iComply

Editorial

Wish you all a very happy and prosperous New Financial Year. I hope that the financial year just got over was to your satisfaction. Read more…

OPINION:

What is Hot in Company Law?



Listing of the most viewed sections in the Companies Act for the month of March 2019 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…

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

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

FIRST OF FIRST:

Directors' Report: What was the trigger and When?



By Shankar Jaganathan

Corporate Annual Reports are incomplete without the Directors report. For most operational companies the Annual Report run into dozens of pages and for the listed companies it exceeds a hundred pages.

Read more…

BUT: BLISS Useful Tips for the Month

BUT#61: Email Agenda/Minutes to Directors using BLISS
BUT#62: Conduct Paperless Meetings with BLISSPLUS
BUT#63: With BLISS track and get alerts for DSC renewal of all KMPS

CimplyFive in News



CimplyFive's Report covered in Times of India, 2-3-2019
CimplyFive's Report covered in ET Prime 12-3-2019
Shankar Jaganathan quote in Livemint 19-3-2019

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Editorial

Wish you all a very happy and prosperous New Financial Year. I hope that the financial year just got over was to your satisfaction. Our results at CimplyFive is very encouraging and we believe we are on the right path to realize our vision. All our products BLISS, BLISSPLUS, BLISSLISTED and BLISSDOCS have gained very good traction with our clients and we have a strong pipeline as we move into 2019-20.

In our series the **First of First,** where we trace the evolution of new concepts in Company Law, this month we have covered the trigger for and the evolution of the Directors' Report and its position in India. Our other regular features –**What is Hot in Company Law, Gist of Changes in the Companies Act, 2013** and **Statutory Compliance Calendar** are 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
April 5, 2019

OPINION:

What is Hot in Company Law?

What is Hot in Company Law?

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

March 2019 Company Law Top 5 Chartbuster

Rank in February	Change in Rank	Rank in March	Section reference	Section title
3	↑	**1**	**12**	Registered Office of the Company
1	↓	**2**	**62**	Further Issue of Share Capital
4	↑	**3**	**42**	Offer or Invitation for subscription of securities on private placement
-	↑	**4**	**149**	Company to have Board of Directors
5	↔	**5**	**179**	Powers of the Board

Section 90 'Investigation of beneficial ownership of shares in certain cases' has dropped out of the top 5 and is replaced by Section 149.

March 2019 LODR Top 5 Chartbuster Regulation

Rank in February	Change in Rank	Rank in March	Regulation reference	Regulation Title
1	↔	**1**	17	Board of Directors
3	↑	**2**	30	Disclosure of Events or Information
-	↑	**3**	16	Definitions
-	↑	**4**	33	Financial Results
-	↑	**5**	2	Definitions

Regulations 34-Annual Reports, 4-Principles Governing disclosures and obligations, and 23-Related Party Transactions have dropped out of the top 5 and have been replaced by Regulations 16, 22 and 2.

March 2019 IB Code Top 5 Chartbusters

Rank in Feb.	Change in Rank	Rank in March	Section	Section Title
4	↑	1	59	Voluntary liquidation of corporate persons
3	↑	2	7	Initiation of corporate insolvency resolution process by financial creditor.
1	↓	3	9	Application for initiation of corporate insolvency resolution process by operational creditor
5	↑	4	21	Committee of Creditors
2	↓	5	3, 5 and 6	3 & 5 both are Definitions; Persons who may initiate corporate insolvency resolution process

None of the Sections have dropped out of the top 5, while Section 3 and 6 are jointly ranked at no.5 along with Section 5.

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:

Directors' Report: What was the trigger and When?

