

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.

❖ Banking

• **Banking Regulation (Amendment) Act 2020 - Change in Name of Co-operative Banks (October 30, 2023)**

Pursuant to the notification of the Banking Regulation (Amendment) Act, Sections 49B and 49C of Banking Regulation Act, 1949 are applicable to Co-operative Banks. In terms of Section 49B, the Central Registrar of Cooperative Societies (CRCS)/Registrar of Cooperative Societies (RCS) shall not signify its approval to the change of name of any co-operative bank unless the Reserve Bank certifies in writing that it has no objection to such change. Further, in terms of Section 49C, no application for the confirmation of the alteration of bye-laws of a co-operative bank shall be maintainable unless Reserve Bank certifies that there is no objection to such alteration.

Accordingly, Reserve Bank of India issued guidelines with regard to the procedure to be followed for any change in name by a Co-operative Bank.

For details:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12560&Mode=0#ANN1>

• **Clarification regarding Shifting of Branches/Offices/Extension Counters within the same city, town or village by District Central Co-operative Banks (DCCBs) and Guidelines on Closure of Branches and Extension Counters by DCCBs (October 30, 2023)**

Pursuant to the amendment to the Banking Regulation Act (No.39 of 2020) dated September 29, 2020, District Central Co-operative Banks (DCCBs) are permitted to open new place of business/install ATMs or shift the location of such offices only after obtaining prior approval of the Reserve Bank of India (RBI).

Accordingly, guidelines for opening of new place of business by District Central Co-operative Banks (DCCBs) issued on August 11, 2022.

In this backdrop, Reserve Bank of India issued requisites clarifications regarding Shifting of Branches/Offices/Extension Counters within the same city, town or village by DCCBs and Guidelines on Closure of Branches and Extension Counters by DCCBs.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12559&Mode=0>

- **RBI concerns notwithstanding; Private banks' personal loans surge in Q2 (October 31, 2023)**

Private banks and Non-Banking Financial Companies (NBFCs) have significantly expanded their personal loan portfolios in the second quarter of the current financial year, despite concerns raised by the Reserve Bank of India (RBI). Under personal loans, banks sell unsecured loans such as credit cards, consumer loans, microfinance and other small-ticket loans not backed by any collateral.

For details:

<https://www.financialexpress.com/business/banking-finance-rbi-concerns-notwithstanding-private-banks-personal-loans-surge-in-q2-3291937/>

❖ ESG

How to incorporate ESG in your company's value chain (October 30, 2023)

Growing scrutiny of responsible business practices from shareholders, regulators and other stakeholders is driving a boom in Environmental, Social and Governance (ESG) reporting.

But while organizations have made great strides in measuring the environmental and social impacts of their own operations, many businesses still struggle to expand data collection across their entire value chain. This is a major barrier to effective ESG reporting, since the value chain has an outsized impact on relevant metrics. So, companies that move the needle on ESG metrics in their value chains can make significant progress toward their ESG goals — if they're able to measure accurately.

For details: <https://www.supplychaindive.com/spons/how-to-incorporate-esg-in-your-companys-value-chain/697957/>

❖ Market Watch

Stock Market Indices as on 31.10.2023

S & P BSE Sensex	63,874.93 (-237.72)
Nifty 50	19,079.60 (-61.30)

Foreign Exchange Rates as on 31.10.2023

(<https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx>)

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
83.27	88.32	101.16	.5542

❖ **Pronouncement**

10.10.2023	<i>Vinay Kumar Singhal Resolution Professional for PG Advertising Pvt. Ltd. (Appellant)</i> <i>Vs</i> <i>Mahesh Bajaj (Respondent)</i>	<i>National Company Law Appellate Tribunal Principal Bench, New Delhi</i> <i>Comp. App. (AT) (Ins) No. 645 of 2023</i> <i>& I.A. No. 2602, 2141 of 2023</i>
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Operational Creditor being a participant in the meeting of the CoC has no right to seek a copy of the information memorandum

Order

The Hon'ble NCLAT in its Order inter alia observed that it is also an admitted fact that there is no definition of member provided in the Code or the Regulations which has been repeatedly used in the Code as well as Regulations. Section 21 deals with the composition of CoC and Section 21(2) provides that member shall be the financial creditors of the Corporate Debtor. Section 25 is in regard to the preparation of information memorandum. Section 29(2) says that the information memorandum has to be provided to the resolution applicant whereas Regulation 36 provides that it has to be given to each of the member of the committee and Regulation 36(4) provides that it shall be given to the resolution applicant.

From the aforesaid two provisions and the fact that the Code and Regulations are totally silent about the supply of the information memorandum to the participant, it has to be inferred that the legislature has made a provision for providing a copy of the information memorandum to the member of the CoC and the Resolution Applicant but not to the participant of the meeting of the CoC such like the present Respondent. Therefore, the finding recorded by the Adjudicating Authority that since there is no prohibition in the Code or the Regulations for providing the information memorandum to the Operational Creditor as a participant is totally erroneous and unsustainable.

Thus, in view of the aforesaid discussion, the question framed in the beginning is hereby answered to the effect that the Operational Creditor being a participant in the meeting of the CoC has no right to seek a copy of the information memorandum.

Prepared by Directorate of Academics

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

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