iComply

Editorial

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What is Hot in Company Law?

Listing of the most viewed sections in the Companies Act for the month of February 2019 based on visitors to our free to use website www.ca2013.com.

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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…

Gist of Regulatory Changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 in the month of February, 2019

Nine Regulatory changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 were made in the month of February.
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BUT: BLISS Useful Tips for the Month

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FIRST OF FIRST:
Sustainability Reports: What was the trigger and When?

~By Shankar Jaganathan

One who pays the piper calls the tune. More so in the corporate world, where investors rule the roost.
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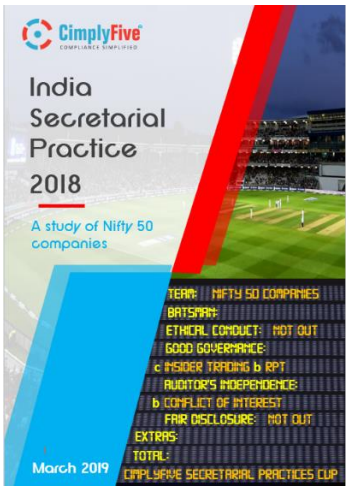
What's New in BLISS?

A. BLISSGLOBAL (A new product for foreign companies, LLPs and other statutes)

1. Provision to create and track Actions/Tasks
2. Director and Shareholder details in company profile
3. Enhanced dashboard

Read more…

CimplyFive's Report on India Secretarial Practices 2018



CimplyFive released its report on the Policies for India Secretarial Practice 2018

Click Here to download the full report

CimplyFive in News

- **Times of India, March 2,2019**

Nifty 50 non-executive directors got average Rs 60L sitting
Read more at
https://timesofindia.indiatimes.com/business/india-business/nifty-50-non-exec-directors-got-avg-rs-60l-sitting-fees/articleshow/68226158.cms?from=mdr

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Editorial

On March 3rd, with a short pooja we shifted to a larger and more conveniently located office that is right next to the Srirampura metro station. Our team and our visitors can now walk across from the metro station to our office that is less than 100 meters away. With the new office, we hope we will now be able to serve our clients much better by assisting them to remain compliant with the corporate law.

On the knowledge front, we published CimplyFive's Secretarial Practices 2018, a study of Nifty 50 Companies. We added two new sections this year, Non-Executive Directors Compensation and Statutory Auditors. We hope this report will be of use to the readers. We continue our series started in December 2018 **What's Hot in Company Law.** In the fourth issue, Chartbusters in February 2019 we have tracked and report the most popular sections of the Companies Act, 2013 and the regulations of LODR.

In our series the **First of First,** where we trace the evolution of new concepts in company law, this month we have covered the advent of Sustainability Reports and its position in India. Our other regular features – **Gist of Changes in the Companies Act, 2013** and **Statutory Compliance Calendar** is also included in this issue.

Please share your feedback on this newsletter 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
March 5, 2019

OPINION:

What is Hot in Company Law?

Listing of the most viewed sections in the Companies Act for the month of February 2019 based on visitors to our free to use website www.ca2013.com.

Company Law Top 5 Chartbuster sections in January 2019

Rank in January	Change in Rank	Rank in February	Section reference	Section title
1	↔	**1**	**62**	Further Issue of Share Capital
-	↑	**2**	**12**	Registered Office of the Company
-	↑	**3**	**90**	Investigation of beneficial ownership of shares in certain cases
5	↑	**4**	**42**	Offer or Invitation for subscription of securities on private placement
-	↑	**5**	**179**	Powers of the Board

Section 185 Loan to Directors, etc. and Section 186- Loans and Investments by Companies and Section 188 Related Party Transactions have dropped out of the top 5 and were replaced by section 12, 90 and 179.

LODR Top 5 Chartbuster Regulations in January 2019

Rank in January	Change in Rank	Rank in February	Regulation reference	Regulation Title
3	↑	**1**	17	Board of Directors
-	↑	**2**	34	Annual Reports
1	↓	**3**	30	Disclosure of Events or Information

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-	↑	**4**	4	Principles governing disclosures and obligations
-	↑	**5**	23	Related Party Transactions

Regulation 33-Financial Results, Regulation 18 Audit Committee and Regulation 2-Definitions have dropped out of the 5 list and were replaced by Regulations 34, 4 and 23.

