

Info Capsule

Friday
October 23, 2020

President : CS Ashish Garg

Vice President : CS Nagendra D. Rao

❖ **SEBI Press Release**

Regulatory measures to continue

On review of the COVID-19 pandemic related situation, SEBI has decided that the regulatory measures introduced vide SEBI Press Release dated March 20, 2020 shall continue to be in force till November 26, 2020.

For details:

https://www.sebi.gov.in/media/press-releases/oct-2020/regulatory-measures-to-continue_47955.html



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भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

❖ **Securities Law**

SEBI Circulars

- **Processing of applications for registrations of AIFs and launch of schemes (October 22, 2020)**

The applications wherein Investment Committee proposed to be constituted to approve investment decisions of AIF includes external members who are 'resident Indian citizens', shall be duly processed. Whereas, the applications wherein Investment Committee proposed to be constituted to approve investment decisions of AIF includes external members who are not 'resident Indian citizens', shall be considered only after receipt of pending clarifications from Government and RBI as stated in the circular.

For details: https://www.sebi.gov.in/legal/circulars/oct-2020/processing-of-applications-for-registrations-of-aifs-and-launch-of-schemes_47956.html

- **Clarification on SEBI Circular dated 13 August, 2020 on Investor grievances redressal mechanism – Handling of SCORES complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies**

SEBI has clarified that the words "promoter and promoter group" and "promoter/promoter group" to be read as "promoter(s)" in respect of Paras 16, 27, 32 and Point 2c of Annexure -1 of the Circular SEBI/HO/OIAE/IGRD/CIR/P/2020/152 dated August 13, 2020 on Investor grievances redressal mechanism – Handling of SCORES complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies.

For details:

https://www.sebi.gov.in/legal/circulars/oct-2020/clarification-on-sebi-circular-sebi-ho-oiae-igrd-cir-p-2020-152-dated-13-august-2020-on-investor-grievances-redressal-mechanism-handling-of-scores-complaints-by-stock-exchanges-and-standard-operati_47953.html

- **Contribution by Issuers of listed or proposed to be listed debt securities towards creation of "Recovery Expense Fund"**

In order to enable the debenture trustees to take prompt action for enforcement of security in case of default in listed debt securities, a 'Recovery Expense Fund' (REF) shall be created which shall be used in the manner as decided in the meeting of the holders of debt securities. Further, as per circular, issuers of listed or proposed to be listed debt securities would have to deposit 0.01% of the issue size or maximum of Rs 25 lakh towards creation of recovery expense fund with the 'Designated Stock Exchange'.

The provisions of this circular shall come into force w.e.f. January 01, 2021 and all the applications for listing of debt securities made on or after January 01, 2021 shall comply with the condition of creation of REF. The existing issuers whose debt securities are already listed on Stock Exchange(s) shall be given additional time period of 90 days to comply with this circular for creation of REF.

For details:

https://www.sebi.gov.in/legal/circulars/oct-2020/contribution-by-issuers-of-listed-or-proposed-to-be-listed-debt-securities-towards-creation-of-recovery-expense-fund-_47939.html

❖ **Banking and Insurance**

- **Review of regulatory framework for Housing Finance Companies (HFCs) (October 22, 2020)**

In exercise of powers conferred under National Housing Bank Act, 1987, and Reserve Bank of India Act, 1934, and in supersession of relevant regulations issued by National Housing Bank (NHB), will be applicable to all HFCs. HFCs shall continue to comply with all extant instructions issued by NHB.

For details :

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11988&Mode=0>

- **Digital Payment Transactions – Streamlining QR Code infrastructure (October 22, 2020)**

Reserve Bank had constituted a Committee to review the current system of Quick Response (QR) Codes in India and suggest measures for moving towards interoperable QR Codes. The report of the Committee containing various recommendations was placed on the Reserve Bank website for public comments and feedback.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11987&Mode=0>

- **Framework for Recognition of a Self-Regulatory Organisation for Payment System Operators (October 22, 2020)**

Industry Self-Governance helps in industry-wide smooth operations and ecosystem development. Reserve Bank of India's Payment and Settlement Systems Vision 2019-21, therefore, envisaged the setting up of a Self-Regulatory Organisation (SRO) for Payment System Operators (PSOs). RBI had placed a draft framework for public comments and based on the comments and suggestions received, it has finalised the Framework for Grant of Recognition as a SRO.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11986&Mode=0>

- **IRDAI issues guidelines for insurers for settlement of claims of flood victims this month (October 22, 2020)**

IRDAI has issued guidelines for settlement of claims of victims in recent floods in Telangana Andhra Pradesh and Telangana. In a circular, IRDAI said, "As you are aware, the recent floods (October 2020) have caused immense loss to property in parts of Telangana, Andhra Pradesh and neighboring States. General Insurers may have issued policies for the protection of lives and property located in the affected areas."

"There is an urgent need for the insurance industry to take immediate steps to mitigate the hardships of the affected insured population by ensuring immediate registration and settlement of eligible claims."

For details:

<https://www.financialexpress.com/money/insurance/irdai-issues-guidelines-for-insurers-for-settlement-of-claims-of-flood-victims-this-month/2111743/>

❖ Market Watch

Capital Market	
S & P BSE Sensex	40685.50 (+127.01)
Nifty 50	11930.40 (+33.90)

Reference Rate (https://www.fbil.org.in/#/home)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
73.65	87.30	96.83	.703

❖ **Pronouncement**

October 20, 2020	<i>Ashish O. Lalpuria (Appellant) vs. Kumaka Industries Ltd. & Ors.(Respondents)</i>	NCLAT
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The non-compliances and irregularities or any illegal act already committed by the company cannot be ratified under the umbrella of “Scheme of Arrangements” as envisaged under Section 230-232 of the Companies Act, 2013

The Appellant is a shareholder of Respondent No. 1 Company and he pointed out certain irregularities and non-compliances and raised the objections that the Scheme of Arrangements presented by Respondent No. 1 company before NCLT, Mumbai bench is a mere rectification of action already taken by the Respondent company without obtaining approval of Tribunal and other Regulatory Authorities as required under the provisions of the Companies Act. Since, NCLT, Mumbai in its order dated July 6, 2020 held that the Scheme of Arrangement appeared to be fair and reasonable and does not violate any provision of law and is not contrary to public policy or public interest, the Appellant being aggrieved with the same filed the present appeal.

The NCLAT observed from the records that there were irregularities and non-compliances which were present at the time of sanctioning of scheme by the NCLT which was objected by the Stock Exchanges & Regional Director. These non-compliances and irregularities or any illegal act already committed cannot be ratified under the umbrella of “Scheme of Arrangements” as envisaged under Section 230-232 of the Companies Act, 2013.

Even if the objections are procedural but it is the jurisdiction of the Tribunal that such procedural aspects need to be duly complied with before sanctioning of the scheme. The NCLAT held that before the scheme gets approved, there must be no actions pending against the company by the public authorities before sanctioning of a scheme under Section 230 of the Companies Act, 2013. Hence, the appeal is allowed and the impugned order passed by NCLT, Mumbai bench is set aside and the Respondent No. 1 Company is directed to undo all the actions taken in line with the sanctioned “Scheme of Arrangement”.

For details:

<https://nclat.nic.in/Useradmin/upload/14627162425f8e987de09e1.pdf>

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu, or call at 01204082269

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