

★ iComply ★

Editorial

Welcome to the fourth issue of **iComply**. Wish you all a very happy 2016. May this year bring good health, wealth and peace to all

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Gist of Regulatory Changes in Companies Act, 2013 in the month of December 2015



Three regulatory changes in Companies Act, 2013 in the month of December.

[View the list...](#)

Interview with Deepa Bhatia, Director-Tax & Regulatory Services, EY



As the head of the Secretarial Services Practice of EY, what is the unique value-add EY brings to its clients?

EY Secretarial Practice has a unique blend of experienced professionals with the right skill sets to cater to varied compliance and regulatory issues. We have access to knowledge and industry practices which enables us to provide a clear point of view on ambiguous positions, be the eyes and ears keeping clients connected with the latest regulatory developments, and be a trusted partner

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Compliance Calender

Due dates for Income tax, Professional tax, Service tax, Companies Act, 2013 etc has been captured for your ready reference.

[View the list...](#)

Guest Article by CS Aruna Kannan: Sexual Harassment of Women at Workplace Act, 2013: What it Means to Corporate India?



The Need

Imagine working with a Damocles sword hanging over your head every day. Unfortunately for many of the working women they don't have to imagine it as they live it every day. It is only in recent times that our society has in principle taken steps to remove this constant threat hanging over a working women's head.

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CimplyFive in News

Times of India, December 25, 2015

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Editorial

Dear Reader,

Wish you all a very happy 2016. May this year bring good health, wealth and peace to all

Laws have a lot in common with new-year resolutions. Success of both, laws and new-year resolutions are not a factor of their need or the sincerity with which they are made, but the discipline with which they are enforced. Just as we track our new-year resolutions every day for adherence, we could also track new laws coming into force each year for their compliance and enforcement.

Last month we published our first research report INDIA SECRETARIAL PRACTICES 2015, a study of the Nifty 50 companies for their compliance with the Companies Act, 2013. The response we have got to this report from our professional colleagues and the media has been overwhelming. We are encouraged by it and have planned to do more such report in 2016.

In this issue, we have interviewed Ms. Deepa Bhatia, Director, Tax & Regulatory Services of the Global Big 4 firm EY (Ernst & Young LLP), carry a guest article from CS Aruna Kannan on the implementation status of Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 by corporate India and our regular feature on Regulatory Gist covering changes made in December 2015 to the Companies Act, 2013.

We are eager to know what you think of **iComply** Please do share your thoughts with us at contact@cimplyfive.com

Happy reading,
Shankar Jaganathan
Editor
January 5, 2015

Gist of regulatory changes in Companies Act, 2013 in the month of December, 2015

14.12.2015

Companies (Audit and Auditors) Amendment Rules, 2015

Rule 13 of Companies (Audit and Auditors) Rules, 2015 is amended to require the auditor to only report frauds involving amounts in excess of Rupees One crore. Prior to this amendment all frauds were required to be reported.

Companies (Meeting of Board and its Powers) Second Amendment Rules, 2015

- In rule 15 of Companies (Meetings of Board and its Powers) Amendment Rules, 2015, replacing the word "special resolution" to "resolution", by which Companies can obtain shareholders consent by passing ordinary resolution for related party transaction.
- Inserted Rule 16 A in Companies (Meetings of Board and its Powers) Amendment Rules, 2015 for providing an omnibus approval for related party transactions on annual basis.

Commencement of Section 13 and 14 of the Companies (Amendment) Act, 2015

December 14, 2015 is the day from which provisions of section 13 and 14 of the said Companies (Amendment) Act, 2015 shall come into force.

- Section 13 pertains to an auditor's duty to report on frauds of value below Rupees One Crore
- Section 14 pertains to Omnibus approval by the Board for related party transactions.

Interview with Deepa Bhatia, Director-Tax & Regulatory Services, EY

1. As the head of the Secretarial Services Practice of EY, what is the unique value add EY brings to its clients?

EY Secretarial Practice has a unique blend of experienced professionals with the right skill sets to cater to varied compliance and regulatory issues. We have access to knowledge and industry practices which enables us to provide a clear point of view on ambiguous positions, be the eyes and ears keeping clients connected with the latest regulatory developments, and be a trusted partner of our clients in their journey towards achieving good corporate governance.

