

Editorial

"*Empowering tomorrow, together: Building wealth with ownership*."

In the talented world, investing in human capital and retaining them is a challenging task for the organizations. As a response to this, the concept of '**Employee Stock Ownership Plan'** has emerged. This is a strategy for organizations and employees to grow together, both personally and professionally.

In this backdrop, our team has written a comprehensive article on Employee Stock Ownership Plan, giving insights on the regulatory reference under Companies Act, 2013 and SEBI regulations which we hope you will find informative and relevant.

We have also included couple of interesting sections in the newsletter such as engaging quizzes and brain teasers.

Our other regular features comprising of gist of changes in the Companies Act, 2013, SEBI's LODR, 2015 and IB Code, 2016, latest enhancements to our software and Statutory Compliance Calendar for the month of September 2023 are also included in this Issue.

Please share your feedback on this newsletter with us at contact@cimplyfive.com, we eagerly look forward to it.

Happy reading,
Team CimplyFive
September 05, 2023

What's more in this month's issue.

- ***What is Hot in Company Law?***
- ***Article for the Month***
- ***BLISS Tips for the Month***
- ***BLISS Feature Update***
- ***Test your Grey Matter!***
- ***Compliance Calendar***
- ***Regulatory Changes in the Month***

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, SEBI (LODR) and IB code. Our site has crossed **31 million page-views** as on date and attracts over 6,000 users accessing around 25,000 pages a day. List of the most viewed sections in the Companies Act, LODR and IB Code in the month of August 2023 here is based on visitors to our site.

For the Month of August 2023
Companies Act, 2013 Top 5 Chartbusters

Rank in July	Change in Rank	Rank in August	Section reference	Section title
N	↑	**1**	134	Financial statement, Board's report, etc
2	↔	**2**	179	Powers of Board
3	↔	**3**	188	Related party transactions
N	↑	**4**	135	Corporate Social Responsibility
1	↓	**5**	62	Further issue of Share Capital

Section 177 and 186 has been replaced with section 134 and 135 in top 5 Rankings.

LODR Top 5 Chartbuster Regulations

Rank in July	Change in Rank	Rank in August	Regulation reference	Regulation Title
1	↔	**1**	30	Disclosure of Events or Information
3	↑	**2**	34	Annual Report
2	↓	**3**	17	Board of Directors
4	↔	**4**	23	Related Party Transactions
N	↑	**5**	2	Definitions

Regulation 15 has replaced with Regulation 29 in top 5 rankings.

IB Code Top 5 Chartbusters

Rank in July	Change in Rank	Rank in August	Section reference	Section title
1	↔	**1**	59	Voluntary liquidation of corporate persons
2	↔	**2**	5	Definitions
N	↑	**3**	3	Definitions
4	↔	**4**	30	Submission of resolution plan.
N	↓	**5**	7	Initiation of corporate insolvency resolution process by financial creditor.

Section 29 and 53 have been replaced with Section3 and 7 in the top 5 Ranking.

Article of the Month:

'Employee Stock Ownership Plan (ESOP)'

Introduction:

Empowering tomorrow, together: Building wealth with ownership!

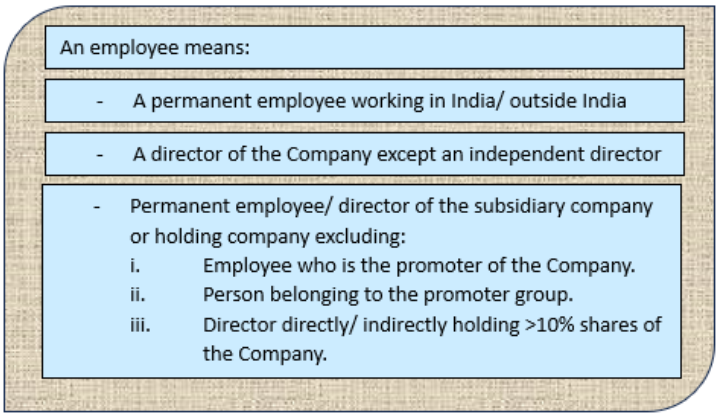
ESOP (Employee Stock Ownership Plan) refers to a benefit plan offered to employees of an organization wherein they are granted an option to purchase the shares of the company at a pre-decided price at a future date, upon completion of certain vesting conditions. It is a modern retention technique that motivates the employees to perform better and get growth in the shareholders' value.