By Shankar Jaganathan

Corporate Annual Reports these days are incomplete without the Directors report. For most operational companies the Annual Report run into dozens of pages and for the listed companies, it exceeds a hundred pages. The content in an annual report can be bifurcated into mandatory and voluntary disclosures; further, mandatory disclosures have three key components –

1. Financial statements reflecting the company's performance,
2. Audit reports or assurance statements of the auditors examining the financial statements, and
3. The Directors' Report to their shareholders sharing qualitative insights on the performance highlights for the year

Chronologically, the mandate for Directors' Report preceded the requirement for a company to publish financial statements and to get the financial statements audited.

What triggered Directors' Report in the first place? Has the content in the Directors' Report remained static or has it evolved with time? Answers to these questions may help us understand the context and the reason for Directors' Report.

The First of First

Following the California gold rush in 1848, the similarity of the terrains in New South Wales and Victoria in Australia lured people to prospect for gold in their backyard. On February 12th, 1851, Edmond Hammond Hargraves literally struck gold in a tributary of Macquarie River. Within six months, fifty thousand people were digging for gold in that area successfully, and in less than a year, the weekly shipment of gold was about half a ton. The result, mining became a significant economic activity in Victoria and New South Wales with over 500 companies incorporated to pursue mining interests under a special Act enacted for this purpose, the Mining Companies Act, 1855.

As company law evolved in England, the Companies Act, 1862 was enacted that required new companies to adopt a Memorandum of Association defining the constitution of the company, and the Articles of Association defining their internal management process, followed by the requirement to lodge a register of members and a summary of capital with the Registrar for incorporating a company.

The Victorian government too enacted the Companies Act, 1864, based on the English Act, thereby imposing onerous documentation on the new mining companies, the primary engine of economic growth.

Acting on the miners' demand for a simple process of incorporation, a separate set of regulations was enacted for them. In exchange for the lesser compliance requirement at the time of incorporation, the mining companies were required to submit every year an Annual report to the Registrar. However, this was more a statement of intent, as the content in the annual report was not defined.

In 1871, the Mining Companies Act, was strengthened by specifying the mining companies to disclose a report on the company's prospects along with a statement of assets and liabilities. This report was required to be presented in the general meeting of the shareholders. Further, the Act required the company to keep their books of accounts open for inspection by shareholders and creditors. Thus, for the first-time, mining companies were required to annually provide a report with defined content that included a report on the company's prospects, which is the seed from which the Directors' Report has germinated today.

The Concept

Directors' Report is a summary of key highlights for the year covering all important events of the company as reported by its Directors to their shareholders, who are the ultimate owners of the company. In general, the report has a section on financial performance, capital structure and dividend payments, corporate restructuring activities like mergers and acquisitions and highlights of business performance.

Over the years, Directors' Report has become quite voluminous with new sections being added to it, triggered by the regulators to protect the investors and/or as a reaction to the corporate scandals that regularly erupted over time.

Directors' Report in India

The Directors' Report in India is today governed by section 134 (3) of the Companies Act, 2013. The disclosure requirement under this section is quite elaborate and provides for the following key disclosures:

1. State of Affairs of the Company including its subsidiaries, associates and JVs
2. Policy on appointment and remuneration of Directors, appointment and resignation of KMPs, statement on independence of directors
3. Number of board meetings, evaluation of the Board and its directors
4. Directors' responsibility statement, explanation on the auditors' qualifications and frauds reported by the auditors
5. Financial highlights, dividends and transfers to reserves
6. Report on CSR, Risk Management and Energy consumption, technology absorption and foreign exchange

For listed companies, the list of information to be included is still longer and among others, consists of ESOPs given to employees, Management Discussion and Analysis of the financial performance, Report on Corporate Governance and Business Responsibility Reports.

As the mandated requirements of Directors' Report increased making the Directors' Report quite bulky and legalistic, companies have increasingly used the Chairperson's or the CEO's letter to their stakeholders to communicate the performance highlights and future plans in a more lucid way and engaging style, perhaps as there is less legal scrutiny of these letters.

