iComply

Editorial

Welcome to the third issue of **iComply**.

Read more…

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



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

View the list…

Interview with CS Sujata Lele



As the Company Secretary of a listed company, has the Companies Act, 2013 changed your interaction with the Board? If yes, why and in what manner?

Traditional role of a Company Secretary was limited to providing support to the Board of Directors and managing administrative affairs of an organization. The concept of the company secretary as 'the keeper of secrets', or 'the servant of the board' has been with us for some time. Deferential and discreet, the company secretary's principal function was regarded as being to ensure that board meetings ran smoothly, decisions were made and recorded with due process and the minutes were produced on time.

Read more…

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 S C Sharada: Annual Return Filling- Challenges confronting the Company Secretary



It is a well-known fact that 'annual filing fever' grips all CS (Company Secretary) offices during October & November after corporates hold their AGMs and due dates are triggered for filing of audited financial statements and annual return. However this year, filing has reached a 'feverish' pace and pitch thanks to the late release of e-forms under the new Companies Act, 2013 and also repeated revisions of the same.

Read more…

In the pipeline

INDIA SECRETARIAL PRACTICES: Nifty 50 Annual Report 2015 Analysis, An inaugural study of the Secretarial practices of Nifty 50 companies based on their first Annual Reports published after the Companies Act, 2013 came into force.

Editorial

Dear Reader,

We are happy to bring the third issue of **iComply** after a gap of seven months. While there can be no excuses for this gap, it is only fair to share with you what kept us busy during this period. During this seven month period, we:

- Launched our product **BLISS** (**B**oard **L**eaders **I**ntegrated **S**oftware **S**olution) in June and followed it up with two major upgrades in August and November. Today we are happy to have over 100 users enjoying BLISS.
- In the first week of October 2015 we launched **www.ca2013.com**, a free to use website that provides company law at your fingertips. What makes this site unique is its real-time updates, fully integrated by hyperlinks with rules, notifications, orders and clarifications. What is more satisfying for us is that this site has had more than 14,000 page views in the short period of less than 60 days.

In this issue of **iComply** we bring to you an interview with Sujata Lele, Company Secretary of WeP Solutions Limited, a BSE-listed company who is a BLISS user for their unlisted group companies. We are also thankful to CS Sharada for sharing this years' experience of filing Annual Returns. This is in addition to our regular feature of Regulatory Gist that gives a glance of the regulatory changes in corporate law.

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
December 1, 2015

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

06.11.2015

Companies (Share Capital and Debentures) Third Amendment Rules, 2015

- A new category of company as defined by Ministry of Central Government or RBI or National Housing Bank or Any other statutory authority is permitted to issue secured debentures for period in excess of 10 years but not exceeding 30 years

16.11.2015

The Companies (Management and Administration) Third Amendment Rules, 2015

- The format for filing Annual Return-MGT7 revised to include PAN of the Company

30.11.2015

General circular No. 15/ 2015: Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

- The due date for filing Annual Returns & Financial Statements for the year 2015 is extended from 30th Nov to 30th Dec 2015

Interview of with CS Sujata Arvind Lele

1. **As the Company Secretary of a listed company, has the Companies Act, 2013 changed your interaction with the Board? If yes, why and in what manner?**

Traditional role of a Company Secretary was limited to providing support to the Board of Directors and However, the horizon of roles and responsibilities has expanded exponentially with the Companies Act 2013. The emphasis on administration and procedure over a more proactive approach was underpinned by the additional responsibility for ensuring that all laws and regulations are complied with. The company secretary is now required to be more outward-looking, interacting with major shareholders, proxy advisers, regulators, and being increasingly strategic i.e. bringing a wide understanding of business and the economic context in which their organization works.

2. **Secretarial Standards are mandated from July 1, 2015. Given the fact that you handle both listed and unlisted companies, how do you view its uniform applicability to all companies?**

Insertion of Secretarial Standards are one of the landmark development for the profession of the Company Secretaries and the ICSI. The rationale of mandating the compliance of non-financial standard would ensure that all companies adopt uniform practice in convening the meetings, agenda items which should be placed before the board and finalization of minutes etc.