From a regulatory perspective, Employee Stock Options are governed by the Companies Act, 2013 and Companies (Share Capital and Debenture) Rules, 2014 for unlisted companies and Securities and Exchange Board of India (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 for listed companies.

Regulatory Reference:

As per section 2(37) of the Companies Act, 2013, Employees' Stock Option means "*the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price.*"

As per rule 12 of the Companies (Share Capital and Debentures) Rules, 2014, for the purpose of issue of Employees' Stock Options,



The issue of Employee Stock Options is required to be approved by shareholders by way of a **Special Resolution.**

In addition to this, there are other requirements to be fulfilled by the Company for issue of Employee Stock Options. Some of the key requirements are as follows:

1. The explanatory statement annexed to the general meeting notice to contain the particulars as required under Rule 12 of Companies (Share Capital and Debenture) Rules, 2014 which include but are not limited to the following:
   a. Total number of options to be granted.
   b. Classes and eligibility of employees entitled to participate in the Scheme.
   c. Requirements of vesting, period of vesting and maximum period for which the option shall be vested.
   d. Exercise price, process of exercise and exercise period.
   e. Lock-in period, if any.
   f. Conditions for lapse of options vested in employees.

2. Companies granting the option have the freedom to determine the exercise price in conformity with the applicable accounting policies.

3. Variation of terms of the Employee Stock Option Scheme not yet exercised by employees

shall be done by way of passing a special resolution, provided that such variation is not prejudicial to the interests of the options holders.

4. The minimum gap between the grant of options and vesting of the same shall be one year.

5. The benefits associated with the option shall be enjoyed by the employees only after shares are issued on the exercise of option.

6. The options granted to employee shall not be transferred, pledged, hypothecated, mortgaged, encumbered or alienated in any manner.

7. Only the employee to whom the option is granted shall be entitled to exercise the option.

8. The details of the Employee Stock Option Scheme shall be mentioned in the Directors' Report for the year.

Register of Employees Stock Options:

- Companies are required to maintain a Register of Employee Stock Options in **Form SH-6**.

- The Register shall be maintained at the registered office of the Company or at any other place as the Board may approve.

- The entries in the Register shall be authenticated by the Company Secretary of the Company or any other person authorized by the Board of Directors in this regard.

In addition to the above-mentioned requirements, listed companies are required to adhere to the provisions of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021. The regulations provide for issue of the following schemes:

i. Employee Stock Option Schemes.
ii. Employee stock purchase Schemes.
iii. Stock Appreciation Rights Schemes.
iv. General Employee Benefits Schemes.
v. Retirement Benefit Schemes; and
vi. Sweat Equity Shares.

As per these regulations, the listed company may implement a scheme either directly or through setting up an irrevocable trust. If the scheme is implemented through a trust, the same must be decided upfront at the time of taking approval of the shareholders. The eligibility criteria for the employees to participate in this scheme shall be determined by the Compensation Committee of the Company which shall be constituted for administration and superintendence of the schemes. However, if the scheme is being implemented through a trust, the compensation committee shall delegate the administration of the scheme to the trust. Listed companies are required to adhere to certain additional guidelines w.r.t. issue of schemes, some of which are as follows:

1. In case of change of mode of implementation of trust, fresh approval of shareholders by way of special resolution is required to be obtained and such change shall not be prejudicial to the interests of the employees.

2. If the scheme involves secondary acquisition or gift, it is mandatory for the scheme to be implemented through a trust.