IB Code Top 5 Chartbusters in January 2019

Rank in January	Change in Rank	Rank in February	Section	Section Title
-	↑	1	9	Application for initiation of corporate insolvency resolution process by operational creditor
-	↑	2	5	Definitions
1	↔	3	7	Initiation of corporate insolvency resolution process by financial creditor.
-	↑	4	59	Voluntary liquidation of corporate persons
5	↓	5	21	Committee of Creditors

Section 6 Persons who may initiate corporate insolvency resolution process, Section 12-Timelimit for completion of Insolvency process and Section 30 Submission of Resolution Plan dropped out of the top 5 list and were replaced by Section 9, 5 and 59.

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 3000+ individuals registering for getting updates and attracts around 2000 users viewing more than 5000 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, than on Saturdays.

THE FIRST OF FIRST:

Sustainability Reports: What was the trigger and When?

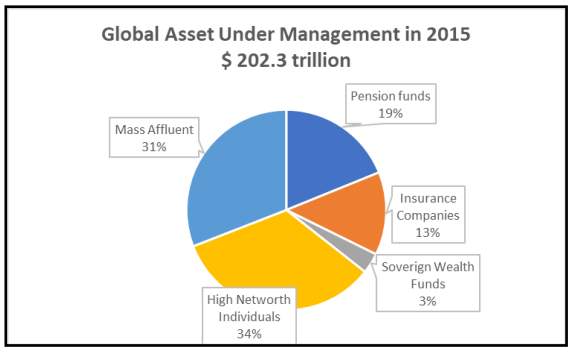
By Shankar Jaganathan

One who pays the piper calls the tune. More so in the corporate world, where investors rule the roost. It is no different with sustainability reporting, where the investors call the shots.

Starting with ethical investing in the initial stages, to ESG (Environmental, Social and Governance) investments in the later stages, sustainability reporting assumed increasing importance with change in the profile of investors. The advent of pension funds and life insurance companies as investors, resulted in evaluation of investments on a longer time horizon as their investment outlook was for more than ten years.

In contrast to short-term investor like mutual funds who look at profits, long-term investors like pension funds and insurance companies began to look at sustainable profits, i.e. not just financial profits but also the social and environmental impact caused by the operations of the company.

With every increase in the size of pension funds and insurance companies, the importance of sustainability report too grew in tandem. As of 2015, Pension fund accounted for 19% and Insurance companies accounted for 13% of the Global Asset under Management which was of $202 trillion.



The Concept

A business operates in the society and the society is embedded in the nature, is a truism that investors were forced to confront with in the last two decades of the 20th century. They saw financially successful businesses come to a grinding halt triggered by an

environmental disaster or a social outrage caused by its operations.

Profit like speed is unidimensional; investors, once they realized that they were investing in the company for the long haul, had to look beyond profits and look at sustainable profits. The realization that companies are running a marathon and not a sprint is what prompted the long-term investors to look at the 'health' and 'stamina' of the 'athlete'. For businesses, health and stamina crudely translate to their environmental and social impact.

The Bhopal Gas Tragedy in the factory premise of Union Carbide in 1984, soon followed by Chernobyl nuclear disaster in 1986 made the business world confront the risk of environmental factors. Likewise, large sections of customers boycotting goods produced in sweat shops of the less developed countries around the world dented major consumer brands, thereby highlighting the risk of social practices prevalent in the supply chain of large companies.

Sweat shops is not a new phenomenon as it was a term used in the 19th century for goods produced in inhuman conditions of factories where an employer violated the laws governing minimum wage and overtime work or engaged child labour or disregarded occupational safety and health safeguards to earn profits. The outrage and legislations banning such practices in the developed countries pushed these exploitative industries to the less developed countries in Asia and Africa away from the line of sight of the US and European customers. An unintended consequence of globalization in the 1980s was the focus that fell on these hidden sweatshops.

The First of First

STEAG, a major German utilities company for the first time in the business year 1971-72, published a Business-social report in their Annual report.

