standard operating procedure (SOP) in place for CIC related matters which shall, inter alia, include the following best practices:

- (i) ARCs shall provide requisite customer information, including identifier information, to CICs.
- (ii) ARCs shall ensure that the records submitted to CICs are updated regularly and that no instances of repayment, including that of the last instalment, are left unreported.
- (iii) Instances of non-updation of repayment information may be avoided by centralising the issue of no-objection certificates and providing information to CICs.
- (iv) ARCs shall appoint a nodal officer for dealing with CICs.
- (v) Customer grievance redressal shall be given top priority especially in respect of complaints relating to updation/ alteration of credit information.
- (vi) Grievance redressal in respect of credit information should be integrated with the existing systems, if any, for grievance redressal.
- (vii) ARCs should abide by the period stipulated under CICRA and the Rules and Regulations framed thereunder in respect of updation, alteration of credit information, resolving disputes, etc. Procedure prescribed under Rules 20 and 21 of the Credit Information Companies Rules, 2006 in this regard should be adhered to. Deviations from stipulated time limits should be monitored and commented upon in the periodical reports/ reviews put up to the Board.

J.P. SHARMA

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

27 Implementation of Credit Information Reporting Mechanism subsequent to cancellation of licence or Certificate of Registration

[Issued by the Reserve Bank of India vide RBI/2024-25/81 DoR.FIN. REC.47/20.16.042/2024-25 dated 10.10.2024]

The Credit Information Companies (Regulation) Act, 2005 (CICRA) stipulates that only Credit Institutions (CIs) can furnish credit information to Credit Information Companies (CICs). Section 17(1) of CICRA mandates that CICs can collect credit information from its member CIs or member CICs only. Therefore, only the entities that are covered under the ambit of section 2(f) of CICRA, 2005 can submit credit information to CICs.

2. In view of the provisions of CICRA, entities whose licence or Certificate of Registration (CoR) has been cancelled by the Reserve Bank of India, can no longer be deemed as CIs under CICRA and their credit information cannot be accepted by the CICs. In such cases, repayment history of borrowers of these entities is not updated even if these borrowers continue to repay/ clear their dues.
3. In order to redress the hardship faced by such borrowers, in exercise of the powers conferred by sub-section (vii) of section 2(f) and sub-section (1) of section 11 of CICRA, the Reserve Bank of India directs CICs and CIs to implement a credit information reporting mechanism

subsequent to the cancellation of the licence/CoR of banks/ Non-Banking Finance Companies (NBFCs) as given in the Annex.

4. These CIs shall continue to be governed by the provisions of CICRA, Rules and Regulations framed thereunder and directions issued by the Reserve Bank of India from time to time.

J. P. SHARMA

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

28 Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit

[Issued by the Reserve Bank of India vide RBI/2024-25/80 DOR.STR. REC.45/04.02.001/2024-25 dated 09.10.2024]

Please refer to the instructions issued vide circular No. DOR.STR.REC.44/04.02.001/2024-25 dated September 20, 2024.

2. Government of India, vide Trade Notice No.18/2024-2025 dated September 30, 2024, has allowed for an extension of the Interest Equalization Scheme for Pre and Post Shipment Rupee Export Credit ('Scheme') for three months up to December 31, 2024, with the following modifications to the Scheme:
 - a) Fiscal benefits of each MSME, on aggregate, will be restricted to ₹50 lakhs for the Financial Year 2024-25 till December 31, 2024.
 - b) Accordingly, MSME manufacturer exporters who have already availed equalisation benefits of ₹50 lakhs or more in the Financial Year 2024-25 till September 30, 2024, will not be eligible for any further benefit in the extended period.
3. Other terms and conditions/provisions of the extant instructions issued by the Bank on the captioned Scheme shall remain unchanged.

VAIBHAV CHATURVEDI

Chief General Manager

29 Due diligence in relation to non-resident guarantees availed by persons resident in India

[Issued by the Reserve Bank of India vide RBI/2024-25/79 A.P. (DIR Series) Circular No. 18 dated 04.10.2024]

The Reserve Bank of India (RBI) has come across instances of guarantees (including Standby Letters of Credit [SBLCs] and / or performance guarantees) issued by persons resident outside India, favouring persons resident in India, which are not permitted under the extant FEMA regulations.

2. AD Category-I banks may ensure that guarantee contracts advised by them to, or on behalf of, their resident constituents are in accordance with the FEMA regulations. The contents of this circular may be brought to the notice of your constituents.
3. This direction is issued under Section 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999).

DR ADITYA GAIHA

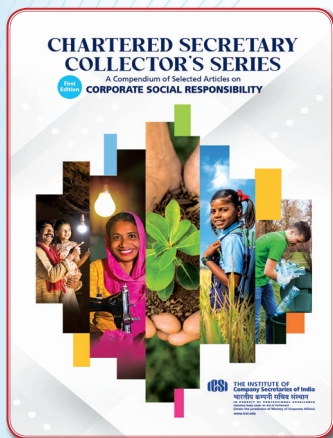
Chief General Manager-in-Charge



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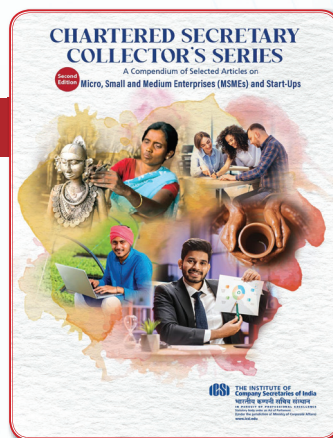
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A Compendium of Selected Articles



FIRST EDITION

A Compendium of Selected Articles
on
Corporate Social Responsibility



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A Compendium of Selected Articles
on
Micro, Small and Medium Enterprises (MSMEs) and Start-Ups



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NEWS FROM THE INSTITUTE



- MEMBERS RESTORED DURING THE MONTH OF SEPTEMBER 2024
- CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF SEPTEMBER 2024
- NEW ADMISSIONS
- UPLOADING OF PHOTOGRAPH AND SIGNATURE
- OBITUARIES
- CHANGE / UPDATION OF ADDRESS



Institute News

MEMBERS RESTORED DURING THE MONTH OF SEPTEMBER 2024

SL. NO.	NAME	MEMB NO.	REGION
1	CS KHEM PRAKASH JOSHI	ACS - 10547	NIRC
2	CS GIRISH GIRDHARILAL VALECHA	ACS - 11236	WIRC
3	CS N.V. VENKATESWARA RAO	ACS - 11754	SIRC
4	CS CHANDRA MOHAN BAHETY	ACS - 11821	EIRC
5	CS RAJESH BAGGA	ACS - 12900	WIRC
6	CS DHANASHRI MAYURESH JOSHI	ACS - 14248	WIRC
7	CS S. SRINIVASAN	ACS - 14254	SIRC
8	CS CHANDRA DAS GUPTA	ACS - 16895	WIRC
9	CS KUNAL DAYANAND SHAH	ACS - 17939	WIRC
10	CS DHARMENDER KUMAR	ACS - 17989	NIRC
11	CS AKANKSHA SUREKA	ACS - 20959	EIRC
12	CS NEETU VIJAY	ACS - 25549	WIRC
13	CS KAMAL KUMAR	ACS - 26069	NIRC
14	CS M S PRABHUDESAI	ACS - 2671	WIRC
15	CS CHETANSI KOHLI	ACS - 27520	NIRC
16	CS POOJA GARG	ACS - 28607	NIRC
17	CS PRIYANKA SAXENA	ACS - 28828	NIRC
18	CS MUKESH KUMAR MITTAL	ACS - 32496	NIRC
19	CS NITHYA SURESH	ACS - 32950	SIRC
20	CS C M BHARKTIYA	ACS - 3364	SIRC
21	CS KUMUD SHARMA	ACS - 35301	NIRC
22	CS NIKITA DHANUKA	ACS - 36490	EIRC
23	CS NEHA SHARMA	ACS - 36545	NIRC
24	CS PRIYA ANAND	ACS - 42932	EIRC
25	CS MALAYA KUMAR SAHOO	ACS - 43246	EIRC
26	CS RAVELLA SRIDHAR	ACS - 43983	SIRC
27	CS PINKY MONISH SHAH	ACS - 44016	WIRC
28	CS DEVESH PANT	ACS - 45633	NIRC
29	CS PREETI MALIK	ACS - 45883	NIRC
30	CS SRINIVASAN THANGAVEL	ACS - 46251	SIRC
31	CS GAURAV SINGH SHEKHAWAT	ACS - 47335	NIRC
32	CS SWATI SHAILESH SONAR	ACS - 48981	WIRC
33	CS KAVITA PRASAD	ACS - 49498	NIRC
34	CS ANVESHA DALMIA	ACS - 51572	NIRC
35	CS MANORAMA MAROO	ACS - 51928	WIRC
36	CS MANISH SINGHANIA	ACS - 53468	WIRC

37	CS ANUPAM ANAND	ACS - 55670	NIRC
38	CS YOGESH KUMAR BHANWARLAL DAVE	ACS - 57046	WIRC
39	CS SHWETA PANDEY	ACS - 57461	NIRC
40	CS UJJWAL VERMA	ACS - 59592	NIRC
41	CS PUSHKAR VARMA	ACS - 59990	WIRC
42	CS JESAL BHOGILAL MEHTA	ACS - 60787	WIRC
43	CS TRIGUN SHARMA	ACS - 61140	NIRC
44	CS SHUBHAM KUMAR AGARWAL	ACS - 62321	NIRC
45	CS KOMAL DAGA	ACS - 63176	EIRC
46	CS LAXMIKANT SHARMA	ACS - 64278	EIRC
47	CS MINI GOURISARIA	ACS - 65882	EIRC
48	CS PARVESH BANSAL	ACS - 69869	NIRC
49	CS SHEETAL TUKARAM MAHAMUNI	FCS - 12208	WIRC
50	CS VINEET KUMAR TRIPATHI	FCS - 5542	WIRC
51	CS SUMITA CHAKRABORTY	FCS - 9021	EIRC

CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF SEPTEMBER 2024

SL. NO.	NAME	MEMB NO	COP NO.	REGION
1	CS AANCHAL JAIN	ACS - 42143	22060	NIRC
2	CS AJIT MAHENDRAKUMAR SANTOKI	FCS - 4189	2539	WIRC
3	CS AMITA GUPTA	ACS - 62334	24014	WIRC
4	CS ANAMIKA JAJOO	ACS - 20918	13859	WIRC
5	CS ARVIND KUMAR MISHRA	ACS - 26258	12458	EIRC
6	CS BHARTI DHINGRA	ACS - 49854	18458	NIRC
7	CS DEEPIKA	ACS - 38855	26729	NIRC
8	CS GEETIKA VERMA	FCS - 10470	13819	NIRC
9	CS GUNJAN ARORA	ACS - 34046	18497	NIRC
10	CS HETAL YOGESH UPADHYAYA	ACS - 69248	25775	WIRC
11	CS HIRAL JAIN	ACS - 49033	18825	NIRC
12	CS JEEVAN SANTOSH KUMAR INNANI	ACS - 38372	24411	WIRC
13	CS JINAL VINOD MISTRY	FCS - 11383	22499	WIRC
14	CS JITENDRA MOTWANI	ACS - 67845	25249	WIRC
15	CS JOLLY MEHROTRA	ACS - 23056	25643	NIRC
16	CS JYOTI	ACS - 70010	26364	NIRC
17	CS KALPANA TEKRIWAL	ACS - 59722	22484	NIRC
18	CS KAMAL PREET KAUR	ACS - 20781	11896	NIRC
19	CS KANISHKA SINGHAL	ACS - 72597	27292	NIRC
20	CS KAVIN ARORA	ACS - 36013	27259	NIRC
21	CS KAVYA GIRISH CHANDWANI	ACS - 56925	27142	WIRC
22	CS KAVYAA BHUWALKA	ACS - 66451	27394	EIRC
23	CS KOVILLOOR VIJAYARAGHAVACHARI SAMPATHKUMAR	ACS - 106	26951	SIRC

24	CS KRISHNA KUMAR SHARMA	FCS - 7082	7747	NIRC
25	CS LALITH GUPTA	ACS - 51580	23886	EIRC
26	CS MANALI MALHOTRA	ACS - 48742	20621	NIRC
27	CS MANOJ KUMAR	FCS - 8737	24213	NIRC
28	CS NINAD VIDYADHAR SAHASRABUDDHE	ACS - 52226	22549	WIRC
29	CS PINKY BISHT	ACS - 35907	21689	NIRC
30	CS POOJA SHARMA	ACS - 50921	24174	NIRC
31	CS PRERNA GAUR	ACS - 67496	25956	NIRC
32	CS RADHIKA BHADADA	ACS - 54954	20357	NIRC
33	CS RAGHAV PANCHAL	FCS - 12070	16463	WIRC
34	CS RAHUL BHARAT GUPTA	ACS - 43021	20863	WIRC
35	CS RAJKUMAR ASHOK KANKARIYA	ACS - 33885	22807	WIRC
36	CS RAMA KRUSHNA DAS	FCS - 8131	26649	EIRC

37	CS RANGANATHA B S	ACS - 65028	27332	SIRC
38	CS RISHABH SONKESHARIYA	ACS - 73494	27429	WIRC
39	CS RITAMBHARA SINGH	ACS - 53850	22548	SIRC
40	CS RUCHIKA RATHI	ACS - 66409	25654	NIRC
41	CS SAKSHI MAHAJAN	ACS - 50669	27331	NIRC
42	CS SENTHIL KUMAR VENKATASAMY	FCS - 2917	16396	SIRC
43	CS SHUBHAM AGARWAL	ACS - 73253	27167	NIRC
44	CS SONAL AGARWAL	ACS - 72273	27265	EIRC
45	CS SRI LAXMI DESHMUKH	ACS - 72293	26857	SIRC
46	CS SUDHA MAYI PULLA	ACS - 20588	10407	SIRC
47	CS SWETA AGARWAL	ACS - 31918	11789	EIRC
48	CS TIRNATI SAI KRISHNA SHOWRYA	ACS - 62545	23320	SIRC
49	CS VIJAYETA SWAPNIL AMBURE	ACS - 64883	26643	WIRC
50	CS VIKASH KUMAR	ACS - 66336	24691	EIRC

NEW ADMISSIONS

For latest admission of Associate and Fellow Members, Life Members of Company Secretaries Benevolent Fund (CSBF), Licentiates 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 members:

CS Upender Jajoo (22.11.1988 - 06.07.2024), a Fellow Member of the Institute from Delhi.

CS Ishwar Balkrishnan Muchandi (09.06.1943 - 13.09.2024), an Associate Member of the Institute from Panaji.

CS Balraj Sharma (03.08.1945 - 27.08.2024), a Fellow Member of the Institute from Delhi.

CS Palanisamy Chitti Babu (06.06.1966 - 24.07.2024), an Associate Member of the Institute from Coimbatore.

CS Subramanian Padmanabhan (02.11.1932-01.10.2024), an Associate Member of the Institute from Ernakulam.

CS Ajay Subhash Topale (07.02.1987 - 26.07.2024), a Fellow Member of the Institute from Nashik.

CS Ramalingam Narayanan (01.07.1948 - 04.10.2024), a Fellow Member of the Institute from Mumbai.

May the Almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the departed souls rest in peace.

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>



**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)

Documents downloadable from the DigiLocker Platform

The National Digital Locker System, launched by Govt. of India, is a secure cloud based platform for storage, sharing and verification of documents and certificates. In the wake of digitization and in an attempt to issue documents to all the members in a standard format and make them electronically available on real-time basis, the Institute of Company Secretaries of India had connected itself with the DigiLocker platform of the Government of India. The initiative was launched on 5th October, 2019 in the presence of the Hon'ble President of India.

In addition to their identity cards and Associate certificates, members can also now access and download their Fellow certificates and Certificates of Practice from the DigiLocker anytime, anywhere.



How to Access:

- Go to <https://digilocker.gov.in> and click on Sign Up
- You may download the Digilocker mobile app from mobile store (Android/iOS)

How to Login:

- Signing up for DigiLocker with your mobile number.
- Your mobile number is authenticated by an OTP (one-time password).
- Select a username & password. This will create your DigiLocker account.
- After your DigiLocker account is successfully created, you can voluntarily provide your Aadhaar number (issued by UIDAI) to avail additional services.

How to Access your Documents digitally:

Members can download their digital ID Card / ACS / FCS / COP certificate(s) by following the steps given below:

1. Log in to <https://www.digilocker.gov.in> website
2. Go to Central Government and select Institute of Company Secretaries of India
3. Select the option of ID card / Membership Certificate / Practice Certificate
4. For ID Card, enter your membership number e.g. ACS 12345 / FCS 12345.
5. For membership certificate, Enter your membership and select ACS / FCS from drop down.
6. For COP certificate enter your COP number e.g. 12345 and select COP.
7. Click download / generate.
8. The ID Card / Membership certificate / Practice Certificate can be downloaded every year after making payment of Annual Membership fees.



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। इष्टं कुरु। त्वत्कामं। क्रोधेन नृपुं कुरु।

Mission

"To develop high calibre professionals
facilitating good corporate governance"

ICSI BLOOD Bank Portal



**Dedicated to
the Service
of the Nation**

The ICSI Blood Bank Portal has a huge
database of blood donors with information
on Blood Groups with their location

To find a donor near you or
to register as a donor visit
<https://www.icsi.in/bloodbank/>

Connect with ICSI

www.icsi.edu |



| Online helpdesk : <http://support.icsi.edu>



6

MISCELLANEOUS CORNER



- GST CORNER
- ETHICS IN PROFESSION
- CG CORNER
- ESG CORNER
- GIST OF RD & ROC ADJUDICATION ORDERS

A NEW GSTN E-SERVICES APP IS LAUNCHED, WHICH REPLACES THE OLD E-INVOICE QR CODE VERIFIER APP

The app offers the following features:

Verify e-Invoices: Scan the QR code to verify the B2B e-Invoices, QR code and check the live status of the Invoice Reference Number (IRN).

GSTIN Search: Search for GSTIN details using the GSTIN or PAN.

Return Filing History: View the return filing history for a GSTIN.

Multiple Input Methods: Input search details using text, voice, or scan functions.

Result Sharing: Share search results via the app.

Source: <https://services.gst.gov.in/services/advisoryandreleases/read/528>

ADVISORY ON PROPER ENTRY OF RR NO./ PARCEL WAY BILL (PWB) NUMBERS IN EWB SYSTEM POST EWB-PMS INTEGRATION

The Parcel Management System (PMS) of Indian Railways has now been integrated with the E-Way Bill (EWB) system via Application Programming Interfaces (APIs). This integration facilitates the seamless transfer of RR No. /Parcel Way Bill (PWB) data from Railways to e-way bill portal, ensuring better traceability and compliance.