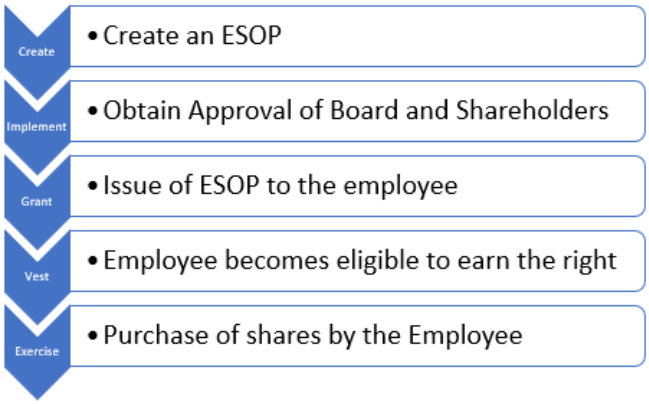
3. The trust is required to maintain proper books of accounts, records and documents for each scheme.

4. Any person except the following, can be a trustee of the trust:
    a. A director/ KMP/ promoter of the company or its group company.
    b. Person holding ten percent or more of the paid-up share capital or the voting rights of the Company.

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5. At each Annual General Meeting of the Company, the Board of Directors of the Company shall place before the shareholders a certificate from the secretarial auditors of the company stating that the scheme has been implemented in accordance with the regulations.

STEPS FOR ISSUE OF ESOP:



Understanding the benefits of ESOP with the Infosys ESOP Scheme

Infosys, the multinational IT company has issued options worth Rs. 50,000 crores to its employees since its incorporation. Beginning with the 1994 Employee Stock Option Scheme, the Company further launched the 1998 ADR scheme and 1999 scheme which collectively gave stocks to over 18,000 employees. As mentioned by the Company in its annual report for the year 2010-11, 'Drivers, office assistants, secretaries, got stock along with others and became millionaires.'. The Infosys ESOP scheme became the most successful scheme in India and set a benchmark for other companies. It helped the professionals realize that they can become wealthy by ethical means in their careers. This revolutionized the ESOP system in India. This way, companies are using the path of ESOP to provide opportunities for wealth creation without making any upfront investment thereby motivating the employees of all designations to contribute to the organization effectively.

Why offer ESOPs to employees?

Organizations use ESOPs as a retention strategy with an aim to attract and retain talent thereby reducing the churn in employment. It provides the employees with an ownership stake in the organization. It motivates employees to contribute to the organization as their efforts are converted into financial and ownership rewards. Once the options are exercised, the employees are entitled to enjoy the benefits attached to the shares such as dividend, and ownership stake.

ESOPs are a medium for the organization to boost employee morale and productivity, which increases employee retention. From the viewpoint of employees, ESOPs are beneficial as the employees are offered the shares at a nominal rate which can be later sold at a higher price to earn gains. This way, ESOPs have two-way benefit i.e., both for the employer and the employee. To conclude, "ESOP is an investment in human assets for an organization".

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BLISS Feature Update!

BLISSLISTED, BLISSPLUS and BLISS**: -**

1. **Generate Login Link –** In order to ease the login process, we have now enabled an option to generate the link from the Login page by providing just the registered email ID only. Keeping in view the safety reasons the link will work only once. *This will help in easy login for users without requiring them to enter password and OTP.*
2. **Autofill of master details –** Going forward all the master details as per MCA and Registers like charges and director registers will be prefilled automatically to the extent the data is publicly available. *This helps the users by providing the draft registers readily available without having to update all the registers from scratch.*
3. **Provision to send draft minutes-** On customer requirement, we have now enabled the users to circulate the draft minutes and capture the draft versions intact for future references. *This feature*

makes the meeting module of the software more comprehensive for end-users.