Building on the initiative of STEAG, a working group of thirty German companies in 1977 formed the Social Accounting Practice. This group recommended an integrated multifaceted approach to reporting. Their recommendation consisted of the Social report, Value-added accounts, and Societal-impact accounts.

The Social report was a qualitative, thematic description of the objectives, measures, output and effect of the company's social objectives. Value-added account, computed the distribution of value added by the company in the previous year by its various constituents. The Societal-impact account tabulated the company's socially related expenditures and its directly calculable socially related revenues.

While these initiatives flowered on the German side, in France, Sudreau Report commissioned by Government of France was published in mid 1970s. This report mandated the preparation of a Social balance sheet. This report initially was only for large French companies in 1977.

Gradually the concept expanded to a more comprehensive requirement of accounting for all aspects of social costs. This movement is best summed up in the words of Courtney C Brown, in his book, *Beyond the Bottom line*, 'from an organization conscious of a single purpose (profit), to one conscious of a multiplicity of purpose (economic, social, psychological, educational, environmental and even political).'

In India too, the requirement to account for social costs emerged in 1988. The mandate was to report on Conservation of energy, technology absorption, and research and development activities in the Directors report. While only the bare minimum is mandated, global initiatives for voluntary disclosures are substantial and extensive. Triple Bottom Line Initiative and reporting (TBL), AA1000 standard on social and ethical accountability and Global Reporting Initiative (GRI), to name the three, are among the more prominent initiatives. TBL describes the concept of social and environmental costs, AA1000 is an international standard for corporate social responsibility management and GRI defines a framework for reporting.

Mainstreaming Sustainable Reports

The Vietnam war of late 1960s triggered ethical investing when peace loving investors wanted to abstain from investing in armament companies and thereby indirectly supporting the war. Soon thereafter, issues of social importance entered the investors' concerns, when investors boycotted companies that operated in the morally repulsive apartheid practices legally enforced in the Republic of South Africa.

Ethical investing highlighted the power of investors in shaping the way societies functioned. In early 1990s, as the cost of Benefit Defined Pensions schemes spiralled due to longer life spans of the pensioners and lower interest rates earned on the corpus set aside for making these pension payments, they were replaced

by Contribution Defined Pension schemes. In Contribution Defined Pension schemes employees took charge of their own pension funds and started opting for equity investments to get higher returns. With pension funds, the investment horizon was a few decades, requiring these investors to look at not just profits but sustainable profits which is a factor of social and environmental impact of the companies' operations.

With time, the investors expanded their scrutiny beyond the companies' operations to their suppliers and partners bringing in a wave of sustainability reporting.

As the proportion of investments managed by the pension funds and insurance companies increased, sustainability reports moved from being a differentiator to becoming an essential reporting requirement for all large companies.

Sustainability Reports in India

Sustainability Reports have limited presence in the Indian corporate world, being limited to industries like IT Services which deal with international clients who make it an essential criteria or environmentally hazardous industries like mining, tobacco and paper products.

SEBI has mandated a diluted form of sustainability reporting by requiring the top 500 companies by market capitalization to have Business Responsibility Reports. However, most investors in India have not used sustainability reports as an essential input in making their investment decisions. This position can and should change with the growth in investment corpus available in National Pension Scheme where the investor is investing for an average tenure of 10-15 years if not more.

Given this longer time horizon, there is no option for the Indian pension funds but to look at businesses that are running the marathon and ignore those who are engaged in short sprints of quarterly or annual profits.

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Board Leaders Integrated Software Solutions



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 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, facility to store past Secretarial records, automated compliance tracker for size based compliance 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 including past secretarial records.

BLISSGLOBAL

BLISSGLOBAL for Global Corporate Secretarial teams which helps in handling compliances for companies incorporated across the world by providing Risk Management DashBoard, activity tracker and e-repository of secretarial records.