2. In your experience, what is the most important driver for compliance among the Indian corporate?

This would mostly depend on the type of entity i.e. Private or Public. In case of Private Companies, a key driver for compliance is largely the penal implications and associated liability on the Directors/ Company. While this driver would equally, if not in greater magnitude, be relevant even for a Public Company, the other key compliance drivers would be factors such as the need to protect and enhance their brand / image, to foster confidence of key stakeholders such as shareholders, creditors and the government, to attract further sources of capital, etc.

3. What criteria should be used to decide if secretarial function should be retained in-house or given to a professional?

Outsourcing the secretarial function to a professional would free up internal resources and would allow the management more time to focus on strategic and business priorities. Apart from this, I would consider another important criteria, which is the cost-benefit aspect. Having a professional firm manage the secretarial function

would not only provide immediate cost effectiveness but also long term advantages (as outlined above), and access to best practices prevalent in the industry and globally (where the professional firm is a global service provider).

4. Large number of women are entering the profession of company secretary. Based on your rich experience, what is the one piece of advice you would like to share with them?

I would advise that a Company Secretary should endeavour to achieve the right blend of law and practice. The difference between a good company secretary and a great one is reflected in the person's approach to work – a company secretary that adopts a holistic approach to an issue, and that brings upon her knowledge of not only corporate law but other allied laws to bear upon an issue under consideration would, in my view, have a better chance at being a successful professional.

5. If you were granted one wish by the technology fairy to ease the job of a company secretary, what would it be and why?

I would wish for a technology that (i) converts and maintains all corporate secretarial records in electronic format, preferably as part of a company's ERP and (ii) enables automatic compilation and uploading of relevant information from a company's ERP onto the regulator's portal in line with prescribed statutory deadlines. This, in my view, can not only ease up the job of a company secretary, provide more opportunities for a company secretary's growth (in terms of devising / customizing the corporate secretarial module of a company's ERP, periodic audit of the electronic system and of the underlying compliances, etc.)

Disclaimer: "Views expressed are of the individual and not of Ernst & Young LLP"

Compliance Calendar

January 5, Tuesday	Physical payment of Service Tax for November, 2015
	Physical payment of Excise duty, Non SSI for the month of November,2015
January 6, Wednesday	E-payment of Service Tax for November,2015
	E-payment of Excise duty, Non SSI for the month of November,2015
January 7, Thursday	Pay Tax Deducted at Source(TDS) for Tax Deducted in November, 2015
January 15, Friday	Pay PF contribution for November, 2015
	Advance tax payment
	Filing Corporate Governance Report with Stock Exchange
January 16, Saturday	Pay ESI contribution for November,2015
January 20, Wednesday	Submission of VAT return along with the Payment due for the previous month after considering input credit
	Professional Tax payment
January 21, Thursday	ESI monthly deposit
	Filing Shareholding Pattern Report with Stock Exchange

Guest Article: Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act,2013: What means to corporate India?

C S Aruna Kannan

Company Secretary in Practice

The Need

Imagine working with a Damocles sword hanging over your head every day. Unfortunately for many of the working women they don't have to imagine it as they live it every day. It is only in recent times that our society has in principle taken steps to remove this constant threat hanging over a working women's head. In India this came in the form of enactment and bringing into force Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. However for this idea to be translated from paper into reality of making working places safe for women requires constant attention and committed effort to get there.

This Act becomes particularly significant to Corporate India as the proportion of female population in their workforce is constantly increasing. Further, the Act has made it mandatory for them to disclose cases of sexual harassment registered during the financial year in their annual report.

Coverage

The ambit of this act is far reaching as it extends coverage to all women, including women who happen to visit the establishment for any purpose whatsoever. Further the definition of sexual harassment is also widened to include implied or explicit promise of preferential or detrimental treatment in employment, threat about present or future employment status and creating an intimidating or hostile workplace to affect their health and safety. While our focus here is on

corporates, the Act covers all establishment or employers having ten or more employees.