4. **Finalize Registers at once –** In order to make the Register finalizing process easy, we have now enabled the users to select all or any of the specific register entry and finalise the same from the Register page. *This feature helps in maintaining the registers and finalize the same when required by the users.*
5. **Alerts on access validity & access period –** On customer requirement, the users from secretarial department i.e., admin, editor & drafter will now get an alert on the expiry of Access period and Access validity of the director, invitee and customised viewer ids while they are saving any agenda. *This will help the Secretarial Team to extend the access period and validity date accordingly and avoid last minute confusion during the meetings.*
6. **User level restriction on sending mails** – The Admin can now enable or disable a user with Editor and Drafter role from sending mails from the software. *This feature helps to prevent any unauthorized mails from unauthorized users.*

BLISSGLOBAL -

1. **Enhanced dashboard view for Editor and Drafter users –** On customer requirement, we have now enhanced our dashboard screen to display the document and action tracker details of only those sections which are assigned to the specific user either as approver or responder. The same will also reflect in the Pending Action List that can be downloaded from dashboard page. *This enables the user to view only those sections which they are part of and does not clutter their view with actions and records that are not relevant to their section/law.*
2. **MIS Report download –** On customer requirement, we have now enabled MIS Report download of completed actions and uploaded records for a specific period with also an option to download the required details for one or multiple companies in the user's portfolio. *This feature makes monitoring the action trackers and records details possible with a comprehensive MIS Report.*

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BLISS Tips for the Month

BLISS Tips #273: BLISS enables Directors & Committee Members to cast their vote on Circular Resolutions via email.

BLISS enables user to email Circular Resolution for directors' voting. It enables the Directors and Committee Members to receive the proposed Circular Resolutions in their email along with provision to cast their vote with a single click. The Directors/ Committee members –

- Receive the proposed Circular Resolution along with necessary attachments in their email.
- Can cast their vote For/Against/ Abstain on the Circular Resolution directly from their email ID.
- Have an option to share their comments, if any w.r.t. the Circular Resolution in the comment section available in the mail.(Read More...)

BLISS Tips #274: With BLISS, create Meeting and Circular Resolution documents using user-defined templates.

In order to enable users to create meeting documents in the Company specific format, BLISS provides for customized templates for Meeting and Circular Resolution documents. Templates can be created for Agendas, Notices including Shorter Notice, Minutes, Certified True Copies of Resolutions, Circular Resolution Extracts for Board and various types of Sub-committees.

Users can create their own template or modify the existing sample templates by using the standard tokens from the dictionary available in BLISS, thereby being able to view/download documents in the desired format.

Click here to know how to use templates for meeting documents.

Click here to know how to edit/ delete templates for meeting documents.

Test your Gray Matter!! Take our Quiz and Brain teasers to find out!

1. **What is the maximum percentage of foreign equity allowed in the banking private sector under FEMA regulations?**
   a. 26%
   b. 49%
   c. 74%
   d. 100%

2. **Which of the following is not a permissible capital account transaction under FEMA?**
   a. Foreign Direct Investment (FDI)
   b. Portfolio Investment
   c. Purchase of foreign exchange for travel
   d. External commercial borrowing