BLISSDOCS

An Android/IOS based Board app for Directors which provides secure access to Board documents on Tablets/mobile phones, enhancing Directors productivity and making the Board meetings efficient & effective

CAIRR LODR Integrated

CAIRR is a free to use website from CimplyFive that provides at your fingertips, an integrated view of the Companies Act, 2013, IB Code, 2015 and LODR, 2015. The site and app is updated daily at 10AM for changes in the Act & Regulations. For more details, please visit www.ca2013.com

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Compliance Calendar

March 7th	TDS payment for February
March 15th	Pay PF contribution for February, 2019
	ESIC payment for February
March 20th	GST Payment for February 2019 - GSTR 3B
	Professional Tax payment
March 25th	PF Return for month of February

Gist of regulatory changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 in the month of February, 2019

- **08.02.2019**
  - **The Companies (Significant Beneficial Owners) Rules, 2018**

Rule 2 is amended: This rule is amended to include definitions for the terms, 'control', 'majority stake', 'partnership entity', 'reporting company' and 'significant influence'.

The definition of 'significant beneficial owner' is made comprehensive to provide that significant beneficial owner will be one who is acting alone or together, or through one or more persons or trust, possesses one or more of the following rights or entitlements in such reporting company, namely-

(i) holds indirectly, or together with any direct holdings, not less than ten per cent. of the shares;

(ii) holds indirectly, or together with any direct holdings, not less than ten per cent. of the voting rights in the shares;

(iii) has right to receive or participate in not less than ten per cent. of the total distributable dividend, or any other distribution, in a financial year through indirect holdings alone, or together with any direct holdings;

(iv) has right to exercise, or actually exercises, significant influence or control, in any manner other than through direct holdings alone

Indirect holding will be considered based on the majority stake held by the member and will be covered under the definition of significant beneficial owner.

Rule 3 and 4 is substituted- The declaration of significant beneficial ownership in Form BEN-1 shall be filed by the beneficial owner to the Company within 90 days from the commencement of this Amendment Rules (i.e., within 9th May 2019).

Rule 8 is substituted- It provides additional exemptions to the following entities from applicability of these rules to the extent of share of the reporting company is held by-

(i) the Authority administrating the Investor Education and Protection Fund,

(ii) holding Company of the reporting company,

(iii) Central Government, State Government or any local Authority.

(iv) Company, Body Corporate and Entity controlled by the Central Government or State Government or partly by the Central Government and partly by one or more State Governments

- **SEBI Circular on format for annual secretarial audit report and annual secretarial compliance report for Listed Entities and their Material Subsidiaries**

SEBI vide its circular has introduced the following:

(i) Annual Secretarial Audit Report to be done not only by every Listed Company but also material unlisted subsidiaries as per section 204 of Companies Act, 2013 from the year ended March 31,2019.

(ii) Annual Secretarial compliance Report to be done by every Listed Company on an annual basis and submit to stock exchange within 60 days from the end of the financial year. The report is pertaining to compliance check of all applicable SEBI Regulations and circulars/guidelines which is to be certified by Practicing Company Secretary.

- **11.02.2019**

SEBI Circular on relaxation from requirement to furnish a copy of PAN for transfer of equity shares of Listed entities executed by non-residents

Through this Circular, SEBI has relaxed the requirement to furnish copy of PAN for non-residents by permitting them to transfer equity shares of Listed entities held by them to their immediate relatives, without furnishing PAN details. This relaxation is available subject to the following conditions:

i. For transfers executed after January 01, 2016.
ii. On non-commercial transactions, i.e., transfer by way of gifting among immediate relatives.
iii. The non-resident shall provide copy of an alternate valid document to ascertain identity as well as the non-resident status.

- **18.02.2019**

The National Financial Reporting Authority (Manner of Appointment and other Terms and Conditions of Service of Chairperson and Members) Amendment Rules, 2019

Rule 4(5) of this rule is substituted to provide that search-cum-selection committee shall make its recommendations with respect to appointment of chairperson or the members of National Financial Reporting Authority (NFRA), to the Central Government 'within a reasonable period of time' from the date of reference made to it by the Central Government, instead of 'within one hundred and twenty days'.

- **19.02.2019**

➢ **The Companies (Prospectus and Allotment of securities) Second Amendment Rules, 2019**

Form PAS- 3 is modified, by omitting the check box under serial no. 6(b) for, "not allotted securities with an application size of less than twenty thousand per person" to make it consistent with the amended Rule 14 of the said rule.