A key aspect of this Act is to define a uniform mechanism to handle complaints of sexual harassment across all establishments. Headed by a senior level women employee, the committee to handle cases of sexual harassment, which is required to have half its members as women is also required to have a representative from an NGO as its member. This constitution is intended primarily to give the victim confidence to bring up their grievance and have them redressed.

This committee will not only take cognizance of the written complaint made by the aggrieved woman but will also help in framing the complaint where required. This committee even has the discretion to extend the prescribed time limit of three months for filing such complaints. Further, they also have the power to transfer the aggrieved woman or the respondent to any other workplace, or grant leave up to three months leave to the aggrieved woman or provide any other such relief. All these provisions are intended to surface the latent problems faced by women and have them redressed at the earliest.

Given that working women could have foregone economic benefits as a result of sexual harassment at workplace, the Act provides for compensation where the allegation is proved, which is to be recovered from the perpetrator of the crime. This compensation is over and above action taken that would be taken under the service rules. Further in computing compensation, mental trauma, pain, suffering and emotional distress caused, Loss of career opportunity due to the incident and the income and financial status of the victim is required to be considered.

Implementation

January 2016

On the implementation front, the employer who is mandated to provide a safe working environment at the workplace is required to among others display at any conspicuous place in the workplace, the penal consequence of sexual harassment and the order constituting the internal committee. Additionally they are also required to organize workshops and programs for sensitizing the employees with the provisions of the Act.

Employer should provide such facilities as required by the committee for conducting enquiry like securing the attendance of the respondent/ witness, provide assistance to aggrieved women to file complaint under the penal code, treat sexual harassment as misconduct under service rules and also monitor and take action on the report submitted by the committee.

Every establishment or employer, which includes the Corporates is required to include in their Annual report the number of cases filed under the sexual harassment act, if any, and its disposal. Where such report is not required to be made, the employer is required to intimate the number of cases received to the district officer. However this requirement to report on statistics of the cases does not infringe on the privacy of the victim as the contents of the complaint, identity and address of the aggrieved woman, respondent and witness or any other information related inquiry, conciliation, proceeding settlement, or recommendation of the internal committee / action taken by the employer are specifically prohibited from being published or made known to public, press and media in any manner.

Where the employer contravenes any of the provisions of the Act, they shall be punished with a fine which may extend to fifty thousand rupees. In case of repeated contraventions they shall be liable to

twice the punishment imposed on the first conviction or such higher punishment as prescribed under any other law.

2014-15: First Year Implementation

A report in the Economic Times in September highlighted the fact that 2/3rd of Nifty companies had reported cases of sexual harassment in 2014-15. The report further stated that 46 of the Nifty Companies showed a total of 415 cases with 80% of such disclosure coming from IT and banking sectors, which have a larger proportion of women employees. The list is headed by the IT giant WIPRO reporting 100 cases followed by the banking major ICICI. In the manufacturing sector TATA Steel leads with 24 cases. In sharp contrast other Nifty giants like HDFC, L&T and Coal India among others have reported not having received a single case of sexual harassment during the year.

With the regulators having clearly putting the onus on self-regulation and disclosure, women employee's safety and security must not be merely assessed on the number of cases registered but on the mechanisms provided to redress such cases. We are still at the early stage of a new era as far as this enactment goes and the main challenge may not just be the will to implement but could also be lack of trained human resources to handle such cases with sensitivity.

Unfortunately, despite this new enactment the social stigma attached to a person filing sexual harassment cases in our society still persists. Sensitising employees and conducting periodic awareness campaigns remain the key to providing a safe and sustainable work environment for women. In addition, creating an environment wherein women can report sexual harassment without fear of further harassment or adverse effect on their employment, or possible defamation requires strong and committed leadership in every corporate enterprise.

January 2016

I believe Company Secretaries as key managerial personnel should play a significant role in making this happen.

CimplyFive in News



Times of India, December 25, 2015

Little did Shankar Jaganathan, 55, realize that a tryst with possible non-compliance in company law early last year would goad him to set up a startup, CimplyFive, which helps ventures with corporate governance.