It is crucial for taxpayers to ensure that the Parcel Way Bill number is entered correctly in the EWB system to allow smooth tracking and verification of goods being transported via Indian Railways. Accurate entry will also facilitate the validation process and avoid unnecessary delays or complications.

Source: <https://services.gst.gov.in/services/advisoryandreleases/read/529>

ADVISORY FOR TAXPAYERS: NEW GST PROVISION FOR METAL SCRAP TRANSACTIONS

The government has issued Notification 25/2024-Central Tax, on October 9, 2024 under Section 51 of the CGST Act, 2017 mandating compliance by the businesses dealing with Metal Scrap. The GST portal will soon be updated to enable compliance of registration through FORM GST REG-07 by these category of registered persons.

Source: <https://services.gst.gov.in/services/advisoryandreleases/read/531>

IMPORTANT ADVISORY FOR GSTR-9/9C

Starting FY 2023-24, GST system will auto-populate eligible ITC for domestic supplies (excluding reverse charge and imports ITC) from table 3(I) of GSTR-2B to

table 8A of GSTR-9. These changes in GSTR-9 and 9C for the FY 2023-24 are available on the GST portal from 15th October 2024 onwards.

Further, a validation utility will be executed progressively (for validation by taxpayers) to complete the auto population of GSTR-9 from GSTR-2B for Apr-23 till Mar-24.

Source: <https://services.gst.gov.in/services/advisoryandreleases/read/533>

VALIDATION OF BANK ACCOUNT DETAILS WHILE ADDING BANK ACCOUNT AS NON-CORE AMENDMENT

A new validation process has been implemented for cases where a taxpayer attempts a non-core amendment to update bank account details. Taxpayers are requested to follow the procedure outlined in the link provided below while adding bank account details on the portal.

Tutorial link: https://tutorial.gst.gov.in/downloads/news/fo_advisory_validate_bank_account_details.pdf

Source: <https://services.gst.gov.in/services/advisoryandreleases/read/537>

BARRING OF GST RETURN ON EXPIRY OF THREE YEARS

As per the Finance Act, 2023 (8 of 2023), dated 31-03-2023, implemented w.e.f 01-10-2023 vide Notification No. 28/2023 – Central Tax dated 31st July, 2023, the taxpayers shall not be allowed to file their GST returns after the expiry of a period of three years from the due date of furnishing the said return under Section 37 (Outward Supply), Section 39 (payment of liability), Section 44 (Annual Return) and Section 52 (Tax Collected at Source). These Sections cover GSTR-1, GSTR 3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR 7, GSTR 8 and GSTR 9.

The said changes are going to be implemented in the GST portal from early next year (2025).

Source: <https://services.gst.gov.in/services/advisoryandreleases>

NOTIFICATIONS

Notification No. 20/2024–Central Tax

The notification seeks to make amendments (Second Amendment 2024) to the CGST Rules, 2017.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1010185/ENG/Notifications>

Notification No. 21/2024–Central Tax

The notification seeks to notify date under sub-section (1) of Section 128A of CGST Act.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1010186/ENG/Notifications>



Notification No. 22/2024–Central Tax

This notification seeks to notify the special procedure under section 148 of the CGST Act for rectification of demand orders issued for contravention of section 16(4) of the said Act.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1010187/ENG/Notifications>

Notification No. 23/2024–Central Tax

This notification seeks to provide waiver of late fee for late filing of NIL FORM GSTR-7.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1010188/ENG/Notifications>

Notification No. 24/2024–Central Tax

This notification seeks to amend Notification No. 5/2017-Central Tax dated 19.06.2017.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1010189/ENG/Notifications>

Notification No. 25/2024–Central Tax

This notification seeks to amend Notification No. 50/2018-Central Tax dated 13.09.2018.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1010190/ENG/Notifications>

CIRCULARS

Circular No.234/28/2024-GST

The Circular provides clarifications regarding applicability of GST on certain services

Source: <https://taxinformation.cbic.gov.in/view-pdf/1003239/ENG/Circulars>

Circular No.235/29/2024-GST

The Circular provides clarification regarding GST rates & classification (goods) based on the recommendations of GST Council.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1003240/ENG/Circulars>

Circular No. 236/30/2024-GST

The Circular provides clarification regarding the scope of “as is / as is, where is basis” mentioned in the GST Circulars issued on the basis of recommendation of the GST Council in its meetings.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1003241/ENG/Circulars>

Circular No. 237/31/2024-GST

The Circular provides clarification regarding the issues in implementation of provisions of sub-section (5) and sub-section (6) in section 16 of CGST Act, 2017.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1003242/ENG/Circulars>

Corrigendum to Circular No. 237/31/2024-GST

Source: <https://taxinformation.cbic.gov.in/view-pdf/1003244/ENG/Circulars>

Circular No. 238/32/2024-GST

The Circular provides clarification on various doubts related to Section 128A of the CGST Act, 2017.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1003243/ENG/Circulars>

Due Diligence in filing financial statements

Considering the significance of financial statements, it is very important to check the details and all the mandatory attachments while certification of forms for filing financial statements with the Regulators.

The expression “*professional and other misconduct*” as defined in Section 22 of the Company Secretaries Act, 1980 shall be deemed to include any act or omission provided in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

A member of the Institute in practice, shall be deemed to be guilty of professional misconduct under Clause (7) of Part I of the Second Schedule to the Company Secretaries Act, 1980, if he, “does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;”

CASE STUDY :

1. A complaint of professional or other misconduct was received against one Practicing Company Secretary (hereinafter referred to as ‘the Respondent’) *inter-alia* alleging/stating that the Respondent has certified e-form AOC-4 for the financial year ended 31st March, 2019 of one private limited company and the Respondent has given declaration as under: -

“I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified record maintained by the Company/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.”

2. Further, the Respondent has further certified that (i) The said records have been properly prepared, signed by the required officers of the company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order; (ii) All the required attachments have been completely and legibly attached to this form; (iii) It is understood that he shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage.
3. The Complainant has further alleged that in the said e-form, Independent Auditor's report has not been attached for the said financial year.
4. The Respondent has submitted that the e-form AOC-4 was uploaded but the website was not functioning properly at that time and resulted in multiple filings of the forms, after uploading of form payment was deducted but money got refunded back in account within 48 hours. The Respondent has further stated

that since the company was a small company, and as per the recent amendment, certification from Company Secretary or other professionals in practice is not required. After multiple attempts, the Respondent was not able to upload the form due to pre-scrutiny errors and issues but after many failure attempts, one of his team members was able to upload the form with using his DSC and the form was uploaded successfully, and payment was done. The Respondent has further stated that one of the attachments was missing which was inadvertent mistake. He understands that it is his duty to file form with utmost care and no such excuse of bad website or practical difficulties preclude him from the liability. The Respondent further stated that it was purely unintentional error, and he has no mala fide intention in filing the form.

5. The Respondent has visited the o/o Registrar of Companies (ROC) to allow the company to re-file the form or allow him to submit copy of annual accounts with Independent Auditors' Report in any way possible, but he was informed that this is not possible, and he cannot modify or submit anything or even re-file the e-form AOC-4. The Respondent further submitted that he, even tried to mark the form NTBR (Not to Be Taken on Record), the request for the same is not accepted. He was informed that it is not possible to file e-form AOC-4 once again and once it is filed it is permanent and there is no other way to resubmit this document or submit any additional information even if he wants to.
6. The Respondent pleaded ‘not guilty’ before the Disciplinary Committee and reiterated his submissions. He also prayed leniency for the unintentional error done while filing e-form AOC-4 of the company.
7. The Disciplinary Committee has observed that the Respondent has certified e-form AOC-4 without enclosing Independent Auditor's report of the company for said year. It is further observed that the Respondent has admitted his guilt for not enclosing the same with the e-form AOC-4 and stated that it was purely unintentional error. He has admitted that missing the attachment in form AOC-4 of the company was an inadvertent mistake done by him. The Disciplinary Committee viewed that the Respondent in the certification of e-form AOC-4 of the company, has not done the required due diligence.
8. The Disciplinary Committee after considering the material on record, the nature of issues involved in the matter and in the totality of the facts and circumstances of the case, held the Respondent ‘Guilty’ of Professional Misconduct under Clause (7) of Part I of the Second Schedule to the Company Secretaries Act, 1980. The Disciplinary Committee passed an order of Reprimand and imposed a Fine of ₹ 10000 (Rupees Ten thousand) against the Respondent. □

OECD Guidelines on Corporate Governance of State-Owned Enterprises 2024

State-Owned Enterprises (SOEs) play an important role in many economies, and operate across a range of sectors, including infrastructure, natural resources, energy, logistics, transportation, financial services and manufacturing. SOEs can provide public goods and services that cannot be supplied by market forces alone, generate revenue streams for governments, make investments to achieve a policy objective, support development, and advance science and technological progress.

Governments shape SOE decision-making and structure as shareholders, policymakers and in many cases regulators. Sound corporate governance, professionalised ownership, integrity, transparency and accountability are essential to address potential conflicts of interest, as well as the risks of corruption and illegal influence. This is particularly important to ensure SOEs remain effective in their mission and accountable to citizens and taxpayers as their ultimate owners.

OECD has issued a report on Corporate Governance of State-Owned Enterprises 2024 that provides easily accessible and updated information on ownership and governance practices of state-owned enterprises across 59 jurisdictions. Its main goal is to promote greater awareness and implementation of the OECD Guidelines on Corporate Governance of State-Owned Enterprises, particularly following their 2024 revision. The report is the main publication of the OECD Working Party on State Ownership and Privatisation Practices (Working Party) and serves as a comprehensive repository of its expertise.

