iComply

Editorial

The pace at which company law in India is changing continues unabated as the changes and the proposal for changes keep flowing.
Read more…

OPINION:

What is Hot in Company Law?



Listing of the most viewed sections in the Companies Act for the month of November 2018 based on visitors to our free to use website www.ca2013.com.
Read more…

Compliance calendar



Due dates for Professional tax, Goods and Service Tax, Companies Act, 2013 among others has been captured for your ready reference. View the list…

FIRST OF FIRST:

The Four Stages of Evolution in Equity Share Valuation: 4. Valuation of Loss-making entities with Potential -The Concept, Trigger & Limitations

By Shankar Jaganathan



A key ingredient that ensured the growing success of company is the evolution in valuation of shares that permitted shareholders to sell and investors to buy shares without diluting any of the economic advantages of ownership. Read more…

Gist of Regulatory Changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 in the month of November, 2018

Ten Regulatory changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 were made in the month of November.
View the list…

BUT: BLISS Useful Tips for the Month

BUT#46: Get auto filled Company Master Data at the time of registration of Company in BLISS
BUT#47: With BLISS Automate Your Directors' Appointment
BUT#48: Auto-filled Annual Return

 Copyright © 2018, CimplyFive

Editorial

The pace at which company law in India is changing continues unabated as the changes and the proposal for changes keep flowing. We track these changes and keep you updated though our free to use website www.ca2013.com. But this is only one side of the story. The other side is to know what is occupying the minds of Indian corporate professionals. To highlight this, we are starting a new series **What's Hot in Company Law** and in this we will list the top 5 sections viewed in our site each month. We are starting this with the Chartbusters for November 2018.

In our series the First of First, where we trace the evolution of new concepts in company law, this month we have the fourth and the final part of our four-part article on the evolution of share valuation. In this, we describe the trigger, concept and limitations of the model used for valuing loss-making companies with great potential. We hope the four articles spread over the last four months has provided you with insights on how valuation of equity shares evolved.

Our other regular features –Gist of Changes in the Companies Act and Statutory Compliance Calendar is also included in this issue.

Please feel free to share your feedback on with us at contact@cimplyfive.com . We look forward to your feedback with interest and as ever strive to improve the quality of everything we do.

Happy Reading,

Shankar Jaganathan
Editor of iComply
December 5, 2018

OPINION:

What is Hot in Company Law?

Listing of the most viewed sections in the Companies Act for the month of November 2018 based on visitors to our free to use website www.ca2013.com.

Company Law Top 5 Chartbusters-November 2018

Rank	Section number	Section title
1	62	Further Issue of Share Capital
2	186	Loans and Investments by Companies
3	179	Powers of the Board
4	188	Related Party Transactions
5	92	Annual Returns

While Annual Returns at #5 is seasonal given the deadline for filing Annual Returns in November, the other four sections ranked in the first four places reflect their generic importance in the life of corporate professionals.

As many of you may be aware, we provide a free to use website that provides an integrated view of the Companies Act, LODR and IB code. Over the last three years, this site has generated good traction with 2900 individuals registered for getting updates and attracts more than 1500 visitors who visit more than 4000 pages a day, every working day to be more precise. As professionals take a break during the weekend, the website viewership is also lower; more pronounced on Sundays, in comparison with Saturdays.

THE FIRST OF FIRST:

The Four Stages of Evolution in Equity Share Valuation: 4. Valuation of Loss-making entities with Potential -The Concept, Trigger & Limitations

By Shankar Jaganathan

A key ingredient that ensured the growing success of companies is the evolution in valuation of shares that permitted shareholders to sell and investors to buy shares without diluting any of the economic advantages of ownership.

The evolution of share valuation is episodic, marked by stock market bubbles and often a major scandal that highlighted the limitation of the valuation method used which bursts the bubble. The first of the four method is the Dividend Capitalization method that evolved in the 18th century, followed by the Book Value method of the 19th century and the Price-Earnings Multiple of the 20th century. Last decade of the 20th century saw dotcom companies proliferate that addressed new and large markets characterized by long gestation periods, giving rise to a new model for valuing loss-making entities with potential.

