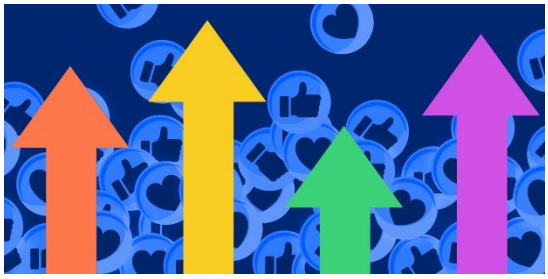
iComply

Editorial

With UK approving Pfizer and BioNTech vaccine and scheduling to start mass vaccination next week, we are seeing some light at the end of the dark tunnel of Covid-19 pandemic. Read more…

OPINION:

What is Hot in Company Law?



Our free to use website www.ca2013.com has the unique distinction of providing an integrated view of the Companies Act, LODR and IB code. 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 November, 2020

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

BLISS Tips for the Month

#144: CIMPLYBEST-Board Evaluation Survey Tool
#145: MIS generation for non-secretarial team members made possible with BLISS
#146: Creation of Circular Resolution with BLISS
#147: Automate Size based Compliance on Entering Financial Information in BLISS

5 Questions for Every Corporate Professional

By Shankar Jaganathan



CimplyFive's 5Qs to Answer Before Approving Related Party Transactions

Related Party Transactions (RPT) are an integral part of the corporate world today. In the early stages of corporate history, RPTs were illegal and could not even be approved or ratified by unanimous shareholder resolutions. Read more…

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1. Auto-Calculations in Financial Information page
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4. Define the approval time for Circular resolutions

BLISSPLUS and BLISSLISTED:

1. Word import feature in Circular Resolutions

Read more…

December 2020 Release

Our research report India Secretarial Practices 2020, A Study of Nifty 50 Companies is near complete, undergoing final proofing. Expect this informative report soon.

Editorial

With UK approving Pfizer and BioNTech vaccine and scheduling to start mass vaccination next week, we are seeing some light at the end of the dark tunnel of Covid-19 pandemic. Hope this heralds a change in the trend of depressing information flow and give it a positive spin. This proves Maslow's hierarchy that safety and health are the two prime building blocks for all human endeavour. With this change, I pray all the other elements of economic, social, and environmental factors too turn positive and we see a bright 2021 that not only compensates for the dark 2020 but exceeds all our expectations.

We completed the compilation of India Secretarial Practices 2020 report in November. This report is under final proof reading and is scheduled to be published in the second week of December. This is the fifth annual report in the series of Secretarial Practices of Nifty 50 companies that we started in 2015. Some findings in the report offer themselves for interesting interpretations. Look forward to your views on the same.

In this issue, we have included an article **Five Questions for Evaluating Related Party Transactions,** where you can assess the fairness of the price in the RPT transaction. Our other regular features like –**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 it.

Happy reading,
Shankar Jaganathan
Editor of iComply
December 4, 2020

OPINION:

What is Hot in Company Law?

Our free to use website www.ca2013.com has the unique distinction of providing an integrated view of the Companies Act, LODR and IB code. This site crossed **9 million page-views** on **October 13, 2020** and attracts over 3000 users accessing around 6000 pages a day. Listing of the most viewed sections in the Companies Act, LODR and IB code for the month of November 2020 is based on visitors to our site.

Company Law Top 5 Chartbuster sections in November 2020

Rank in Oct.	Change in Rank	Rank in Nov.	Section reference	Section title
1	↔	**1**	**188**	Related Party Transactions
N	↑	**2**	**134**	Financial statements, Board's reports etc.
4	↑	**3**	**62**	Further issue of share capital
N	↑	**4**	**186**	Loan and investment by company
N	↑	**5**	**179**	Powers of Board

Three new sections have entered the top 5 ranks, replacing Section 135, 137, & 139.

LODR Top 5 Chartbuster Regulations in November 2020

Rank in Oct.	Change in Rank	Rank in Nov.	Regulation reference	Regulation Title
2	↑	**1**	30	Disclosure of events or information
1	↓	**2**	17	Board of Directors
4	↑	**3**	29	Prior Intimations
N	↑	**4**	34	Annual Report
5	↔	**5**	23	Related Party Transaction

Four regulations have retained their top 5 ranks with only Regulation 33 dropping out and new Regulation 34 entering.