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

Compliance Calendar

April 11th	Turnover exceeding Rs. 1.50 Crores or opted to file monthly Return GSTR-1 (Mar, 2019)
April 15th	Pay PF contribution for March, 2019
	ESIC payment for March
	Submit Corporate Governance Report to the Stock Exchanges
April 20th	GST Payment for March 2019 - GSTR 3B
	Professional Tax payment
April 21st	Submit Shareholding Pattern with the Stock Exchanges
	Statement of Grievance Redressal Mechanism
April 22nd	File DPT-3 A Onetime Return Of Outstanding Receipt Of Money Or Loan From 01st April, 2014 Till 22nd January, 2019, Which Are Not Considered As Deposits
April 25th	Annual PF Return
	File Active Form INC- 22A
April 30th	Submit Reconciliation of Share Capital Audit Report audited by a qualified chartered accountant or a practicing company secretary, for the purpose of reconciliation of share capital held in depositories under regulation 55A of the SEBI (Depositories and Participants) Regulations, 1996
	Quarterly return for registered persons with aggregate turnover up to Rs. 1.50 Crores - GSTR 1 (Jan-Mar, 2019)
	Submit Compliance Certificate certifying maintaining transfer facility certified by Compliance office and Transfer Agent under regulation 7(3) of SEBI (LODR),2015
	Obtaining certificate from Practising Company Secretary under regulation 40(3) of (LODR), 2015 that all certificates have been issued within 30 days of the date of lodgement of transfer, sub-division, consolidation, renewal, exchange or endorsement or calls/monies and submitting to the Stock Exchange under regulation 40 (10) of SEBI (LODR), 2015
	TDS payment for deductions made in March 2019

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

- **06.03.2019**

  The Companies (Incorporation) Second Amendment Rules, 2019

  Rule 38(2) is amended to increase the limit of nominal capital for incorporating a company without filing fee for Form INC-32 (i.e. SPICe form) from Rs. 10 lakhs to Rs 15 lakhs w.e.f., 18/03/2019.

- **08.03.2019**

  Establishment of National Company Law Tribunal, Indore Bench and Amaravati Bench, vide Notification No. S.O. 1216(E)

  This notification amends the notification no. S.O. 1935 (E) dated the 01/06/2016, to notify the establishment of National Company Law Tribunal, Indore Bench in Indore and National Company Law Tribunal, Amaravati Bench at Amaravati, having territorial jurisdiction over the State of Madhya Pradesh and the State of Andhra Pradesh respectively.

- **11.03.2019**

  MCA Circular on filing of e-form RD-1 for Conversion of public company into private company and change in a Financial Year

  Through this Circular, Ministry has clarified that the applications under section 2(41) for change in financial year and under section 14 for conversion of public company into private company can be filed with the Regional Directors in e-Form RD-1 by selecting 'Others', till such time a revised e-form is available for the said purpose on MCA.

- **12.03.2019**

Modification of SEBI Circular dated 07/12/2018 on 'Disclosure of significant beneficial ownership in the shareholding pattern' w.e.f., 30/06/2019

SEBI has modified the Circular No. SEBI/HO/CFD/CMD1/CIR/P/2018/0000000149 dated December 7, 2018 by providing a revised format of the details of Significant Beneficial Owners (SBOs) to be submitted with the Stock Exchange(s) by all the Reporting Companies.

This circular is issued to keep the requirements in line with the amendments made by MCA vide the Companies (Significant Beneficial Owners) Amendment Rules, 2019 as notified on 08/02/2019.

- **14.03.2019**

The Insolvency and Bankruptcy (Application to Adjudicating Authority) Amendment Rules, 2019

This amendment is to modify Form 1 by Financial Creditor, Form 5 by Operational Creditor and Form 6 by Corporate Applicant for filing an application with the Adjudicating Authority to initiate the corporate insolvency resolution process.