This is the fourth and the final article in this series on equity valuation that captures the concept, the trigger and the limitations in the method for valuing loss making companies with potential.

The First of First

In the US, Amazon of 1990s and more recently Flipkart in India have shown that loss making companies with great potential can command large valuations. On May 15, 1997 Amazon raised $54 million in an IPO on the Nasdaq valuing the company at $440 million. As the dotcom craze peaked, Amazon being at the centre of this boom touched a valuation $36.4 billion, as its shares price rose 8,162%. When the bubble burst in 2001, its share price crashed, resulting in its market cap dipping to $2.1 billion.

Seventeen years later, on September 4th, Amazon became only the second company globally to be valued in excess of $1 trillion.

While Amazon's valuation debate was confined to a much smaller group of investors in 1990s, a similar phenomenon in the current decade engaged a much wider audience. The advent of internet combined with the proliferation of smart phones and WhatsApp provided a much larger audience to the 2014 Uber valuation debate between Aswath Damodaran, the Corporate Finance Professor and Bill Gurley the Venture capitalist. The fact that they were at the two ends of the valuation spectrum only added spice to this debate. Uber, the car-ride company was valued by the professor at $5.6 billion, while the venture capitalist placed a value of $17 billion on the company.

A year later, in 2015 Prof. Damodaran in his blog detailed reconciled the reasons for the difference between the two extreme ends of valuation and listed out various factors considered in the valuation of loss-making companies with potential, which is summarized in the section 'The Concept'.

The Concept

Conceptually valuing companies is an easy task, but in reality, a very challenging job as the inputs to the valuation model can widely vary resulting in a wide range of values placed on the company. In valuing traditional companies that are profitable, projecting future cash flows based on historical results and growth is the norm. However, the same model cannot be used for valuing loss making companies as there is no positive cashflows to project into the future.

In the absence of a profitable track record, companies under gestation period addressing new markets or existing markets with a new business model need a different valuation model. For these companies, the following six key factors determine their valuation:

1. Addressable market size,
2. Growth in the addressable market,
3. Market share projected,
4. Operating Margin projected,
5. the Cost of Capital, and
6. the probability of failure.

Of the six factors, a higher value for the first four factors and a lower value for the last two factors give higher valuation. While both the professor and the venture capitalist used similar models, the results they got varied widely because of the inputs considered, in this case the addressable market. While the professor viewed the company as an Urban car service company, the investors saw Uber as a Global logistics and transportation company.

Lessons Learnt

For every Amazon and Uber that succeeded in realizing their potential there are hundreds/ thousands of loss-making companies with high valuation that failed to realize their potential. While loss making is a fact that can be verified by examining their financial statements, great potential is an opinion that cannot be validated with certainty. This is where the chance of going wrong while using this model is very high; as appropriately captured in the 6th factor of this valuation model—probability of failure.

A mitigation for this is to answer the following two questions in affirmative that can help reduce the probability of failure:

1. Is the company you are valuing a pioneer or a leader in its space?
2. Does the business model have low-capital intensity which that can enable hyper-growth without commensurate investments?

 Copyright © 2018, CimplyFive

Cimplyfive's Offerings

BLISS is a Cloud hosted software that automates the routines, provides an e-repository, timely alerts and a real-time dashboard, all aimed at ensuring compliance and good corporate governance. By doing so, it also provides complete peace of mind to the Board of Directors and assurance to professionals by providing them with real-time compliance status with respect to the Companies Act, 2013.

BLISSPLUS

An advanced variant of BLISS with multiple premium features like Directors view page, Past records, Automated compliance tracker under the Companies Act, 2013.

BLISS LISTED

An advanced variant of BLISSPLUS for Listed Companies with Companies Act, 2013 and SEBI's LODR 2015 compliances integrated to provide a single point compliance automation, risk manager & e-repository for secretarial records.