The report builds on information recently collected or verified through various means, including a comparative analysis on *Disclosure, transparency, and the responsibilities of the boards of SOEs* undertaken by the Working Party in 2023 with support from the European Commission. It also draws on additional data sources, including recent national reviews of the governance of SOEs undertaken by the Working Party, the 2023 OECD Product Market Regulation Indicators, and the OECD Capital Market Series dataset.

The report also builds on and complements other OECD work, including the *OECD Corporate Governance Factbook 2023*, the *Global Corporate Sustainability Report 2024*, the report *Climate Change and Low-Carbon Transition Policies in State-Owned Enterprises* (2022), and the forthcoming best practice guide on enhancing sustainability in the state-owned sector.

According to the report between 2000 and 2023, the number of SOEs among the largest 500 enterprises by revenue worldwide increased from 34 to 126. These SOEs had USD 53.5 trillion in assets and over USD 12 trillion in revenue in 2023. That same year, 12% of global market capitalisation was in companies with more than 25% of public sector ownership.

The prominence of SOEs, however, varies considerably across markets. In the OECD area, the market capitalisation of listed firms with more than 25% of public sector ownership is just 2%, compared to 16% in Latin America, and over 40% or more in some markets.

The major findings of the report are as under:

- Half the jurisdictions surveyed have yet to introduce ownership policies outlining the state's goal as an owner and how it exercises ownership.
- Centralised or co-ordinated ownership arrangements, bringing together pools of expertise in public asset management, are now used in 53% of jurisdictions (up from 41% in 2021), but 27% of jurisdictions still have dispersed ownership, which makes it challenging to separate ownership from other government functions such as policy making or regulation.
- 64% of jurisdictions publish annual reports on the SOE sector, with 37% offering comprehensive insights into the overall performance and evolution of the full SOE portfolio in aggregate terms, thus promoting enhanced accountability and transparency.

The report further states that a level playing field between SOEs and other enterprises requires addressing the possible conflicts arising from the state's roles as policy maker, market regulator and enterprise owner. Although 80% of jurisdictions provide similar regulatory treatment to SOEs and other firms, implicit or explicit differences include:

- Special tax treatment for some SOEs in one third of jurisdictions, and inconsistent application of insolvency rules in 18%.
- No requirement to report contractual and contingent liabilities in 38% of jurisdictions, which may affect non-state equity owners and other stakeholders by reducing their ability to assess risks.

- No requirement for SOEs to separate accounting of public service obligations in 21% of jurisdictions and lack of adequate compensation for fulfilling public service obligations in 26%.
- Preferential access to finance for SOEs, including implicit or explicit state guarantees on commercial debt in 74% of jurisdictions.
- Alignment with best practices in the disclosure, transparency and accountability of SOEs varies both within and between jurisdictions
- Effective corporate governance relies on robust disclosure, transparency, and accountability. For SOEs, there is the added responsibility to demonstrate effective stewardship of public resources vis-à-vis the public and stakeholders in order to mitigate risks of corruption, inefficiency, and mismanagement. Practices vary widely across categories and sizes of SOEs:
- Financial and non-financial reporting and disclosure requirements, akin to those applied to listed companies, typically apply to a subset of centrally held and large SOEs.
- Disclosure should cover commercial and non-commercial SOEs objectives, yet only 52% of jurisdictions require such disclosure.
- While 89% of jurisdictions require that SOEs disclose related party transactions, this primarily applies to listed and large SOEs. SOEs adhering to internationally recognised reporting standards (such as IFRS) must also disclose off-balance sheet assets and liabilities.
- 86% of jurisdictions require at least some SOEs to report on material risks and implement risk management strategies.
- Only half of jurisdictions require all their SOEs to conduct external independent audits, while 15% rely on the national Supreme Audit Institution to undertake annual audits.
- Legal frameworks enshrine SOE boards' independence, diversity and autonomy, but remain an area for improvement

The instrumental role that Boards play in shaping the strategy, oversight, and performance of individual SOEs have also been encompassed in this report. According to the report the roles and duties of the Board should be clearly defined in legislation and their members should act in the best interest of the enterprise and its shareholders, taking also into account the interests of stakeholders. A skilled, independent, and diverse board improves decision-making, mitigates potential conflicts

of interest and prevents undue political interference. Key insights pertaining to SOEs boards are as under:

- SOE boards in 67% of jurisdictions have full responsibility and autonomy in defining enterprise strategy, limiting undue interference, and advancing the long-term interest of the company.
- 58% of jurisdictions have gender targets or quotas for SOE boards, aiming for at least 1/3 representation of the minority gender.
- Definitions of board independence vary across jurisdictions, with only two jurisdictions adopting definitions in line with a best practice benchmark definition. Most jurisdictions assessed do not include limits on the term of appointment in their definition.
- 25% of jurisdictions do not have a formal ban on elected politicians serving on SOE boards, even if it may not occur in practice.
- 77% of jurisdictions mandate large/listed SOEs to have an internal audit function reporting to the board or its audit committee, reflecting best practices.
- SOEs are central to sustainable development and can lead by example in various domains, including the low carbon transition and responsible business conduct
- Ownership entities and SOEs must proactively manage risks in a manner that fosters sustainability, resilience, and long-term value creation. The prevalence of SOEs in high-emitting greenhouse gas sectors, including hydrocarbons, utilities, construction, energy and metals, makes them particularly important to the low carbon transition.
- The public sector owns 18% of the shares of the top 100 highest GHG emitting listed companies globally, with significantly higher ownership in some emerging markets.
- Despite this, only a quarter of jurisdictions explicitly incorporate climate goals into their SOE ownership policy.
- 92% of a sample of 479 listed SOEs globally disclosed sustainability information in 2022. Of these, 51% disclosed scope 1 and 2 GHG emissions, and 23% disclosed scope 3 emissions. This shows a commitment to transparency in this area but also significant room for improvement.

Reference:

https://www.oecd.org/en/publications/ownership-and-governance-of-state-owned-enterprises-2024_395c9956-en.html



ICC unveils draft Principles for Sustainable Trade Finance to Combat Greenwashing

The International Chamber of Commerce (ICC) has launched its Principles for Sustainable Trade Finance (PSTF) which has been developed in partnership with industry leaders, including major trade banks and Boston Consulting Group (BCG). PSTF provide clear guidelines for sustainable trade finance products, mitigating greenwashing risks and addressed the gaps in existing frameworks.

The PSTF are divided into four key sections:

- Principles for Green Trade Finance (PGTF)
- ICC guidance on Sustainability Linked Trade Finance
- ICC guidance on Sustainability Linked Supply Chain Finance
- ICC's ambition for Social Trade Finance

The launch of the PSTF opens an industry-wide consultation, inviting stakeholders to review the principles and provide feedback. This process ensures that the final version is both robust and practical, addressing the diverse needs of the trade finance industry. The final version is set for release later this year.

Source: <https://esgnews.com/icc-unveils-new-principles-for-sustainable-trade-finance-to-combat-greenwashing/>

HKMA Launches Sustainable Finance Action Agenda with Eight Key Goals

The Hong Kong Monetary Authority (HKMA) has unveiled its Sustainable Finance Action Agenda, setting a comprehensive vision to solidify Hong Kong's role as the leading sustainable finance hub in the region and to support sustainable development across Asia and beyond. The Action Agenda encompasses eight goals divided into four strategic areas:

I. Banking for Net Zero

1. Net-Zero Operations by 2030: All banks are to strive for net-zero emissions in their own operations by 2030 and in their financed emissions by 2050.
2. Enhanced Transparency: Banks are to improve transparency on climate-related risks and opportunities.

II. Investing in a Sustainable Future

3. Net-Zero Investment Portfolio by 2050: Achieve net-zero emissions for the Investment Portfolio of the Exchange Fund by 2050.
4. Regional Support Through Investment: Support the transition in the region through strategic investments.

III. Financing Net Zero

5. Sustainable Financing Platform: Develop Hong Kong into the premier sustainable financing platform for the region and beyond.
6. Catalyze Innovation: Foster innovation in sustainable finance.

IV. Making Sustainability More Inclusive

7. Support Comprehensive Disclosures: Promote high-quality and comprehensive sustainability disclosures.
8. Close Talent and Knowledge Gaps: Address talent and knowledge shortages in sustainable finance within the region.

Moving forward, the HKMA will focus on implementing the Action Agenda by providing further guidance and supportive tools for the industry. It will also continuously review and refine the agenda as necessary, taking into account market developments and industry feedback.

Source: <https://esgnews.com/hkma-launches-sustainable-finance-action-agenda-with-eight-key-goals/>

EU Invests €4.8 Billion from Emissions Trading Revenues to Fund Net-Zero Projects

The EU Emissions Trading System's Innovation Fund is one of the world's largest funding programs for deploying net-zero and innovative technologies, with an estimated revenue of €40 billion between 2020 and 2030. To date, the fund has awarded about €7.2 billion to over 120 innovative projects across the European Economic Area.

The European Commission has selected 85 innovative net-zero projects to receive €4.8 billion in grants from the Innovation Fund, aiming to accelerate the deployment of cutting-edge clean technologies across Europe. This marks the largest funding round since the fund's inception in 2020, boosting total support to €12 billion and increasing the number of projects by 70%.

Located in 18 countries including Belgium, Denmark, Germany, and France, the selected projects span various sectors: energy-intensive industries, renewable energy, energy storage, industrial carbon management, net-zero mobility, and buildings. These initiatives are set to become operational before 2030 and are expected to reduce emissions by about 476 million tonnes of CO₂ equivalent over their first decade.