The modified forms require the applicants to list out the following additional details of the Corporate Debtor, for applications made under Fast Track mode:

i. Assets and Income
ii. Class of creditors or amount of debt
iii. Category of Corporate Person

- **22.03.2019**

NSE Circular on filing of information on Electronic Platform for Listed companies w.e.f., 26/03/2019

For the benefit of the market and the investors, NSE has introduced the seamless announcement filing mechanism for 21 additional short descriptions (i.e., subjects such as Corporate Insolvency Resolution Process, Conversion, Preferential issue etc.) on NEAPS for all the listed companies, wherein the announcement filed under these short descriptions shall be disseminated directly on the website without any Exchange intervention.

- **29.03.2019**

➢ **The SEBI (Listing Obligations and Disclosures Requirements) (Amendment) Regulations, 2019**

Regulation 23(1A)is amended to provide that w.e.f., July 01, 2019, payments made to a related party with respect to brand usage or royalty shall be considered material, when entered either individually or taken together with previous transactions during a financial year exceed two percent of annual consolidated turnover of the listed entity as per the last audited financial statements.

➢ **The SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2019**

Regulation 10pertaining to General Exemptions is amended to provide that the following types of acquisitions are no longer be exempted from making an open offer for Substantial acquisition of shares or voting rights and Acquisition of control:

a. Regulation10(1)(ia) - Acquisition of shares by the person(s), by way of allotment by the target company or purchase from lenders at the time of lending selling their shareholding or enforcing change in ownership in favour of such person(s), pursuant to a debt restructuring scheme implemented in accordance with the guidelines specified by the Reserve Bank of India.

b. Regulation 10(2)- The acquisition of shares of Target company, not involving a change of control over such target company, pursuant to a scheme of corporate debt restructuring in terms of Corporate Debt Restructuring Scheme notified by RBI or any modification or re notification thereto provided such scheme has been authorised by shareholders by way of a special resolution passed by Postal Ballot.

➢ **SEBI circular No. CIR/CFD/CMD1/44/2019 dated 29/03/2019, effective from 1st April2019**

Through this Circular, SEBI has laid down the Procedure and Formats that shall be followed by Statutory auditor of all the Listed Entities for limited review / audit report of the listed entity and those entities whose accounts are to be consolidated with the listed entity.

- **The Companies (Incorporation) Third Amendment Rules, 2019**

Rule 38A is inserted – The amended rule requires that the application made for incorporation of a company under Rule 38[i.e., Simplified Proforma for Incorporating Company Electronically (SPICe)], shall include e-form AGILE (INC-35) that contains the application for registering with GST, ESIC and EPFO and get their respective registration numbers:

a. GSTIN w.e.f., 31st March 2019
b. EPFO w.e.f., 8th April 2019
c. ESIC w.e.f., 15th April 2019

- **30.03.2019**
  - **The Companies (Indian Accounting Standards) Amendment Rules, 2019**

Central Government in consultation with National Advisory Committee on Accounting Standards has amended the following Indian Accounting Standards (Ind AS):

- Ind AS 101 – First-time adoption of Indian Accounting Standards
- Ind AS 103 – Business Combinations
- Ind AS 104 – Insurance Contracts
- Ind AS 107 – Financial Instruments: Disclosures
- Ind AS 109 – Financial Instruments
- Ind AS 113 – Fair Value Measurement
- Ind AS 115 – Revenue from Contracts with Customers
- Ind AS 116 – Leases (newly inserted)

- **The Companies (Indian Accounting Standards) Second Amendment Rules, 2019**

Central Government in consultation with National Advisory Committee on Accounting Standards has amended the following Indian Accounting Standards (Ind AS):

- Ind AS 101 – First-time adoption of Indian Accounting Standards
- Ind AS 103 – Business Combinations
- Ind AS 109 – Financial Instruments
- Ind AS 111 – Joint Arrangements
- Ind AS 12 – Income Taxes
- Ind AS 19 - Employee Benefits
- Ind AS 23 - Borrowing Costs

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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

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