BLISSDOCS

An Android/IOS Board app for Directors which provides secure access to Board documents on tablets/mobile phones, facilitates enhanced productivity making the Board meetings more efficient & effective.

CAIRR

CAIRR is a free to use website from CimplyFive that provides at your fingertips, an integrated view of the Companies Act, 2013 & SEBI Regulations. The site is updated daily at 10AM for changes in the Act & Regulations. For more details, visit www.ca2013.com.



Compliance Calendar

December 7th	TDS payment for November
December 15th	Pay PF contribution for November, 2018
	ESIC payment for November.
December 20th	GST Payment for November 2018 - GSTR 3B
	Professional Tax payment
December 25th	PF Return for month of November

Gist of regulatory changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 in the month of November, 2018

- **02.11.2018**

The Companies (Amendment) Ordinance, 2018

Ministry of law and Justice has issued the Ordinance which amends Thirty Sections of the Companies Act, 2013 which is yet to be notified by MCA. The highlights of this Ordinance are;

i. The authority to make application for adopting a different period as a 'financial year' and to 'convert from public company to private company' has been shifted from 'Tribunal' to 'Central Government'.

ii. The companies incorporated post this Ordinance and having share capital should not commence any business or exercise any borrowing powers unless a declaration is filed by a director with the Registrar to the effect that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him and have also filed the verification of its registered office within a period of 180 and 30 days, respectively from the date of incorporation of the company.

iii. Registrar is now authorised to conduct physical verification of the registered office of the company where there is reasonable cause to believe that the company is not carrying on any business or operations.

iv. Penal provisions of twenty three sections of the Act are modified. All the amendments made through this Ordinance is integrated with the Companies Act,2013 and is available in our site CAIRR (http://ca2013.com/).

- **06.11.2018**

Circular on standardised norms for transfer of securities in physical mode

SEBI has issued this Circular to address the difficulties faced by investors in effecting transfer of securities due to the different documents sought by RTAs. Accordingly, SEBI has issued this Circular to standardize documentation/procedure for transfer of physical securities after consulting Registrars Association of India (RAIN).

The procedure/documentation required to register transfer of securities in physical mode is detailed for the following circumstances:

a. Non-availability of PAN of the transfer or in transfer deeds executed prior to December 01, 2015

b. Mismatch of name in PAN card vis-à-vis name on share certificate/ transfer deed

c. Major mismatch / Non-availability of transferor's signature

- **13.11.2018**

The National Financial Reporting Authority Rules, 2018

The Central Government has issued this Rule which details the classes of companies and bodies corporate that will be governed by NFRA, Functions and duties of NFRA etc.

This Rule is integrated with the Companies Act, 2013 and is available in our site CAIRR (http://ca2013.com/).

The Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018

The highlights of the amendments made to the rules is listed below:

i. The Rule explicitly provide that, these rules shall apply only to valuation of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its

liabilities under the provision of the Companies Act, 2013 or its rules.

ii. The membership in a professional institute established by an Act of Parliament with at least three years' experience after such membership would be sufficient for an individual to be eligible to obtain registration as "Registered Valuer" under this Rule. Previously "post-graduate degree or post-graduate diploma" or "a Bachelors' degree or equivalent degree" in the specified discipline was required along with membership in a professional institute.

- **14.11.2018**

Constitution of Committee to finalise Business Responsibility Reporting (BRR) Format for Listed and Unlisted Companies Vide Office Order

The Secretary of Corporate Affairs has constituted a Committee to finalise BRR Format for Listed and Unlisted Companies based on the BRR Framework of the updated National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business (NVGs).

This Committee shall submit its report to MCA within six weeks from the date of its first meeting.

- **15.11.2018**

Circular on disclosures regarding Commodity Risks by Listed Companies in its Annual Report

Through this Circular, SEBI has issued a format for all Listed Companies to make disclosures regarding Commodity Risks in its Annual Report under Corporate Governance Report section.

This Format is based on the recommendations received from Corporate Governance Committee formed under the Chairmanship of Shri Uday Kotak.