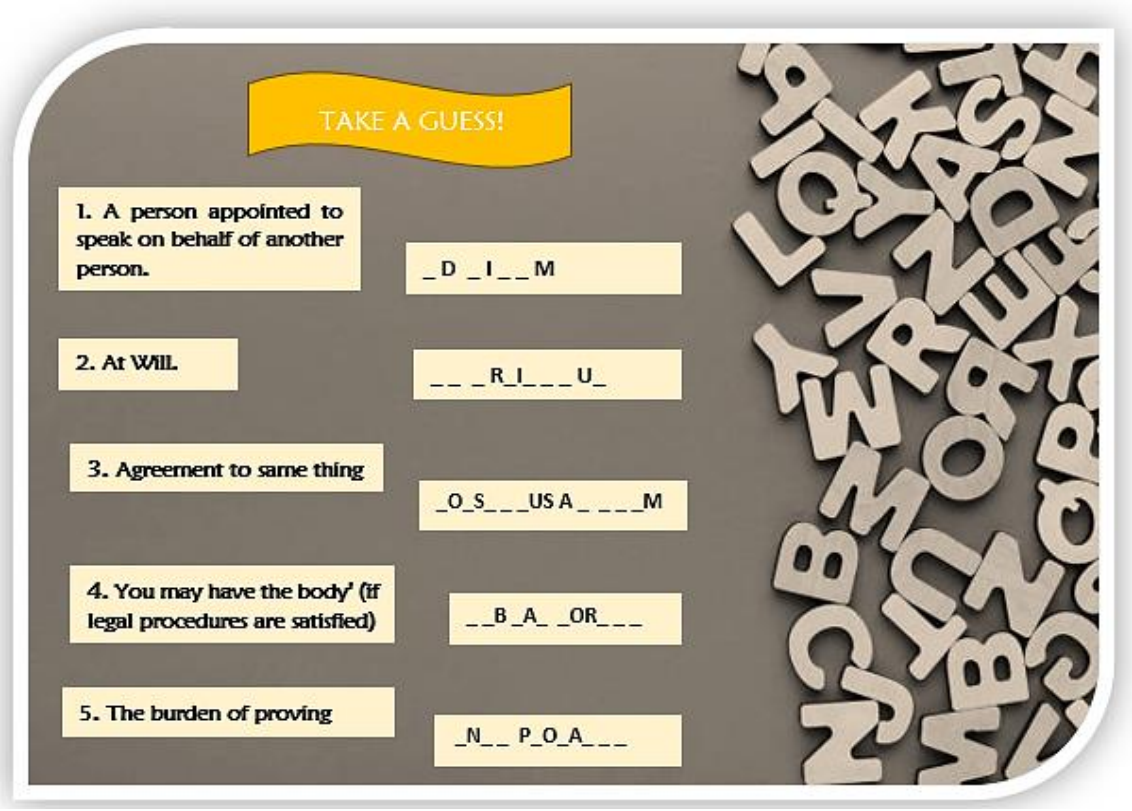
3. **Who appointed as the Adjudicating Authority for hearing cases related to contraventions under FEMA?**
   a. District Magistrate
   b. Chief Justice of India
   c. Reserve Bank of India Governor
   d. Director of Enforcement

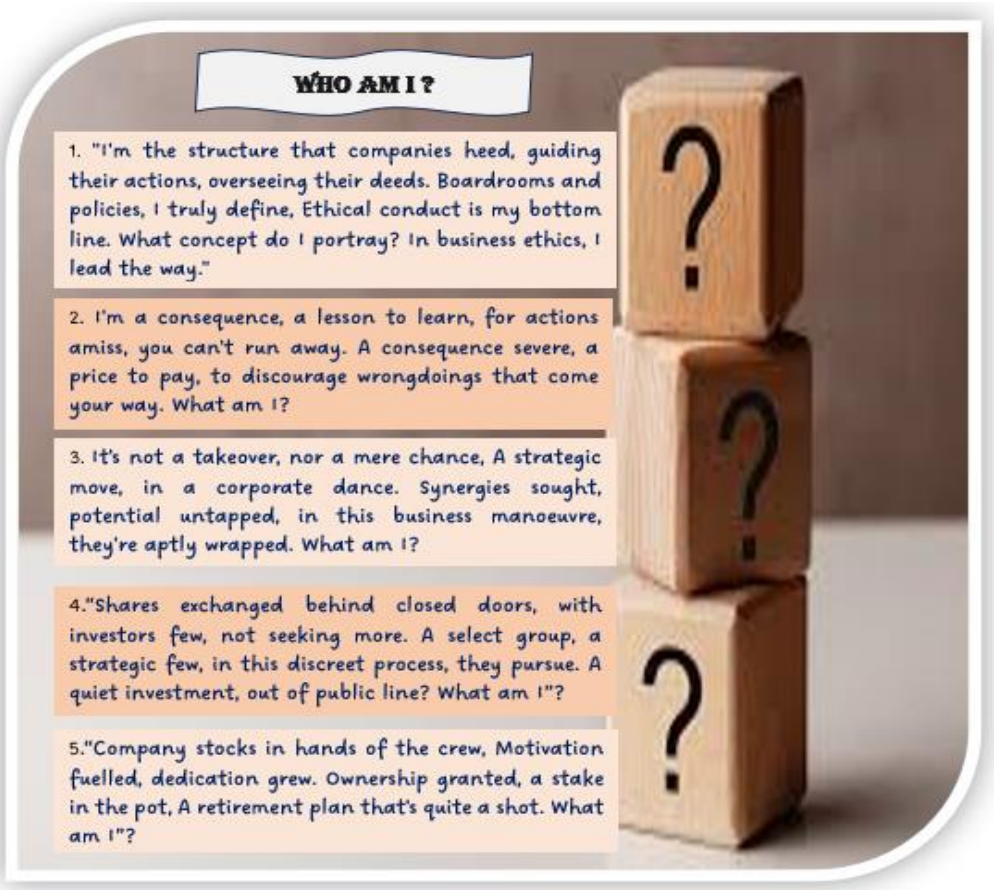
4. **Upto what amount any resident individual may remit as gift to a person residing outside India without RBI's approval?**
   a. USD 1,00,000
   b. USD 2,00,000
   c. USD 2,50,000
   d. USD 1,50,000