Successful applicants are required to sign grant agreements with the European Climate, Infrastructure and Environment Executive Agency (CINEA) in the first

quarter of 2025. Additionally, Net-Zero projects that scored above the evaluation thresholds but were not funded will receive project development assistance from the European Investment Bank and will be awarded the STEP Seal—the EU’s new quality label under the Strategic Technologies for Europe Platform (STEP) to facilitate access to further support opportunities.

The Commission plans to launch the next call for proposals under the innovation fund in early December 2024.

Source: <https://esgnews.com/eu-invests-e4-8-billion-from-emissions-trading-revenues-to-fund-net-zero-projects/>

Standard Chartered Launches ESG-Linked Trade Loans

Standard Chartered has launched a sustainable finance variant of its Borrowing Base Trade Loan (BBTL), reinforcing its commitment to decarbonizing the commodity sector. The BBTL is a secured revolving credit facility tailored to meet the specific needs of businesses, allowing them to borrow against a pool of collateral like cash, inventory, or receivables. It provides clients with flexible financing while consolidating transactions under a single loan.

This new variant, available in markets including the US, UK, UAE, South Africa, Singapore, and Hong Kong, integrates environmental, social, and governance (ESG) criteria into the financing process. By doing so, it allows companies to access loans for activities aligned with sustainability goals.

The new BBTL variants also offer preferential pricing for companies that demonstrate a commitment to sustainability-related key performance indicators (KPIs), such as reducing carbon emissions or increasing the use of renewable energy. These sustainability-linked features align with Standard Chartered’s Green and Sustainable Product Framework, reinforcing their efforts to help clients transition to greener operations.

These new variants prioritize lending to activities that advance sustainability, such as financing critical metals essential for the energy transition. Businesses benefiting from these loans will have to meet specific ESG standards, ensuring that sustainability goals are central to their financial operations.

Source: <https://esgnews.com/standard-chartered-launches-esg-linked-trade-loans-to-boost-global-commodity-decarbonization/>

Saudi Arabia’s first hydrogen train test in Middle East

Saudi Arabia successfully tested the Middle East’s first hydrogen-powered train, a step towards sustainable rail transport. The hydrogen train is part of Saudi Arabia’s broader commitment to sustainable energy announced

during Climate Week 2023 and plans to continue developing hydrogen technology for broader adoption in the commercial sector.

Collaborations with international companies are helping to introduce advanced technologies into the country, driving Saudi Arabia to become a leader in sustainable transportation. This project represents an important step forward in the development of eco-friendly transportation in Saudi Arabia.

Source: <https://esgnews.com/saudi-arabia-completes-first-hydrogen-train-test-in-middle-east/>

SEC fines WisdomTree \$4M for misleading ESG fund practices

The Securities and Exchange Commission (SEC) has charged New York-based investment adviser WisdomTree Asset Management Inc. with making misstatements and failing to comply with its own investment criteria for funds marketed with environmental, social, and governance (ESG) factors.

From March 2020 to November 2022, WisdomTree claimed in prospectuses for three ESG exchange-traded funds and to their overseeing board of trustees, that the funds would not invest in companies involved in certain activities, including fossil fuels and tobacco. However, the SEC found that these ESG-marketed funds did invest in companies engaged in:

- Coal mining and transportation
- Natural gas extraction and distribution
- Retail sales of tobacco products

At a fundamental level, the federal securities laws enforce a straightforward proposition that investment advisers must do what they say and say what they do. It was revealed that WisdomTree relied on data from third-party vendors that failed to exclude all companies involved in fossil fuel and tobacco-related activities. Also, the firm lacked policies and procedures to properly screen out such companies from their ESG funds.

WisdomTree consented to the SEC’s order without admitting or denying the findings. The firm agreed to a cease-and-desist order, censure, and to pay a \$4 million civil penalty.

This case highlighted that investment advisers should accurately represent their investment strategies and keep checks on investment portfolios, especially in the growing ESG sector, to align with their stated investment criteria and to maintain investors trust.

Source: <https://esgnews.com/sec-fines-wisdomtree-4m-for-misleading-esg-fund-practices/>



GIST OF RD & ROC ADJUDICATION ORDERS

GIST OF ROC ADJUDICATION ORDERS

1. Adjudication order for violation of Rule 12(2) of the Companies (Prospectus and allotment of Securities) Nidhi Rules, 2014 in the matter of MAZHIL NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Mazhil Nidhi Limited for violating Rule 12(2) of (Companies Prospectus and Allotment of Securities) Rules, 2014 by not mentioning the Occupation details of the allottees in the list attached with e-form PAS-3. The Adjudicating Authority imposed penalty of ₹10,000 each upon the company and three directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=d11VrKEKFDjDF4siW3GwIA%253D%253D&type=open>

2. Adjudication order for violation of Section 134 of the Companies Act, 2013 in the matter of MAZHIL NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Mazhil Nidhi Limited as the financial statements for financial year ending 31.03.2019 has not signed by two directors and thus violated the provisions of Section 134(1) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹3,00,000 upon the company and ₹50,000 each on three directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=N-Jup1OXMbWdPsYB7E9wjZQ%253D%253D&type=open>

3. Adjudication order for violation of Section 158 of the Companies Act, 2013 in the matter of SOUNDARAMBIGAI BENEFIT FUND NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Soundarambigai Benefit Fund Nidhi Limited as the Directors Identification Number (DIN) is not mentioned in the Financial Statements for FY 31.03.2022, and thus violated Section 158 of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹50,000 each upon the company and on one director of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=l-jogTMQpYesO6KJhQr7bGw%253D%253D&type=open>

4. Adjudication order for violation of Section 92 of the Companies Act, 2013 in the matter of BOLD AND BEAUTY HOUSE PRIVATE LIMITED

ROC Chennai issued adjudication order dated 04th September 2024 in the matter of Bold and Beauty House Private Limited for not filing the Annual Returns since financial year 2018-19 to 2022-23

which violated the provisions of Section 92 of the Companies Act, 2013. The Adjudication Authority has imposed penalty of ₹5,48,600 upon the company and ₹2,63,700 each upon the two directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=g-BRWckR9CcJZuMBeiYGXNg%253D%253D&type=open>

5. Adjudication order for violation of Section 117 of the Companies Act, 2013 in the matter of MAZHIL NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Mazhil Nidhi Limited for not filing e-form MGT-14, which violated Section 117 (3)(g) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹3,28,900 upon the company, ₹91,900 on one director and ₹50,000 each on other two directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=YOzZZ%252FnuTXJK5txYckL3cA%253D%253D&type=open>

6. Adjudication order for violation of Section 137 of the Companies Act, 2013 in the matter of MAZHIL NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Mazhil Nidhi Limited for not filing its Financial Statements in form AOC -4 for the FY 2020-21 to 2022-23 within stipulated time and thus contravened Section 137(1) of the Companies Act, 2013. The Adjudicating Authority has imposed the penalty of ₹1,08,500 upon the company, ₹50,000 on one of the directors and ₹11,900 each on other three directors in default for the FY 2020-21, ₹72,000 upon the company, ₹50,000 on one of the directors in default for the FY 2021-22 and ₹35,500 upon the company, ₹35,500 on one of the directors in default for the FY 2022-23.

<https://www.mca.gov.in/bin/dms/getdocument?mds=rJwiI6qD%252BYgdYsJVstjk9Q%253D%253D&type=open>

7. Adjudication order for violation of Section 92 of the Companies Act, 2013 in the matter of MAZHIL NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Mazhil Nidhi Limited for not filing the Annual Returns in form MFT-7 for Financial Year 2020-21 to 2022-23 within stipulated time and thus violated the provisions of Section 92(4) of the Companies Act, 2013. The Adjudicating Authority has imposed the penalty of ₹1,05,500 upon the company, ₹50,000 on one of the directors in default for the FY 2020-21, ₹69,000 upon the company,

₹50,000 on one of the directors in default for the FY 2021-22 and ₹32,500 upon the company, ₹32,500 on one of the directors in default for the FY 2022-23.

<https://www.mca.gov.in/bin/dms/getdocument?mds=LuQpjAhKxJg6HBQPgkJuPQ%253D%253D&-type=open>

8. Adjudication order for violation of Rule 12(2) of the Companies Act, 2013 in the matter of SOUNDARAMBIGAI BENEFIT FUND NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Soundarambigai Benefit Fund Nidhi Limited for violating Rule 12(2) of (Companies Prospectus and Allotment of Securities), Rules, 2014 by not mentioning the Occupation details of the allottees in the list attached with e-form PAS-3. The Adjudicating Authority imposed penalty of ₹10,000 each upon the company and on one director in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=%252BNCi9MmOPbgrAEa4k3FX2g%253D%253D&-type=open>

9. Adjudication order for violation of Rule 14(6) of the Companies (Prospectus and allotment of Securities) Nidhi Rules, 2014 in the matter of SOUNDARAMBIGAI BENEFIT FUND NIDHI LIMITED

ROC Chennai issued adjudication order dated 2nd September 2024 in the matter of Soundarambigai Benefit Fund Nidhi Limited for not filing Form PAS-3 with requisite details as stipulated under rule 14(6) of the Companies (Prospectus and allotment of Securities) Nidhi Rules, 2014. The Adjudicating Authority imposed penalty of ₹10,000 each upon the company and three directors of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=R-jGQm1pBzjFS3AIGTw0i7w%253D%253D&-type=open>

10. Adjudication order for violation of Section 137 of the Companies Act, 2013 in the matter of BOLD AND BEAUTY HOUSE PRIVATE LIMITED

ROC Chennai issued adjudication order dated 4th September 2024 in the matter of Bold and Beauty House Private Limited for not filing its Financial Statements and Annual Returns for the FY 2018-19 to 2022-23 which contravened Section 137 of the Companies Act, 2013.