IB Code Top 5 Chartbusters in November 2020

Rank in Oct	Change in Rank	Rank In Nov.	Section reference	Section Title
N	↑	**1**	59	Voluntary liquidation of corporate persons
2	↔	**2**	3	Definitions
1	↓	**3**	5	Definitions
N	↑	**4**	4	Application of this Part
N	↑	**5**	7	Initiation of Corporate insolvency resolution process by financial creditors

Three new sections have entered the top 5 ranks, replacing sections 10, 7, 14 and 30

5 Questions for Every Corporate Professional

By Shankar Jaganathan

CimplyFive's 5Qs to Answer Before Approving Related Party Transactions

Related Party Transactions (RPT) are an integral part of the corporate world today. In the early stages of corporate history, RPTs were illegal and could not even be approved or ratified by unanimous shareholder resolutions. Due to practical difficulties faced by companies, at the beginning of the 20th century RPTs were permitted initially with the Boards approval, later with Boards approval and disclosure to shareholders in annual accounts, and finally with shareholders' approval and disclosures in annual accounts.

RPTs are in the spotlight due to their propensity to be misused by the promoters/executive management in signing personally favourable deals with the company. Given this concern, the Board, especially independent directors, and corporate professionals who are entrusted with upholding good corporate governance have an ethical role to perform, which goes beyond the law. This article seeks to provide these custodians of governance five questions they should answer before approving RPTs.

1. **Is the RPT a transaction undertaken in the normal course of business?**

The primary concern regarding RPTs is in the fairness of contracts to ensure that the related party does not gain at the cost of the other shareholders who are not in the decision making role. The commercial fairness of RPTs in the normal course of business is easy to judge as the related party is treated on par with unrelated parties. Typical examples are consumer products or consumer durables sold to related party at the published price list and volume discounts that are available to other buyers. Likewise, in purchase or employment contracts, multiple vendors or employees would provide benchmark for the price /salary paid.

2. **If the RPT is not in normal course of business, are there other comparable transactions in the company or in the industry to benchmark?**

While transactions related to sales, purchase and employee contracts can be considered as in the normal course of business, purchase, lease and rental of capital goods, and borrowings from or lending to related party pose a challenge in deciding if the terms are fair and the related party is not getting an undue benefit due to their position. In these cases, identifying comparable transactions in the company or the industry between unrelated parties can provide the best benchmark, which need to be documented as the proof of due diligence and exercise of mind in approving the RPT.

3. **If the RPT is neither in the normal course of business, nor are there comparable transactions in the company or industry to be used as benchmark, is the transaction fairly priced?**

If the transaction is neither in the normal course of business nor has a comparable benchmark, the onus on the decision makers is to assess the profitability of the transaction and ensure that unreasonable profits do not accrue to the related party. Further, in providing their approval for RPT, this assessment of profitability needs to be documented for future reference.

4. **Are RPTs used as an exception in the conduct of business or are RPTs used as the first resort?**

A critical factor in approving the RPT is the frequency with which they occur in the company, especially when they fall in the category examined in Question 3 above. Higher the frequency of RPTs, more stringent would be the norms used for fairness with the benefit of doubt given to the company. As in justice, good

corporate governance is not just to be ensured, but it also must be seen to be in place.

5. **Are adequate disclosures made to the shareholders of the company for them to judge the fairness of the transaction?**

Despite the care governance custodians exercise, fairness is only an opinion, not a fact. So the ultimate judge of fairness are shareholders, who are the ultimate owners of the company. Hence the custodians of governance must ensure that adequate information is provided to the shareholders to judge for themselves.

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Board Leaders Integrated Software Solutions



BLISSPLUS

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 is 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

BLISSLISTED 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 is a cloud hosted key document management solution with Action Tracker that provides master data capture of the entity, e- repository for document management, Automated Tracker for managing event based and calendar-based activities.

BLISSDOCS

BLISSDOCS is 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

CIMPLYBEST

CimplyBest is a tailormade software for Indian Corporates in conducting Corporate Board Evaluation which will optimize Board's Time & Effort with confidentiality assured.

BLISSTAT

BLISSTAT Is a cloud hosted custom built software to automate Direct Tax assessment processes and provide a comprehensive action tracker enabling workflow automation with a e-repository for storing all tax assessment records.