- **16.11.2018**

The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2018

The highlights of this amendment notification are:

a) Definition for "fugitive economic offender" is inserted.

b) Conditions for re-classification of any person as promoter / public is substituted, now the regulation explicitly provides as to what the promoter(s) and persons related to the promoter(s) seeking re-classification should not be or do i.e., they should not be a wilful defaulter as per the Reserve Bank of India Guidelines, fugitive economic offender, act as a key managerial person in the listed entity etc.

c) Listed Entities may now make an application giving details and the grounds to relax strict enforcement of the regulations under the provisions of Regulation 102 of LODR, accompanied by a non-refundable fee of rupees one lakh to SEBI through direct account transfer or Demand draft in favour of the SEBI payable in Mumbai.

d) Disclosures in relation to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 should also be made in Corporate Governance Report under other Disclosures.

e) Transmission of securities held in single name without a nominee will now require an affidavit from such legal heir(s) / claimant(s) alone, in case the legal heir(s)/claimant(s) is named in the succession certificate or probate of will or will or letter of administration.

- **19.11.2018**

Circular on disclosure of reason for delay in submission of financial results by listed entities to the Stock Exchange

Through this Circular, SEBI requires the Listed Entities to disclose reasons for delay to submit Financial Results to the stock exchange(s) within the due dates i.e., within forty-five/sixty days from the end of the quarter/financial year.

The detailed reasons for delay to be disclosed within one working day of the due date of submission for the results or if the decision to delay the results was taken by the listed entity prior to the due date, the listed entity shall disclose detailed reasons for such delay to the stock exchanges within one working day of such decision.

- **22.11.2018**

NSE Circular on Clarification of Formats for publishing Financial Results

Pursuant to certain amendments in Division I, II and III of Schedule III to the Companies Act, 2013 made by the

Ministry of Corporate Affairs (MCA), vide its notification dated October 11, 2018, NSE has issued a Clarification about the applicability of formats for presentation of financial results as described:

a. Listed entities are advised to follow existing formats till the quarter ending December 31, 2018. However, entities desiring to submit financial statements as per the new format prescribed by MCA, may have the option to present in the new format in addition to existing formats prescribed under the Companies Act,2013.

b. Entities shall follow amended formats, new Schedule III of Companies Act, 2013, for annual financial statement / quarter ending on or after March 31, 2019.

- **26.11.2018**

Circular on fund raising by issuance of Debt Securities by Large Entities

In order to strengthen the Bond market and facilitate Large Corporates to raise Debt Funding through issue of Bonds, instead of Bank Loans, SEBI has issued the Circular detailing the framework for fund raising by issuance of Debt Securities by Large Corporates.

'Large Corporates' (LC) is defined as a company (other than Scheduled Commercial Banks) which on the last day of the Financial Year (FY)-

a. have their specified securities or debt securities or non-convertible redeemable preference share, listed on a recognised stock exchange(s)

b. have an outstanding long term borrowing of Rs 100 crores or above

c. have a credit rating of "AA and above", where credit rating shall be of the unsupported bank borrowing or plain vanilla bonds of an entity, which have no structuring/ support built in; and in case, where an issuer has multiple ratings from multiple rating agencies, highest of such rating shall be considered.

This Framework shall come into effect from April 01, 2019 and January 01, 2020 for entities following April-March and January-December as their FY, respectively.

LC shall raise not less than 25% of its incremental borrowings, during the financial year subsequent to the financial year in which it is identified as a LC, by way of issuance of debt securities and make disclosures in the prescribed formats to the stock exchanges, where its security(ies) are listed, as follows:

a. Disclose the fact that they are identified as a LC within 30 days from the beginning of the FY,

b. Disclose the details of the incremental borrowings done during the FY within 45 days of the end of the FY

About CimplyFive

Vision

Leverage research and technology to eliminate procedural non-compliance risk for entities regulated by the 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



CAIRR

Contact us at:

Email: contact@cimplyfive.com
Phone: 080-23441212
www.cimplyfive.com

To view the previous issues of *iComply* click here