5. **In Which Form, all borrowers must report all ECB transactions to the RBI through an AD Category – I Bank every month?**
   a. ECB-1 Return
   b. ECB-2 Return
   d. ECB-5 Return
   e. ECB-6 Return

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Brain Teasers





Board Leaders Integrated Software Solutions



BLISSPLUS

BLISS LISTED

BLISSGLOBAL

BLISSDOCS

CIMPLYBEST

BLISSTAT

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

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

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, 2016 and LODR, 2015. The site and app is updated every business day by 11 AM for changes in the Act & Regulations. For more details, please visit www.ca2013.com

Compliance Calendar for the month of September 2023

Compliances for Companies under Companies Act, 2013			
Sl. No.	**Compliance Requirement**	**Section/ Rules**	**Due Date**
1.	DIR-3 KYC- KYC of Directors	Rule 12A Companies (Appointment and Qualification of Directors) Rules, 2014	On or before 30th September every year.
SEBI (LODR) Regulations, 2015 Compliances			
Sl. No.	**Compliance requirement**	**Regulation reference**	**Timeline**
1	Regulation 32(1) - Statement of deviation(s) or variation(s).	32(1)	Within 45 days from the end of the quarter/
2	Regulation 33(3)(a) - Financial Results along with Limited review report/Auditor's report	33(3)(a)	Within 45 days from the end of the quarter
SEBI (PIT) Regulations, 2015			
Sl. No.	**Compliance requirement**	**Regulation reference**	**Timeline**
1	Continual Disclosures by Every promoter, and director of every company shall disclose to the company number of securities acquired or disposed, if the value of the securities traded, in a calendar quarter, exceeds traded value in excess of 10 Lac	7(2)	Within two trading days of receipt of the disclosure or from becoming aware of such information
2	SDD Compliance Certificate or a Practicing Company Secretary (PCS).	15(2)	21 days from end of each quarter
SEBI (SAST) Regulations, 2011			
Sl. No.	**Compliance requirement**	**Regulation reference**	**Timeline**
1.	Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to 5% or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company.	29(1)	Within 2 Working days of receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company
2.	Any acquirer, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a	29(2)	within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or

	target company, shall disclose every acquisition or disposal of shares of such target company representing two per cent or more of the shares or voting rights in such target company.		voting rights in the target company
3.	The Promoter shall disclose details of shares in such target company encumbered by him or by PAC's with him in such form as may be specified.	31(1)	Within 7 working days from the creation of encumbrance
4.	A Promoter shall disclose details of invocation of such encumbrance or release of such encumbrance of shares in such form as may be specified.	31(2)	Within 7 working days from the invocation or release of encumbrance as the case may be