Read more:

<http://timesofindia.indiatimes.com/tech/tech-news/Complying-with-company-laws-easy-as-pie/articleshow/50322853.cms>

Business Standard, December 17, 2015

Thirty-two of the Nifty 50 companies did not spend their prescribed amount for corporate social responsibility (CSR) in 2015, a survey on India's secretarial practices said on Wednesday

Read more:

http://www.business-standard.com/article/companies/32-nifty-companies-spent-less-on-csr-in-2015-study-115121600973_1.html

Moneycontrol, December 17, 2015

A majority of top blue-chip listed companies, forming part of benchmark index Nifty, have failed to spend the prescribed amounts for

Corporate Social Responsibility (CSR) in the first year, a new study shows.

Read more:

<http://www.moneycontrol.com/news/business/32-nifty-companies-fail-to-meet-csr-limits-4608541.html>

CimplyFive Press Release, December 16, 2015

CimplyFive releases the first ever report on Secretarial Practices under Companies Act, 2013. Report highlights interesting pointers on Secretarial Audits, Corporate Social Responsibility spends and the Secretarial Auditors among others

Read more:

<http://www.cimplyfive.com/2015/CimplyFive-Press-Release-December16-2015.pdf>

Live Mint, December 15, 2015

Most of India's top listed firms did not manage to meet the minimum spending requirement on corporate social responsibility (CSR) as laid down in the New Companies Act 2013, even though aggregate CSR spending was high as some of them spent more than the mandated amount

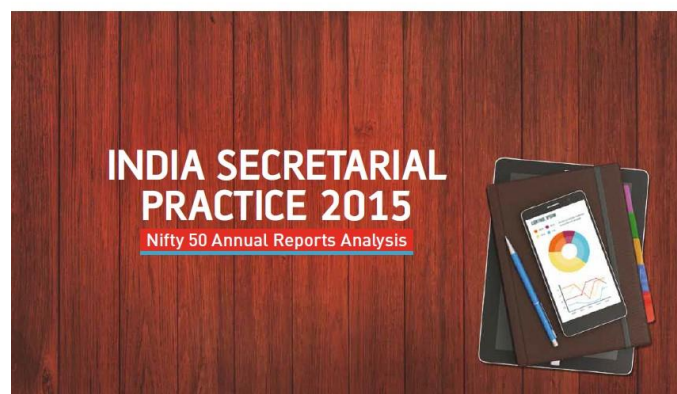
Read more:

<http://www.livemint.com/Companies/fwsTo goZrW6AZd5W39yNcN/Most-of-top-listed-firms-fail-to-meet-minimum-CSR-spending.html>

India Secretarial Practices 2015



December 2015



Nifty 50 Annual Reports Analysis

Focuses on six distinct areas: Board Composition and Sub-committees of the Board, Directors Report, Secretarial Audit, Company Secretary, Corporate Social Responsibility and the AGM notice, It is an in-depth analysis of the Secretarial Practices of companies that form part of the NIFTY 50 Index of the National Stock Exchange

Read more:

<http://www.cimplyfive.com/wp-content/uploads/2015/12/CimplyFive-India-Secretarial-Practices-2015.pdf>

About us

CimplyFive Corporate Secretarial Services Pvt Ltd

Vision:

Eliminate procedural non-compliance risk for entities incorporated under Indian Companies Act, 2013

Mission:

Provide a cost-effective, secure web-based, menu driven, subscription services that provides curated resolutions, timely alerts and informative dashboards to free the management bandwidth for pursuing business goals

www.ca2013.com: Company law at your fingertips. A free to use website, integrating Companies Act with Rules, Notification, Orders and Circulars that is real time and online

BLISS (Board Leaders Integrated Software Solution)

Our product BLISS(Board Leaders Integrated Software Solutions)

- A digital productivity tool for Compliance with the Companies Act,2013
- Provides comprehensive coverage of Board meetings, Shareholder meetings and Sub-committee meetings
- Rich bank of curated but editable resolutions
- Fully integrated modules- Agenda, Minutes, Registers and Returns
- Timely alerts and reminders
- Rich and real-time dashboard

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