The Adjudicating Authority has imposed penalties for defaults from FY 2018-19 to 2022-23 as follows:

- FY 2018-19: ₹1,85,800 on the company, ₹50,000 each on two directors.
- FY 2019-20: ₹1,49,200 on the company, ₹50,000 each on two directors.

- FY 2020-21: ₹1,12,700 on the company, ₹50,000 each on two directors.
- FY 2021-22: ₹76,200 on the company, ₹50,000 each on two directors.
- FY 2022-23: ₹39,700 each on the company and on two directors.

<https://www.mca.gov.in/bin/dms/getdocument?mds=3aNwZ10%252BgLPtC1bulZBDA%253D%253D&-type=open>

11. Adjudication order for violation of Section 203 of the Companies Act, 2013 in the matter of WINNER DAIRY PRIVATE LIMITED

ROC Puducherry issued adjudication order dated 09th October, 2024 in the matter of Winner Dairy Private Limited for not appointing whole-time Company Secretary thus violated the provisions of Section 203(1) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹5,00,000 upon the company and ₹2,14,000 each on two of the directors of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=Uzd8kJN2gmvdztzhL5mq69A%253D%253D&-type=open>

12. Adjudication Order for violation of Section 92 of the Companies Act, 2013 in the matter of IDIO CONSTRUCTION & INDUSTRIES LIMITED

ROC Patna issued adjudication order dated 13th September 2024 in the matter of Idio Construction & Industries Limited for not filing the Annual Returns for Financial Year 2015-16, 2016-17 and 2020-21 which violated the provisions of Section 92(4) of the Companies Act, 2013. The Adjudication Authority has imposed a penalty of ₹2,00,000 on the company and ₹50,000 each on three directors for FY 2015-16 and 2016-17. For FY 2020-21, the penalty is ₹1,11,800 on the company and ₹50,000 each on two directors.

<https://www.mca.gov.in/bin/dms/getdocument?mds=u-VFO0Im5g6yRWyEky%252FERtA%253D%253D&-type=open>

13. Adjudication order for violation of Section 203 of the Companies Act, 2013 in the matter of GRACE INFRASTRUCTURE PRIVATE LIMITED

ROC Puducherry issued adjudication order dated 09th October, 2024 in the matter of Grace Infrastructure Private Limited for not appointing whole-time Company Secretary thus violated the provisions of Section 203(1) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹5,00,000 each upon the company and on two of the directors of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=u-jof4dHynj2Kz4E%252BKtQ5%252FA%253D%253D&-type=open>

14. Adjudication order for violation of Section 137 of the Companies Act, 2013 in the matter of IDIO CONSTRUCTION & INDUSTRIES LIMITED

ROC Patna issued adjudication order dated 13th September 2024 in the matter of Idio Construction & Industries Limited, for not filing its Financial Statements for the FY 2015-16, 2016-17 and for FY 2020-21 which contravened Section 137(1) of the Companies Act, 2013. The Adjudication Authority has imposed a penalty of ₹1,00,000 on the company and ₹25,000 each on three directors for FY 2015-16 and 2016-17. For FY 2020-21, the penalty is ₹57,400 on the company and ₹25,000 each on two directors.

<https://www.mca.gov.in/bin/dms/getdocument?mds=1f-bo6U7qpBTvzvaZwHYAOA%253D%253D&type=open>

15. Adjudication order for violation of Section 12 of the Companies Act, 2013 in the matter of ZINEX TRADING PRIVATE LIMITED

ROC Patna issued adjudication order dated 12th September 2024 in the matter of Zinex Trading Private Limited for not maintaining the Registered Office of the company and thus violating the provisions of Section 12 of the Companies Act, 2013. The adjudicating authority has imposed the penalty of ₹32,000 each upon the company and on two directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=%252BemWh4dV0hybyD8iCtQd8A%253D%253D&type=open>

16. Adjudication order for violation of Section 203 of the Companies Act, 2013 in the matter of SRI KAILASH TRADERS PRIVATE LIMITED

ROC Puducherry issued adjudication order dated 09th October, 2024 in the matter of Sri Kailash Traders Private Limited for not appointing whole-time Company Secretary in time thus violated the provisions of Section 203(4) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹5,00,000 each upon the company and on three of the directors of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=tx-JWzhzjHFSqSVOjMcstZg%253D%253D&type=open>

17. Adjudication order for violation of Section 203 of the Companies Act, 2013 in the matter of SRI LAKXMI TIMBERS PRIVATE LIMITED

ROC Puducherry issued adjudication order dated 09th October, 2024 in the matter of Sri Lakxmi Timbers Private Limited for not appointing whole-time Company Secretary in time thus violated the provisions of Section 203(4) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹5,00,000 each upon the company, two directors and ₹2,93,000 on one of the directors of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=k-9s8tEZN09eo1g9BfTvmnQ%253D%253D&type=open>

18. Adjudication order for violation of Section 203 of the Companies Act, 2013 in the matter of VENKATRARAMANA FOOD SPECIALITIES PRIVATE LIMITED

ROC Puducherry issued adjudication order dated 09th October, 2024 in the matter of Venkataramana Food Specialities Private Limited for not appointing whole-time Company Secretary in time thus violated the provisions of Section 203(4) of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹5,00,000 each upon the company and three directors of the company.

<https://www.mca.gov.in/bin/dms/getdocument?mds=o2DRPhwR6HHEvq01KULbxQ%253D%253D&type=open>

19. Adjudication order for violation of Section 92 & 137 of the Companies Act, 2013 in the matter of TEWARI RESTAURANT PRIVATE LIMITED

ROC Delhi issued adjudication order dated 11th October 2024 in the matter of Tewari Restaurant Private Limited for not filing the Financial Statements and Annual Returns for Financial Year end 31.03.2020 to 31.03.2023 which violated the provisions of Section 92(4) and Section 137(1)/ (2) of the Companies Act, 2013.

The Adjudication Authority has imposed the following penalties for violation of Section 92(4)

- FY 2019-20: ₹93,450 each on the company and three directors.
- FY 2020-21: ₹55,150 on the company, ₹25,000 each on three directors.
- FY 2021-22: ₹36,900 on the company, ₹25,000 each on three directors.
- FY 2022-23: ₹18,650 each on the company and three directors.

The Adjudication Authority has imposed the following penalties for violation of Section 137(1)

- FY 2019-20: ₹2,00,000 on the company, ₹1,00,000 each on three directors
- FY 2020-21: ₹56,700 on the company, ₹25,000 each on three directors.
- FY 2021-22: ₹38,450 on the company, ₹25,000 each on three directors.
- FY 2022-23: ₹20,200 on the company, ₹20,150 each on three directors

<https://www.mca.gov.in/bin/dms/getdocument?mds=-9jH9VWP9EQ2At4mJY1E81g%253D%253D&type=open>

20. Adjudication order for violation of Section 143 of the Companies Act, 2013 in the matter of AUDITOR GURU PRASAD YADAV

ROC Kolkata issued adjudication order dated 30th September 2024 in the matter of Statutory Auditor CA Guru Prasad Yadav, who've contravened the provisions of Section 143 of the Companies Act, 2013 as for the Financial Year 2016-17 he wrongly commented on the Immovable property held in the name of the Company. The Adjudicating Authority imposed penalty of ₹10,000 upon the Auditor in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=Z-J9Ca05eYNMno0yRBrzksA%253D%253D&type=open>

21. Adjudication order for violation of Section 143 of the Companies Act, 2013 in the matter of AUDITOR SANDEEP GOEL

ROC Kolkata issued adjudication order dated 11th September 2024 in the matter of Statutory Auditor CA Sandeep Goel, contravened the provisions of Section 143 of the Companies Act, 2013 for the financial year 2014-15 to 2020-21 he failed to comment on the short-term loans and advances. The Adjudicating Authority imposed penalty of ₹2,60,000 upon the Auditor in default. Consolidated for default he made in all years

<https://www.mca.gov.in/bin/dms/getdocument?mds=I2elPJSjkF7uEDhjCQTmRQ%253D%253D&type=open>

22. Adjudication order for violation of Section 143 of the Companies Act, 2013 in the matter of AUDITOR RAJU MAL BARDIA

ROC Kolkata issued adjudication order dated 30th September 2024 in the matter of Statutory Auditor CA Raju Mal Bardia, contravened the provisions of Section 143 of the Companies Act, 2013 for the financial year 2014-15 to 2015-16 he failed to comment on the short-term loans and advances. The Adjudicating Authority imposed penalty of ₹20,000 upon the Auditor in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=zUkYTnNEw4nt2YVsNs7BJg%253D%253D&type=open>

23. Adjudication order for violation of Section 158 of the Companies Act, 2013 in the matter of KHATTU HOUSING SOLUTIONS PRIVATE LIMITED

ROC Kolkata issued adjudication order dated 30th September, 2024 in the matter of Khattu Housing Solutions Private Limited for not mentioning DIN over financial statements for Financial Year 2014-15 and thus violated the provisions of Section 158 of the Companies Act, 2013. The Adjudicating Authority imposed penalty of ₹50,000 each upon the company and one of the directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=d-Qg38UxxkRWk5n8jJM%252FfmtQ%253D%253D&-type=open>

24. Adjudication order for violation of Section 143 of the Companies Act, 2013 in the matter of AUDITOR SAMIRAN BARAN DUTTA