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

December 7th	TDS payment for November
December 15th	Pay PF contribution for November
	ESIC payment for November
December 20th	Professional Tax payment
December 20th, 22nd, 24th	GSTR 3 B
December 25th	PF Return for November
December 31st	GSTR 9- Annual Return (2018-19)

Gist of regulatory changes in Companies Act, 2013, SEBI (LODR), 2015, SEBI (PIT), 2015 and Insolvency & Bankruptcy Code, 2016 in the month of November, 2020

- **09.11.2020**

Defaulting LLPs can avail the benefits under LLP Settlement Scheme, 2020 with respect to belated documents due for filing till 30/11/2020

Through this circular, Defaulting LLPs which haven't filed returns that are due to be filed by 30/11/2020 (as against original cut off date of 31/08/2020) can avail the benefits under LLP Settlement Scheme 2020, which will be in force till 31/12/2020.

- **13.11.2020**

SEBI issues Standard Operating Procedure with respect to imposition of fine and initiation of action in case of non-compliance of continuous disclosures by issuers of listed Non-Convertible Debt Securities (NCDS) and/ or Non-Convertible Redeemable Preference Shares (NCRPS) and/ or Commercial Papers (CP)

To align the SOP for imposition of fine and initiation of action in case of non-compliance of continuous disclosures by issuers of NCDS, NCPRS, and CPs with that of the listed securities, SEBI has laid down the fine to be levied by the Stock Exchange for violation of various regulations as listed in the Circular.

Further, Stock Exchanges in which the said securities are listed, in case of violation of any prescribed regulation, shall send notice within 30 days from the due date and the fine shall be paid by the Entity within 15 days from the receipt of such notice, failing which the fine shall be paid within 10 days of the reminder notice. On failure to pay the fine even after the reminder, the entity shall be barred from issuance of any securities and further listing of the said securities, till such time the remits the fine.

The Stock Exchange shall disclose on their website the action(s) taken against the entities for non-compliance(s); including the details of the respective requirement, amount of fine levied/ action taken etc.

The circular shall come into effect for compliance period ending on or after December 31, 2020.

IBBI (Liquidation Process) Regulations, 2016

Through this amendment-

1. a creditor can now assign or transfer the debt due to him or it to any other person during the liquidation process, and provide to the liquidator the terms of such assignment or transfer and the identity of the assignee or transferee and the liquidator shall accordingly update the list of stakeholders.

2. a liquidator may assign or transfer a not readily realisable asset through a transparent process, in consultation with the stakeholders' consultation committee in accordance with regulation 31A, for a consideration to any person, who is eligible to submit a resolution plan for insolvency resolution of the corporate debtor.

IBBI (Information Utilities) Regulations, 2017

Through this amendment, an information utility shall disseminate every public announcement it receives or has access to, on the date of its receipt or access, as the case may be, to its registered users, who are creditors of the corporate debtor undergoing insolvency proceeding under the Code.

IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

Key amendments under this notification are as follows:

1. To initiate a CIRP, the financial creditor shall submit a record/evidence of default, which could be-

a. certified copy of entries in the relevant account in the bankers' book as defined in clause (3) of section 2 of the Bankers' Books Evidence Act, 1891 (18 of 1891);

b. an order of a court or tribunal that has adjudicated upon the non-payment of a debt, where the period of appeal against such order has expired.

2. The list of creditors, post verification of their claims, shall be submitted to the Board by the IRP or RP, and the Board shall publish the same on its website.

3. RP shall intimate each claimant on the schedule of payment of debts as approved by the Adjudicating Authority as part of the resolution plan, within 15 days of the approval order.

IBBI notifies list of mistakes committed by Resolution Professionals in order to sensitise them about these avoidable mistakes

Here are few mistakes committed by IPs, which have been listed out by the IBBI to enable resolution professionals from committing the same in the future, thereby pre-empting the IBBI/IPA to initiate any disciplinary action.

a. Assignment without having Authorisation, where IPs undertook CIRP without having an authorisation for assignment (AFA) and in some cases, without even applying for an AFA, in contravention of the provisions of law.

b. The fee payable to an IP was not fixed beforehand, as required by the law and the IP drew a fee on his own without approval of such fee from the competent authority.

c. IRP did not make public announcement promptly on his appointment, or made it later, or made it in one newspaper, or made it in one English newspaper having circulation at the location of the Corporate Debtor.

The details of other commonly committed mistakes are detailed in the notification.

