

Info Capsule

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❖ Latest @ ICSI

Feedback on Company Forms in MCA21-V3 Portal

As you are aware, the Ministry of Corporate Affairs w.e.f. August 31, 2022 migrated filing of 9 Company Forms from MCA 21 V2 to V3 Portal.

The Ministry of Corporate Affairs w.e.f. January 23, 2023, has launched second set of Company Forms covering 56 forms on MCA21-V3 Portal for filing purposes. The list of all 56 Company Forms is available on MCA website.

The Institute of Company Secretaries of India, in its attempt to further facilitate the stakeholders and ensure smooth transition and implementation, is sharing your feedback to the Ministry of Corporate Affairs (MCA) on regular basis. Such feedback is constantly and closely monitored by MCA at all levels for timely resolution.

We request you to share your inputs/issues/suggestions on filing of Company Forms in MCA V3 at the link given below:

<https://forms.gle/m5NGoCbt4TibuD196>

We thank you for your continued support and hope for association in the future as well.

❖ Ministry of Finance

- **Indian to engage with G20 countries to build international coordination on policy approach to crypto assets (February 13, 2023)**

The Government is engaging with G20 countries to build international coordination on policy approach to crypto assets. This was stated by Union Minister of State for Finance Shri Pankaj Chaudhary in a written reply to a question in Lok Sabha on February 13, 2023. The Minister further stated that the Indian Presidency provides an opportunity to place different priorities, including priority on crypto assets, on the agenda for international collaboration.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1898884>

❖ International Business

India, Nepal agree to boost economic and development ties (February 13, 2023)

India and Nepal agreed on, February 14, 2023 to further bolster their economic and development cooperation as Foreign Secretary Vinay Mohan Kwatra met his Nepalese counterpart Bharat Raj Paudyal and reviewed the wide-ranging bilateral partnership. Both sides agreed to further strengthen their economic and development cooperation for benefit of the two countries and region as a whole.

For details:

<https://www.devdiscourse.com/article/politics/2353059-india-nepal-agree-to-boost-economic-and-development-ties>

❖ **Banking**

• **Financial Literacy Week 2023 (February 13, 2023)**

Reserve Bank of India (RBI) has been conducting Financial Literacy Week (FLW) every year since 2016 to propagate financial education messages on a particular theme among members of public across the country. The theme selected for current year FLW is “**Good Financial Behaviour - Your Saviour**” which will be observed between February 13 and 17, 2023.

For details:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=55208

• **1.19 crore borrowers benefit from guarantees amounting to Rs. 3.61 lakh crore under ECLGS as on 31st January 2023 (February 13, 2023)**

The Emergency Credit Line Guarantee Scheme (ECLGS) was launched in May, 2020 as part of Aatmanirbhar Bharat Abhiyaan to support eligible Micro, Small and Medium Enterprises (MSMEs) and business enterprises in meeting their operational liabilities and restarting their businesses in the context of the disruption caused by the COVID-19 pandemic. The Union Minister of State for Finance Dr Bhagwat Kisanrao Karad in Lok Sabha on February 13, 2023 stated that as per the information received from National Credit Guarantee Trustee Company Limited (NCGTC), the agency operating the scheme, as on 31.1.2023, guarantees amounting to Rs. 3.61 lakh crore have been issued under ECLGS, benefiting 1.19 crore borrowers.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1898880>

• **Yes Bank appeals before Supreme Court against Bombay HC order on AT1 bond write off (February 14, 2023)**

Private sector lender Yes Bank has appealed in the Supreme Court against the Bombay High Court’s last month order which had set aside the 2020 decision of the Reserve Bank appointed administrator to write off the Additional Tier I (AT1) bonds worth Rs. 8,400 crore.

For details:

<https://indianexpress.com/article/business/banking-and-finance/yes-bank-appeals-before-supreme-court-against-bombay-hc-order-on-at1-bond-write-off-8443023/>

❖ **Terminology for today**

Social Impact Bonds

Social Impact Bonds are unique Public-Private Partnerships (PPP) that fund effective social services through performance-based contracts. Impact investors provide the capital to scale the work of high-quality service providers.

❖ *Pronouncement*

30.11.2022	<i>M/s Securities & Time Share (Petitioner) vs.</i> <i>1. Securities and Exchange Board of India</i> <i>2. Union of India (Respondents)</i>	<i>High Court of Bombay</i>
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Facts of the Case:

This petition has been filed as a public interest litigation (PIL) by the petitioner-society purportedly established to protect the interest of investors in Time Share Companies seeking direction to the Respondents to regulate the Time Share Companies as Collective Investment Scheme (CIS) under Securities & Exchange Board of India Act, 1992 (the “SEBI Act”) and the Collective Investment Schemes Regulations, 1999 (the “CIS Regulations”).

The basis on which this petition has been instituted is that the rights of several million residents of India are adversely affected due to malfunctioning, fraud, misrepresentation and other wrongful and/or illegal activities of various Time Share Companies.

Initially, the Petitioner was registered as Sterling Resorts Timeshare Owners Welfare Association, for the protection of the interests of its members, in the year 2009, the name was changed to M/s. Securities & Timeshare Owners Welfare Association.

The first prayer of the Petitioners, was that to direct the Respondents to enforce Section 11AA - Collective Investment Schemes (CIS) of the SEBI Act and the Regulations against all Time share companies. Time share as commonly understood is a holiday membership plan scheme giving benefit of a holiday stay in the hotels to members after they have paid/invested an amount under the scheme. It may involve selling of rooms for a fixed duration of nights/days depending upon the scheme opted by its customers.

Decision:

It was held that whether Time share activities can be considered as a CIS is a question that would depend upon the facts and circumstances of each case and whether they satisfy the said conditions or not will have to be interpreted and analyzed according to the facts and circumstances of each scheme by the Regulator, that is SEBI. Every holiday management scheme or time share scheme will not necessarily be a collective investment scheme until and unless it meets the criteria set out in Section 11AA of the SEBI Act.

Further, the Court held that-

True that the innocent and gullible investors need to be protected against the abuse in the name of Time shares. However as mentioned above, SEBI – the Regulator being fully empowered to do so, it would therefore not be necessary for us to give any such directions to the Regulator.

Moreover, the purposes for which a public interest litigation can be instituted has been very succinctly elucidated by the Supreme Court in the case of State of Uttaranchal Vs. Balwant Sing Chauhal & Ors., (2010 (3) SCC 402) where it has been clearly observed that PIL can be filed only for the following three purposes and not otherwise:

- i. for enforcement of fundamental rights of marginalized and deprived sections of the society;
- ii. for preservation of ecology and environment; and
- iii. for purity in public administration and probity in governance.

On applying the aforesaid principles, the present petition, does not fall within any of the aforesaid categories and cannot be styled or filed as a Public Interest Litigation as it is neither for enforcement of fundamental rights of marginalized and deprived sections of the society nor for preservation of ecology and environment nor for purity in public administration and probity in governance but seeking directions to the Respondents to enforce the provisions pertaining to CIS Regulations against Timeshare companies.

In view of the above discussion, the Petition was dismissed with costs of Rs. 25,000/- to be paid by the Petitioner to the SEBI.

❖ Market Watch

Stock Market Indices as on 14.02.2023	
S & P BSE Sensex	61032.26(+600.42)
Nifty 50	17929.85(+158.95)

Foreign Exchange Rates as on 13.02.2023 (https://www.geojit.com/currency-futures)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
82.46	88.04	99.39	0.63

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu.

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