ROC Kolkata issued adjudication order dated 30th September 2024 in the matter of Statutory Auditor CA Samiran Baran Dutta contravened the provisions of Section 143 of the Companies Act, 2013 as for the financial year end 31.03.2017 he failed to comment on the discrepancies of Non-Current Investments. The Adjudicating Authority imposed penalty of ₹10,000 upon the Auditor in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=P%252BHDKtiDHo%252FaYpp3p6r%252BAg%253D%253D&type=open>

25. Adjudication order for violation of Section 143 of the Companies Act, 2013 in the matter of AUDITOR NIRANJAN BEHERA

ROC Kolkata issued adjudication order dated 10th September 2024 in the matter of Statutory Auditor CA Niranjan Behera contravened the provisions of Section 143 of the Companies Act, 2013 as for the financial year end 31.03.2015 and 31.03.2016 he failed to comment on the Related Party in the financial Statements. The Adjudicating Authority imposed penalty of ₹20,000 upon the Auditor in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=UmrDZAEIYK6aBiM8%252Fc8g%252Bw%253D%253D&type=open>

26. Adjudication order for violation of Section 29 of the Companies Act, 2013 in the matter of KROSS LIMITED

ROC Jharkhand issued adjudication order dated 10th September 2024 in the matter of Kross Limited which contravened the provisions of Section 29 of the Companies Act, 2013 for not converting the shares into dematerialized form. The Adjudicating Authority imposed penalty of ₹50,000 each upon the officers in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=dXrum%252BpDrqK%252F5q6NaVgW-bA%253D%253D&type=open>

27. Adjudication order for violation of Section 12(1) of the Companies Act, 2013 in the matter of RHINO FINANCE PRIVATE LIMITED

ROC Guwahati issued adjudication order dated 17th October 2024 in the matter of Rhino Finance Private Limited for not maintaining the proper Registered Office of the company and thus violating the provisions of Section 12(1) of the Companies Act, 2013. The adjudicating authority has imposed the penalty of ₹1,00,000 each upon the company and on four directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=OhGHsI3VikLf4Je9eQKiGg%253D%253D&type=open>

28. Adjudication order for violation of Section 143(3) of the Companies Act, 2013 in the matter of AUDITOR SHUBHASH CHANDRA SHARMA

ROC Guwahati issued adjudication order dated 17th October 2024 in the matter of Statutory Auditor CA Shubhash Chandra Sharma contravened the provisions of Section 143 of the Companies Act, 2013 as for the financial year end 31.03.2017 he failed to comment on the various discrepancies in Financial Statements. The Adjudicating Authority imposed penalty of ₹50,000 upon the Auditor in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=yKqsJgINM1i7DYp%252Fjvv7ag%253D%253D&-type=open>

29. Adjudication order for violation of Section 118 of the Companies Act, 2013 in the matter of TROUW NUTRITION INDIA PVT. LTD.

ROC Hyderabad issued adjudication order dated 22nd October 2024 in the matter of Trouw Nutrition India Private Limited for misplacing the Minutes of the Board Meetings and General Meetings during the shifting of registered offices of the company and thus violated the provisions of Section 118 of the Companies Act, 2013. The Adjudicating Authority has imposed the penalty of ₹ 15,25,000 upon the company and ₹ 3,05,000 each on two directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=-SaCQTpNVyiNQZ%252BO6kYY83Q%253D%253D&-type=open>

30. Adjudication order for violation of Section 29 of the Companies Act, 2013 in the matter of ISPAT SHEETS LIMITED

ROC Guwahati issued adjudication order dated 29th October 2024 in the matter Ispat Sheets Limited which contravened the provisions of Section 29 of the Companies Act, 2013 with Rule 9A of the Companies (Prospectus and Allotment of Securities) Rules, 2014 for non-filing of PAS-6 for FY 2019-20 and FY 2020-21. The Adjudicating Authority imposed penalty of ₹2,00,000 upon the company and ₹50,000 each upon the three directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=3xgg7mYK%252FVSZY4FE1d3KMg%253D%253D&-type=open>

31. Adjudication order for violation of Section 173 of the Companies Act, 2013 in the matter of ISPAT SHEETS LIMITED

ROC Guwahati issued adjudication order dated 29th October 2024 in the matter Ispat Sheets Limited for contravening the provisions of Section 173 of the Companies Act, 2013. The Adjudicating Authority

imposed penalty of ₹10,000 each upon the company and three directors in default.

<https://www.mca.gov.in/bin/dms/getdocument?mds=4Cd2vfVdhhpYnl7sF45pbQ%253D%253D&type=open>

GIST OF RD ORDERS

1. Adjudication order for violation of Section 143 of the Companies Act, 2013 in the matter of MARS MERCANTILE PVT. LTD.

In the matter of Mars Mercantile Pvt. Ltd. the RD (EAST) vide order dated 22nd October, 2024 after considering the facts of the case 'Reduced' the quantum of penalty amount to 50% of the penalty imposed by ROC West Bengal, to ₹75,000 upon the Statutory Auditor in default for violation of section 143 of the Companies Act, 2013.

<https://www.mca.gov.in/bin/dms/getdocument?mds=It-Gd7mWUuPMfLnPYV6yEAg%253D%253D&type=open>

2. Adjudication order for violation of Section 197 of the Companies Act, 2013 in the matter of SEVA PARMODHARMAH SAMAJIK NIDHI LTD.

In the matter of Seva Parmodharmah Samajik Nidhi Ltd. the RD (EAST) vide order dated 22nd October, 2024 after considering the facts of the case confirmed a penalty of ₹16,00,000 imposed by ROC Patna upon the company and three directors in default for violation of Section 197 of the Companies Act, 2013.

<https://www.mca.gov.in/bin/dms/getdocument?mds=tZce3ODEqFPCvARvqusXFg%253D%253D&type=open>

3. Adjudication order for violation of Section 12 of the Companies Act, 2013 in the matter of MATA GLOBAL LOGISTICS PVT. LTD.

In the matter of Mata Global Logistics Pvt. Ltd. the RD (EAST) vide order dated 22nd October, 2024 after considering the facts of the case confirmed a penalty of ₹67,500 imposed by ROC Patna upon the company and officers in default for violation of Section 12 of the Companies Act, 2013.

<https://www.mca.gov.in/bin/dms/getdocument?mds=I-DO8o6xeLnBxpCP6AgC3Ow%253D%253D&type=open>

4. Adjudication order for violation of Section 101 of the Companies Act, 2013 in the matter of CALCUTTA SOUTH CLUB LTD.

In the matter of Calcutta South Club Ltd. the RD (EAST) vide order dated 22nd October, 2024 after considering the facts of the case confirmed a penalty of ₹50,000 imposed by ROC West Bengal upon the company and officers in default for violation of Section 101 of the Companies Act, 2013.

<https://www.mca.gov.in/bin/dms/getdocument?mds=pzErUW4Q5mSEbIuaFtWqQ%253D%253D&-type=open>



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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

Union of India and Another ...Appellants

Versus

ABC LLP the auditors.....Respondents

FACTS

1. XMS Group companies (hereinafter referred as “the group companies”), an infrastructure development financing company, had committed a series of defaults which resulted in huge aggregate debt liability. This threatened to collapse the money markets of India, added pressure to corporate bond yields and sparked a sell off in the stock market. The Department of Economic Affairs, Ministry of Finance issued an Office Memorandum in respect of the Group Companies, to the Ministry of Corporate Affairs, Union of India requesting it to take action under the Companies Act, 2013 (hereinafter referred as “the Act”, 2013). The Memorandum highlighted (i) Debt Equity ratio of the Group Companies is more than 13 times with the company’s financials showing huge losses in the current year. (b) This adverse situation was on account of *inter alia* failure of corporate governance across the Group Companies and window dressing of accounts. (c) any further defaults would be catastrophic for the well-being of the financial markets and the economy.
2. In parallel, the Ministry of Corporate Affairs (MCA), upon receipt of a report from the Registrar of Companies under Section 208 of the Act, 2013, directed the SFIO to investigate into the affairs of the Group Companies. It called for an “interim report”, in pursuance to Section 212(11) of the Act, 2013.
3. On the basis of interim report of SFIO pursuant to Section 212(11) of the Act, 2013, MCA filed a petition under section 130 of the Companies Act, 2013 before the NCLT for reopening and recasting the books of accounts of the Group Companies and order for the same was given for the past 5 financial years on the ground of mismanagement thereby casting a doubt on the reliability of the financial statements/accounts.

The auditors were given notice of Section 130 petition who opposed the said petition. On challenge and subsequent appeal by one of ex-director, the Apex Court upheld initiation of the proceedings by the Ministry of Corporate Affairs under section 130 of the Companies Act, 2013.
4. Subsequent to inspection and investigation by RBI under section 45N of the RBI Act, 1934, a notice was served on auditors under Section 140(1) of the Act, 2013 seeking *inter alia* to remove them as auditors. The allegations were denied by the auditors.

