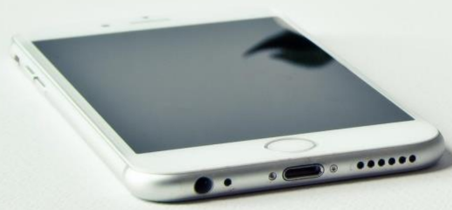
K N O W L E D G E U P D A T E

AKANSHA RATHI & ASSOCIATES



In this update:

Dear Professionals,

Our November 2020 edition on the recent amendments/ news in the field of Corporate Laws and allied laws is below.

Updates from this month include major news regarding RBI working committee proposal to allow corporate houses to become Banks. This is a complete departure from the stand taken till now, and there are divergent views on this proposal, however majority sentiment of stakeholders is that this move is best left to the shelf.

SEBI's consultative paper on reclassification of promoter/promoter group entities is a welcome move which reviews the threshold of 10% so that the persons who may have been promoters but are no longer in day to day control having shareholding of less than 15 % may "opt -out" from being classified as "promoters" without having to reduce their shareholding. Another consultative paper on role and applicability of risk management committee has been issued by SEBI. Risk Analysis and mitigation is vital for sustenance and growth of any organization as its need is felt even more due to the economic uncertainties in wake of the Pandemic.

- Akansha Rathi

Best Regards

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COMPANY LAW

1. Extension of LLP Settlement Scheme,2020

- LLP Settlement Scheme was extended till 31/12/2020 by MCA keeping in view of large scale disruption caused by COVID-19 Now provided Relaxation in Filing of Statement of Solvency.
- If Statement of solvency for the FY 19-20 has been signed beyond the period of 6 months from the end of the financial year but not later then 30th November, 2020 it shall not be treated as Non-Compliance
- Click here for Notification

2. Company Secretaries (Procedure of Investigation of Professional and other Misconduct and conduct of cases) Amendment Rules, 2020

- MCA has Amended Above Rules W.E.F 10/11/2020
- Addition of word “electronic mode” to allow members to file information or make payments or appearance or service of notice by online means
- Click here for Notification

1. Schemes of Arrangement by Listed Entities and Relaxation under Sub-rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957

- Applicable for all the schemes filled with stock exchanges after 17 November, 2020
- companies which are either listed, seeking to be listed or awaiting trading approval after 3rd November, 2020
- Responsibility imposed on the Audit Committee and Independent Directors to assess the viability, protection of rights of the shareholders of the proposed Schemes
- Repealed provisions for application by listed entity for relaxation from strict enforcement of the Securities Contract Regulation Rules, 1957, while listing of Equity Shares with differential rights, other than by IPOs.
- Click here for Notification

2. Non Compliance with provisions related to continuous disclosures

- Stock exchanges(SE) may impose penalty and take action as specified in Annexure I & II to the circular
- Amount of fine realized to be credited to the "Investor Protection Fund" of the concerned SE
- SE may deviate from the above if found necessary only after recording reasons in writing.
- Shall come into force for compliance period ending on or after December 31, 2020
- Click here for Notification

3. Introduction of Unified Payment Interface (UPI) Mechanism

- Applicable for public issue of securities which open after 1st January 2021
- Additional option for payment for applications in public issue of debt securities
- Process flow for payment mentioned in circular
- Click here for Notification

INSOLVENCY LAW

1. NCLAT Allows exclusion of period from CIRP due to COVID-19

- In the case of Global Softech Limited NCALT allowed the exclusion of period from CIRP due to COVID-19 Pandemic (25th March, 2020 To 15th September, 2020)
- Click here for Order

2. IBBI (Liquidation Process) (Fourth Amendment) Regulations, 2020

- Enabling provision to allow creditor to assign or transfer the debt due to him or it to any other person during the liquidation process, both parties to submit details of such assignment to the Liquidator
- Allowing liquidator to assign or transfer a “not readily realizable asset” through a transparent process in consultation with stakeholders for a consideration to person eligible to submit a resolution plan to corporate debtor
- Click here for Notification

3. Information Utility (IU) to disseminate every public announcement to creditors of the corporate debtor

- IU shall disseminate every public announcement it receives on date of receipt to its registered users, who are creditors of the corporate debtor undergoing insolvency proceeding under IBC.
- Click here for Notification

4. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fifth Amendment) Regulations, 2020.

- Financial creditor may furnish Certified copy of entries in the relevant accounts in the banker book or Order of tribunal that has adjudicated upon the non payment of debt where the period of appeal against such order has expired as evidence of default
- Resolution professional within fifteen days of the order approving a resolution plan, intimate each claimant, the principle or formulae, for payment of debts under such resolution plan
- Click here for Notification

5. IBBI Clarification on mistakes committed by IP’s during CIRP

- Following mistakes commonly done by IP

(i) Assignment without having authorization (ii) Fees payable to IP (iii) Application for cooperation
(iv) Public announcement (v) Updating list of claims (vi) Authority of COC (vii) Appointment of Professionals/Registered Valuer (viii) Payment of Professional services & others

- Click here for Notification

6. Filing of list of creditors with IBBI

- applicable to every corporate insolvency resolution process ongoing as on the date 13th November, 2020
- list of creditors to be filed on the electronic platform of the Board for dissemination on its website.
- Click here for Notification

FEMA,1999

1. Discontinuation of Reports/Returns under FEMA

- In Order to improve ease of doing business and reduce cost of compliance RBI has decided to discontinue 17 Returns/Reports with immediate effect.
- AD Banks to take note of the same.
- Click here for Notification

2. Compounding of Contraventions under FEMA

- With effect from 17 November 2020, RBI has delegated the powers of Compounding to the Regional Offices/Sub Offices of the Reserve Bank to compound the certain contraventions.
- Complete List of contraventions are given below in notification.
- Click here for Notification

Due Dates under Various Laws

MCA

E forms as under by 31st December 2020:

- BEN 2- Declaration of Beneficial Interest
- DIR 3 KYC- Director KYC
- Active Form INC 22A- Active Company tagging Identities and verification
- DPT 3- Return of Deposits
- IEPF 2 –Statement of unclaimed and unpaid amounts
- IEPF Form 1A-Statement of Amounts credited to Investor Education and Protection Fund
- LLP Form 8- Statement of Account & Solvency
- LLP Form 11- Annual Return