The adoption of the Secretarial Standards by the corporate sector will have a substantial impact on the quality of secretarial practices being followed by the companies, making them comparable with the best practices in the world. It will also ensure observance of uniform practices across Board, while strengthening the Board processes, protecting individual directors, preventing oppression & mismanagement, building up investor confidence managing administrative affairs of an organization. The concept of the company secretary as 'the keeper of secrets', or 'the servant of the board' has been with us for some time. Deferential and discreet, the company secretary's principal function was regarded as being to ensure that board meetings ran smoothly, decisions were made and recorded with due process and the minutes were produced on time.

and better monitoring of compliances, thereby achieving the common goal of better corporate governance.

3. **What is your experience of using BLISS as a secretarial automation tool? Can you give some anecdotal examples?**

BLISS is indeed a complete secretarial automation tool with its color-coded rich and informative dashboard which makes it easier to use. BLISS provides timely reminders, alerts and helps in ensuring good governance. We overall had a good experience of using BLISS.

Initially BLISS had some software bug, the entire team of CimplyFive has taken minimal time to make the software user-friendly by constantly working on the queries/feedback received from the users which makes BLISS more reliable. BLISS certainly increases the efficiency and effectiveness of maintaining secretarial records.

4. **If you were granted one wish by the technology fairy to ease your job as a company secretary, what would you ask for and why?**

Truly speaking "One can't expect to meet the CHALLENGES of today with YESTERDAY'S TOOLS and expect to be in BUSINESS TOMORROW". Transformation is a part of life.

If given a chance as a Company Secretary, I would like to get all the Company records and documents digitized i.e. creating e-document through any product/software. If systems are put up in place for digitizing or extracting valuable data from existing paper documents there will be no more running

back and forth to the file cabinet or asking an assistant to track down a relevant document, indeed this will improve efficiency and effectiveness for any professional.

5. **Large number of women are entering CS profession, as a young women company secretary, based on your experience what would you like to share with them?**

Role of Company Secretary is undergoing a transitional phase in response to changing demands of and from Boards. The increased focus on corporate governance is pointing to a renewed recognition and greater visibility of Company Secretary. As the Key Managerial Personnel of the company and responsible for compliances, every Company Secretary has to be ready to face challenges every day.

Many young women are joining the CS course as this course gives a good perspective of all the legalities involved in running a business. You get a chance to interact with the board of a company at a very early stage in career. There are many women in the company secretarial profession and a large number of these sit in the boardroom on a regular basis throughout the year.

Certainly a person with reasonable judgmental quality, legal aptitude, interest in corporate affairs and good administrative ability should definitely choose Company Secretary as career path.

Compliance Calendar

December 5, Saturday	Physical payment of Service Tax for November, 2015
	Physical payment of Excise duty, Non SSI for the month of November,2015
December 6, Sunday	E-payment of Service Tax for November,2015
	E-payment of Excise duty, Non SSI for the month of November,2015
December 7, Monday	Pay Tax Deducted at Source(TDS) for Tax Deducted in November, 2015
December 15, Tuesday	Pay PF contribution for November, 2015
	Advance tax payment
December 16, Wednesday	Pay ESI contribution for November,2015
December 20, Sunday	Submission of VAT return along with the Payment due for the previous month after considering input credit
	Professional Tax payment
December 21, Monday	ESI monthly deposit
December 30, Wednesday	MGT-7 Annual Returns & AOC-4 Financial Statement filing

Guest Article: Challenges faced by CS in Annual Return filing

S.C.Sharada

Company Secretary in Practice and Past Chairman of ICSI, Bangalore chapter

It is a well-known fact that 'annual filing fever' grips all CS (Company Secretary) offices during October & November after corporates hold their AGMs and due dates are triggered for filing of audited financial statements and annual return. However this year, filing has reached a 'feverish' pace and pitch thanks to the late release of e-forms under the new Companies Act, 2013 and also repeated revisions of the same. This has thrown several challenges at CS offices as well as corporates struggling to understand and fill the information correctly.