- **23.11.2020**

Summary of Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2020 issued by IBBI on November 23, 2020

- These Guidelines shall come into effect for appointments as Interim Resolution Professionals (IRP), Liquidator, Resolution Professionals (RP) and Bankruptcy Trustee (BT) with effect from January 1, 2021 in supersession of the earlier Guidelines issued on June 2, 2020.
- It seeks to cut down the time taken by IBBI (Board) for the process of appointment of IRP, RP, Liquidators and BTs under various sections and rules of the IBC 2016 by having a ready Panel of IPs recommended by the Board. The Adjudicating Authority (AA) need only to pick up any name from the Panel for appointment while issuing the Order itself.
- This Panel will have validity of six months and a new Panel will replace the earlier Panel every six months.

1. **Conditions for Inclusion of IPs in the Panel :** no persons who are to be part of the panel can have disciplinary proceeding pending against them or been convicted at any time in the last three years. They must also expresses interest to be included and hold a valid Authorisation for Assignment (AFA).

2. **Ongoing Assignments -** The eligible IPs will be included in the Panel in the order of the volume of ongoing processes they have in hand. The IP who has the lowest volume of ongoing processes will get a score of 100 and will be at the top of the Panel. Those with the highest volume will score a 0 and will be at the bottom of the Panel.

3. **Obligations of the IP -** IPs in the Panel cannot withdraw their interest, decline to act as IRP, Liquidator, RP or BT or surrender their registration to the Board.

4. An IP will be included in the Panel against the Zone where his registered office is located.

It is to be noted that the AA may still require the Board to recommend an IP from or outside the Panel in some cases.

- **27.11.2020**

IBBI Circular on Filing of list of creditors under clause (ca) of sub-regulation (2) of regulation 13 of the IBBI

(Insolvency Resolution Process for Corporate Persons) Regulations, 2016

IBBI launches electronic platform to file the list of creditors by the Resolution Professionals as required under CIRP Regulations, 2016 Further to the notification issued by IBBI on 13/11/2020, requiring the Interim Resolution Professional (IRP) or the Resolution Professional (RP) to file the list of creditors, post verification of their claims, with the Board for it to display the same in its website, the Board has now enabled the e-platform for the IRP/RP to upload the same and the format for of list of creditors for the purpose of filing has been prescribed in the circular.

- **27.11.2020**

Designation of Special Court for the State of Maharashtra, West Bengal and Tamil Nadu in connection to trials under Companies Act,2013, in respect of cases filed by SEBI

The Central Government has notified the special courts, as mentioned in the said notification, for the state of Maharashtra, West Bengal, and Tamil Nadu to ensure speedy disposal of trials of offences is punishable under the Companies Act, 2013, in respect of cases filed by the Securities Exchange Board of India (SEBI).

What's New in BLISS?

BLISS, BLISSPLUS and BLISSLISTED:

1. **Auto-Calculations in Financial Information page:** In order to enable ease of updating the Financial Information page, we have enabled auto-calculations of figures entered under "Capital Structure" section. This feature will **eliminate clerical errors and makes BLISS more user friendly**.
2. **Presentation file size uploaded in BLISS increased to 25 mb:** On customer requirement, the size limit for the presentations uploaded with every meeting Agenda is increased from 10 mb to 25 mb. This **saves the time** required for compressing of presentation files and ensure the quality of files is maintained.
3. **User Login Audit & Account Lock:** In order to increase the access security, BLISS now indicates the last login time for every user, so that if they suspect any suspicious login from their id, it be appropriately handled by changing the password. Also if any intruder tries to login and enters incorrect password for Five continuous attempts then their access will be disabled for the next 24 hours. The User can unlock their account anytime before the lapse of 24 hours by resetting the password. This feature makes BLISS **more secure and reliable**.
4. **Define the approval time for Circular resolutions:** BLISS now allows the users to indicate under the Notes of the Circular Resolution Doc the time within which Directors need to approve the Circular resolution without requiring the users to change it in the file or email. This feature makes BLISS **comprehensive and user friendly**.

BLISSPLUS and BLISSLISTED:

1. **Word import feature in Circular Resolutions:** To promote ease of use and enhance productivity, BLISS now provides for import of its downloaded and edited MS Word file templates not just in Agenda and Minutes but also in Circular Resolutions. This feature will help the secretarial team to update BLISS with the final version of the Circular Resolution file once the content is approved for circulation. This would also allow to utilize Word's advanced editing features. This feature **eliminates the effort** of secretarial team in modifying the Circular Resolution content in the software.

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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