5. *On submission of final report by SFIO*, the MCA asked SFIO to initiate proceedings/prosecution under Section 447 and other provisions Companies Act, 2013 and the Regional Director was asked to institute a Petition under Section 140(5) of the Act, 2013.
6. *The Ministry of Corporate Affairs filed a Petition under Section 140(5) of the Act, 2013, inter alia, against the auditors.* In the petition under Section 140(5), it was *inter alia* prayed to remove auditors of Group Companies and declare that the existing statutory auditors shall be deemed to be removed as statutory auditor for F.Y. 2012-13 to F.Y. 2017-18; permit the Ministry of Corporate Affairs to appoint an auditor under the first proviso of Section 140(5) of the Act, 2013; and declare/direct that the auditors of the Group Companies shall not be eligible to be appointed as an auditor for any company for a period of five years under the second proviso of Section 140(5) of the Act, 2013.
7. The auditors submitted their resignation and then filed a reply to section 140(5) petition before the NCLT, *inter alia*, contending that (i) they are not the auditors for the Group Companies any longer as they have tendered their resignation and therefore section 140(5) is not applicable to them; and (ii) Section 140(5) does not demonstrate any case for fraud against them.
8. The maintainability of Section 140(5) petition was upheld by the NCLT which was set aside by the Bombay High Court subsequent to writ petition filed by the auditors. It is to be noted that the High Court upheld the validity of Section 140(5) of the Act, 2013. Hence, the present appeals.

Submissions on behalf of the Union of India:

- 1) As regards the interpretation of Section 140(5) of the Act, 2013, the High Court has explained the legislative intent as being to induce/effect a change of an auditor in a company where there is a suspected fraud. Thereafter the High Court has erroneously proceeded to hold that the intention behind Section 140(5) of the Act, 2013 is only to break the collusion between the auditor and the company.
- 2) The High Court proceeded to hold that the petition filed by the Union of India under Section 140(5) of the Act, 2013 has been satisfied by the subsequent resignation of the auditor and therefore the petition under Section 140(5) of the Act, 2013 filed by the Union of India is no longer maintainable.
- 3) Merely because during the pendency of the proceedings under Section 140(5) of the Act the auditor resigns, the proceedings under Section 140(5) do not come to an end.

- 4) The High Court has materially erred in observing and holding that once the auditor has resigned thereafter the application under section 140(5) of the Act shall not be maintainable and/or is not required to be proceeded further.

Submissions on behalf of the opposite parties:

- 1) By the impugned judgment and order, the High Court has held that the object of Section 140(5) is to remove an auditor who has neither been removed by the company, nor resigned. It is further observed that the role of the NCLT under Section 140(5) is only to examine the need to change a company's auditor and not to punish or debar the auditor. It is submitted that rejecting the Ministry's submission that the NCLT can pass an order to debar an auditor for 5 years under section 140(5) of the Act, the High Court has held that the NCLT's order under section 140(5) can only be for change of auditor of the company. It is further observed and held that the consequences of debarment in the second proviso automatically follow upon such change and NCLT does not have any discretion in it.
- 2) The heading of Section 140 of the Act (i.e., "Removal, resignation of auditor and giving of special notice") makes it clear that Section 140(5) only serves the purpose of removal of an auditor and is not a standalone substantive provision to disqualify auditors.

Question

1. Comment upon the jurisdiction of NCLT w.r.t. section 140(5) of the Act, 2013.
2. Whether the act of resignation of auditors after filing of the Petition under Section 140(5) of the Act render the proceedings under Section 140(5) of the Act as void?

Decide the issues.

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.

Winner of Case Study – October 2024

CS Surendra Kanstiya
FCS 2777

BEST ANSWER CASE STUDY OCTOBER, 2024

Q 1: Whether State could be considered as an 'enterprise' or a 'group' under the Competition Act ?

No, the state cannot be termed as an enterprise or group. The term "enterprise or group" is used in the section 4 of the Competition Act, 2002. Sub section (1) of section 4 begins with the words, "(1) No enterprise or group shall abuse its dominant". The Competition Commission of India (the Commission / CCI) has examined this question in Case No. 24 of 2012. In its Order dated 15.09.2022, the Commission reiterated its earlier observation that the role of State is to regulate and monitor the business of lotteries in the State of Mizoram in discharge of its power and functions, as envisaged under the Lotteries (Regulation) Act and the Mizoram Lotteries (Regulation) Rules, 2010. And therefore the State can not be considered an 'enterprise' or 'group' in terms of the provisions of the Act as it was not engaged in any commercial or economic activity.

The said opinion of the Commission was validated by the Supreme Court in its judgment in *Competition Commission of India v. State of Mizoram and others* [2022] 171 CLA 419 (SC). In the said judgment, the SC noted that "...the CCI opined that no prima facie case was made out against respondent No.1/ State of Mizoram as it could not be considered as an 'enterprise' or a 'group' under the Competition Act. Respondent No. 1's role was to regulate and monitor the business of lotteries in the State of Mizoram in exercise of its powers and functions under the Regulation Act and the Regulation Rules. It was, thus, opined that they have every right to impose financial, technical and other conditions in their bid documents as they deemed fit."

Q 2. Owing to the plea of respondent that lotteries were not covered by the Competition Act and, thus, the CCI did not have jurisdiction to conduct an inquiry under Section 26(1) of the Competition Act, whether the Competition Act would be applicable entitling the CCI to have jurisdiction to inquire into allegations of bid rigging, collusive bidding, and cartelisation in the tender process for appointment of selling agents and distributors for lotteries organised in the State ?

The CCI shall have the jurisdiction to inquire into allegations of bid rigging, collusive bidding, and cartelisation in the tender process for appointment of selling agents and distributors for lotteries organised in the State. In a similar case, *Competition Commission of India v. State of Mizoram and others* [2022] 171 CLA 419 (SC), the Supreme Court dealt

with similar facts and held that "...we must take note of the expansive definition of 'Service' under Section 2(u) of the Competition Act. It means "service of any description", which is to be made available to potential users. The purchaser of a lottery ticket is a potential user and a service is being made available by the selling agents in the context of the Competition Act. Suffice for us to say the inclusive mentioning does not inhibit the larger expansive definition. The lottery business can continue to be regulated by the Regulation Act. However, if in the tendering process there is an element of anti-competition which would require investigation by the CCI, that cannot be prevented under the pretext of the lottery business being *res extra commercium*, more so when the State Government decides to deal in lotteries."



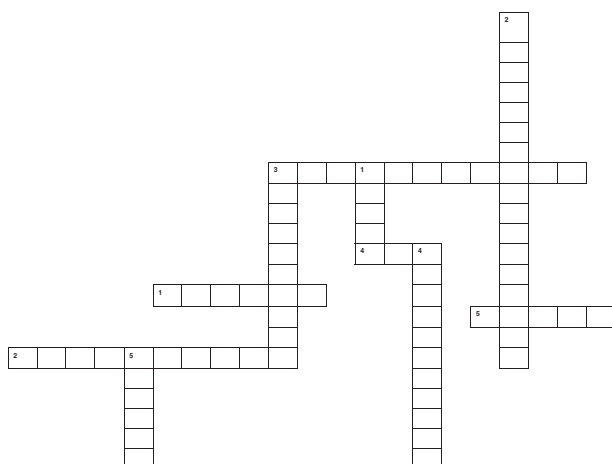
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You may send in your suggestions to the Editor, Chartered Secretary, The ICSI at cs.journal@icsi.edu

CROSSWORD PUZZLE – COMPANY LAW - NOVEMBER 2024



ACROSS

- Under the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the application of Withdrawal under regulation 30A (1) shall be made in _____ of the Schedule-I.
- Under Companies Act, 2013, A Nidhi shall not declare dividend exceeding _____ per cent in a financial year.
- Section 111 of the Insolvency and Bankruptcy Code, 2016, The repayment plan or any modification to the repayment plan shall be approved by a majority of more than _____ in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors.
- Under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, in an auction, the earnest money deposit shall not exceed _____ percent of the reserve price.
- Under the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, Where the books of account of the bankrupt are incomplete on the bankruptcy commencement date, the bankruptcy trustee shall get them completed and brought up-to date within _____ days of the bankruptcy commencement date.

DOWNWARDS

- Under Companies Act, 2013, The register of charges shall be preserved permanently and the instrument creating a charge or modification thereon shall be preserved for a period of _____ years from the date of satisfaction of charge by the company.

- Under the Companies Act, 2013, The company shall hold the general meeting within sixty days of receipt of approval of the Central Government for removal of auditor for passing the _____.
- Under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the liquidator shall complete an auction process within _____ days from the issue of public notice for auction.
- Under Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the resolution professional shall submit the information memorandum in electronic form to each member of the committee on or before the _____ day from the insolvency commencement date.
- Under the Insolvency and Bankruptcy Code, 2016, A debtor shall not be eligible to apply under section 94(1) if an application under Chapter III has been admitted in respect of the debtor during the period of _____ months preceding the date of submission of the application under this section.

Winners - Crossword October 2024

1ST CS Pooja Parasrampuriah ACS-29611

2ND CS Anu Amodia FCS-13055

3RD CS Meenu Gupta ACS-34932

Crossword Puzzle – October 2024 Answers

ACROSS

- SEVEN
- ONE-THIRD
- ONE HUNDRED CRORE
- THIRTY
- FIFTEEN

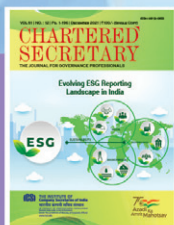
DOWNWARDS

- THREE
- THREE
- FIVE
- FORTY-FIVE
- FORM A

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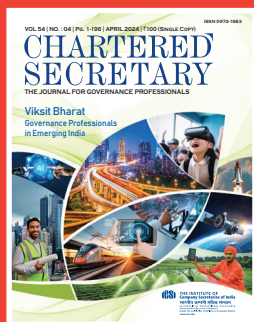
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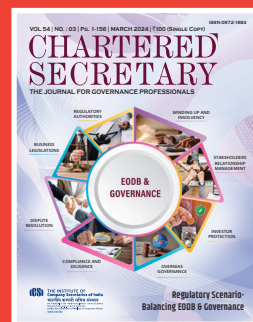


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