Let's look at some of the challenges related to preparation and e-filing of Annual Return (AR) of an unlisted Company for the FY14-15:

1. There is extract of AR in MGT9 which is made part of the Board's Report (new requirement under the Companies Act, 2013) and then there is MGT7 which is the full-length AR in e-version. MGT7 was released only in end September, 2015 and kept **evolving like the 'amoeba'** till it reached its current 'avatar' on 17th Nov, 2015. Needless to say the information CSs gathered for MGT9 earlier is not exactly the same as in MGT7. Wonder how MGT9 qualifies as an 'extract of AR in MGT7'**?** Surely, there was enough time since 2014 to align the two and save the corporates and professionals from interpretation and information-gathering about the same subject multiple times and from multiple perspectives! Hoping this is ironed out for the FY15-16 annual filing.

2. Corporates are irked that CSs are going back time and again asking them to classify their business activity %-wise under **2 different codes** - NIC2008 for Annual Return (both MGT7 and MGT9) and NCPS (National Classification of Products & Services) or ITC-HS (Indian Trade Classification – Harmonized System) for classification in AOC4 (filing of audited financial statements). This information is not available in the audited financials and its schedules. Most of the companies are unable to find the correct classification and hence it is only the 'almost there' or 'nearest' code. Once the broad level classification is filled in MGT7, the auto-fill description popping up reflects an unrelated activity sending the CSs into a tizzy resulting in a g-talk/WhatsApp/phone 'ask around' activity. Lack of clarity is the biggest hurdle resulting in different interpretations. We cannot risk being wrong given that CSs are either signing the form or certifying as in the case of MGT8 (for certain category of companies).

3. In the initial version of MGT7, details of **share capital break-up** was under **Promoter and Public category**. Since public holding is normally relevant for public limited companies, many professionals missed filling in share capital belonging to non-promoters in the case of unlisted private limited companies. There was confusion whether it was right for them to fill it under 'public' category or not. After umpteen representations, queries, webinars, FAQs etc., now this has been clarified by amending the form to read as 'Break up of share capital – Promoter and Non-promoter holding'.

4. Similarly Loan in MGT9 clearly meant 'including interest accrued but not due', while in MGT7 initial version, it simply read **Loan**. This has now been expanded to read as 'Loan including interest accrued but not due' which aligns both the forms. As it is, information to this depth - of interest accrued, accrued but not due etc. is not available to CSs from the financial statements and we need to go back to the client to ask for the same, delaying the whole process. Simply put, unless the CS is fully prepared with a thorough checklist it is not possible to prepare the AR. Tragedy is there was little time for us to come up with a checklist that would stand since the e-form itself has been evolving. Many a times a form filled up today would be no good for tomorrow simply because there was a revision. A colossal waste of time and energy in redoing it.

5. Another area is shareholding in the first version was classified as Indian and Foreign. A doubt arose whether it includes Preference share capital. It is now changed to **Equity and Preference** but there is no place to show the break-up of Indian and foreign shareholding by bodies corporate. Correcting one anomaly has now resulted in

another calling for yet another revision in MGT7!

6. What is the meaning of number of **meetings** a director is entitled to attend? Does it include alternate directors also? What are the meetings they are entitled to attend? Seemingly simple information but can be interpreted in several ways.

7. Disclosure of **remuneration of Directors & KMP** – different stand taken by different professionals. While some say this need not be disclosed for unlisted companies, some are of the view that whether listed or unlisted, if a company has MD/WTD/Manager etc., whether appointed as Director / KMP u/s 203 of the Act or not remuneration details must be disclosed. Many corporates are touchy about disclosing details of managerial remuneration but they fail to understand that this information is in any case available in the Schedule to audited Balance Sheet, albeit to a lesser degree of disclosure.