➢ **The Companies (Adjudication of Penalties) Amendment Rules, 2019**

Rule 3 of the aforesaid Rules is substituted with following:

i. The time period to respond to the Written Notice issued by the Adjudicating Officer on the Company or Officer in Default is reduced from 45 days to 30 days.

ii. The response to the above notice can be filed by the Company or Officer in Default in an electronic mode within the period as specified in the notice or also request for an Oral representation before the Adjudicating Officer.

iii. Time period stipulated for passing an Order by the Adjudicating Officer for adjudging penalty would be –

a) within 30 days of expiry of period stated in point (i) above, where physical appearance is not required;

b) within 90 days of the date of issue of notice where any person appeared before the Adjudicating Officer

- **21.02.2019**

➢ **The Companies (Incorporation) Amendment Rules, 2019 w.e.f., 25/02/2019**

Every company incorporated on or before31st December 2017 is required to file an e-form ACTIVE (Active Company Tagging Identities and Verification) by 25th April 2019 failing which the company shall be marked as "ACTIVE-non-compliant".

This form cannot be filed by the companies which have defaulted in filing financial statements or annual returns or both with the Registrar.

The Registrar shall not accept the request for recording the below mentioned event-based information or changes from Companies that are marked as "ACTIVE-non-compliant" unless e-Form ACTIVE is filed:

- SH-7 (Change in Authorized Capital);
- PAS-3 (Change in Paid-up Capital);
- DIR-12 (Changes in Director except cessation);
- INC-22 (Change in Registered Office);
- INC-28 (Amalgamation, de-merger)

➢ **The companies (Registration offices and Fees) Amendment Rules, 2019 w.e.f., 25/02/2019**

Point VIII is inserted which stipulates that there is no filing fee for 'e-Form ACTIVE' if filled by 25th April 2019 and post that the filing fee shall be Rs. 10,000/-.

- **Circular on extension of last date for filing initial return in MSME Form I**

Through this Circular MCA has clarified that the 30 days period for calculating the due date for filing initial return in MSME Form 1 as stated in the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order,2019 dated 22.01.2019 shall be reckoned from the date the said e-form is deployed on MCA 21 portal.

What's New in BLISS?

A. BLISSGLOBAL (A new product for foreign companies, LLPs and other statutes)

1. **Provision to create and track Actions/ Tasks –** The users can now create any number of actions and tasks for their foreign companies and LLPs registered in BLISS and track compliances under the respective laws. The user will also receive reminder e-mails for scheduled Actions/Tasks. This feature helps the user to monitor compliances under various acts and **eliminate the risk** of missing out on any due dates.
2. **Director and Shareholder details in company profile –** The user has provision to enter complete details of Directors and Shareholders in foreign companies and LLPs profile page with searchability function. This functionality provides **ease of access of data** to all the users.
3. **Enhanced dashboard –** The dashboard is now enhanced to reflect status on number of Actions/Tasks that are scheduled, Critical and overdue along with graphical representation of the same. This feature helps in planning their calendar and **increases productivity**.

B. BLISS, BLISSPLUS and BLISSLISTED

1. **Mail ID Lists and prompts –** The user will now be able to see a separate list of Mail IDs in the email tab such as Users, Directors, Equity and Preference Shareholders etc., based on mail IDs entered in respective registers. BLISS shall also prompt Mail ID based on previous mails sent. This feature **enhances the productivity** of the Secretarial team.
2. **Enhanced usability for Director as User in BLISSPLUS –** The Director can now confirm their Availability or Non- Availability for a scheduled meeting, View the complete Board Docket or view each attachment separately, Get Venue Directions etc. This feature promotes **ease of use** for director as user.
3. **DSC Validity dates can now be tracked for all KMPs** - The user can now enter DSC validity dates and get DSC renewal mail alerts for all KMPs whose details are updated in the Register of Directors and KMP. This feature makes BLISS more **comprehensive**.
4. **Serial Number of Meetings appear in the records page –** The user can now get to know the meeting serial number from the records page for all the meetings without opening the agenda file for the meeting. This feature ensures **quick locating and systematic maintenance of secretarial records**.
5. **Alert on uploading same files under Past records –** The user will now get an alert message if they are inadvertently trying to upload the same file which is already uploaded under past records. This feature helps in **avoiding duplicate files** in your E-Repository.

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

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