8. **Compliance and punishments under other Acts** - how are we to know this? Difficult to ascertain because generally, scope of work of a PCS (Practicing Company Secretary) does not extend to other enactments and this is a new requirement. There is no disclosure about such non-compliance and penalties in the financial statements also. How are we to sign that the information is correct unless we verify?

These are but a few grey areas and challenges faced by a CS in the Annual Return filing this year. The penalties on CSs are significant for wrong information filled in. Therefore it may help to take the following steps:

- Study the e-form completely and prepare a checklist of information required and begin only when full data is available. At least for the next season's filing better clarity may be available.

- Do send the filled form to client for their confirmation.

- Wherever required, insist on a Management Representation letter. Currently several disclosures are subject to interpretations and corporates are not sharing certain information based on advice received from other experts or internal decisions.

- Check all original records before signing the form, considering that as CS one is declaring to that effect as well as to correctness and completeness. For certification in MGT8, in any case a mini-audit has to conduct.

- Last but not the least, do not procrastinate. DO IT NOW. As the famous philosopher-poet Kabir says

Kaal Kare So Aaj Kar, Aaj Kare So Ub
Pal Mein Pralaya Hoyegi, Bahuri Karoge Kub

काल करे सो आज कर आज करे सो अब
पल में परलय होएगी बहूरी करोगे कब

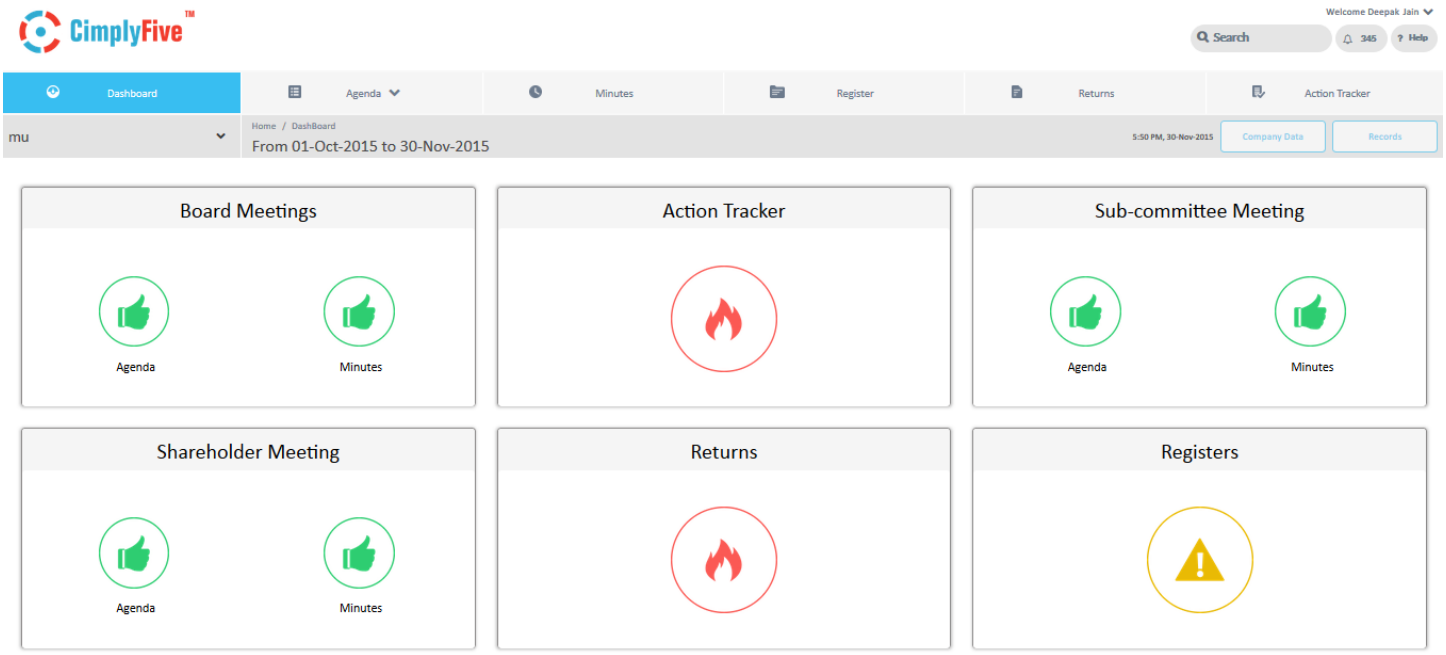
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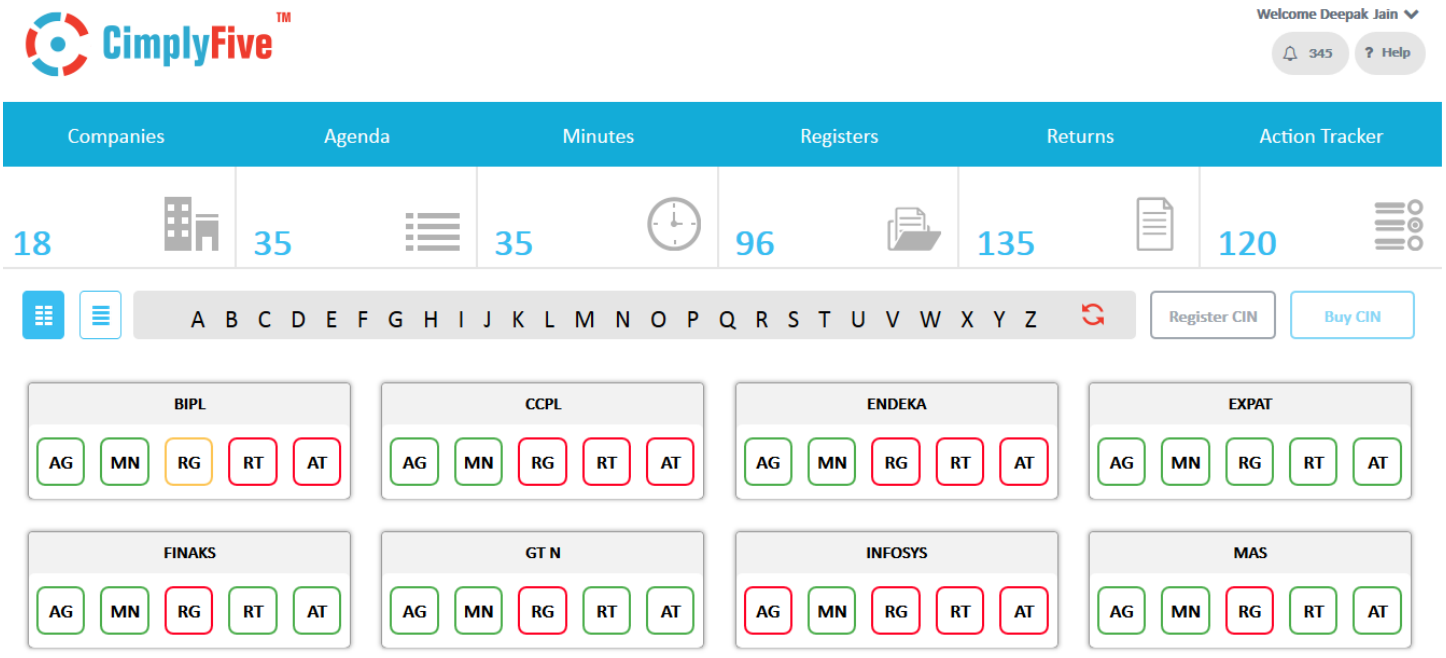
Tomorrow's work do today, today's work now
If the moment is lost, the work be done how?

Who knows when MCA will fancy a revised form?

BLISS Enhanced-

- User interface (UI)/ User Experience (UX) after review





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

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

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

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