Gist of regulatory changes in Companies Act, 2013, SEBI (LODR), 2015 and Insolvency & Bankruptcy Code, 2016 in the month of August 2023

- **02-08-2023**

MCA notifies revised Form RD-1

With a view to increase transparency for filing application to the Central government for matters in the existing form such as Rectification of Name/ Conversion of a Public company into Private / Change in Financial Year, MCA has revised the existing form RD-1 w.e.f. 02/08/2023 which now also includes the filing of notice of approval of the scheme of merger in CAA-11.

The above form has been made more comprehensive by including the details highlighted below:

1. Mode of the Board Resolution and the number of votes casted in favour & against.
2. Date of Publication of advertisement in English/Vernacular Newspaper.
3. Particulars of Creditors and Debenture holders.
4. Details of any previous application made within last five years for change in financial Year and outcome thereof.
5. Details of any conversion made within last five years and outcome thereof.
6. Details of transferor Company.
7. Declaration by the authorized signatory under Rule 41 of the Companies (Incorporation) Rules, 2014.

- **23-08-2023**

SEBI Notifies Framework for Voluntary delisting of non-convertible debt securities and non-convertible Redeemable preference shares and the obligations therein.

SEBI has inserted Regulation 64A to 64I in Chapter VIA relating to detailed framework for the Voluntary delisting of the non-convertible debt securities and non-convertible redeemable preference shares.

The key highlights from the notification are:

1. **Applicability**

   - To voluntary delisting of all listed non-convertible debt securities or non-convertible redeemable preference shares from all the stock exchanges where such securities are listed except in the cases highlighted in the notification.

   - Where the delisting is pursuant to a resolution plan as per the provisions of the Insolvency Code, the details of delisting shall be disclosed to the stock exchanges **within one working day** of the approval of the resolution plan.

   - The provisions of the Regulation 59 of the SEBI(LODR) Regulations, 2015 shall not be applicable on the Voluntary delisting of the applicable securities under this chapter.

2. An application to the stock exchange for seeking in-principal approval for the proposed delisting of the above-mentioned securities, shall be made **not later than fifteen working days** from the date of passing of the board resolution to that effect or of receipt of any other regulatory approval, whichever is later. The same shall be disposed of by the relevant stock exchange within a period **not exceeding fifteen working days** from receipt of such application.

3. The process of obtaining necessary approval from all holders of securities shall be commenced **within three working days** of the grant of in-principal approval and all the events in respect of proposal of delisting of such securities, shall be disclosed as material information to the stock exchanges as soon as reasonably possible **but not later than 24 hours** from such event.

4. Disclosure of the following information to the stock exchanges within two working days of receipt of in-principal approval from the stock exchange:

- The names of the stock exchanges from which the above-mentioned securities are sought to be delisted together with the details of all such securities.
- The cut-off date specified for determining the list of holders of such securities.
- The objects and reasons for the delisting.
- The proposed timetable from the cut-off date till the date of making final application to the stock exchanges for delisting.
- A disclaimer specifying that once the securities are delisted, they shall cease to be under the purview of the Act, rules and regulations prescribed thereunder and the holders of such securities shall not have any recourse to the investor grievance mechanism for any reason.
- A statement by the board of directors confirming that all material information has been disclosed to the stock exchange.
- An undertaking that the issuer has not paid or shall not pay any incentive to any investor, directly or indirectly, in connection with delisting.
- Disclosure of the above securities held by the related parties or by any person on behalf of the issuer or its related parties and an undertaking that such persons shall not vote on the proposal.
- Additionally, an undertaking that the issuer has not entered or shall not enter into any arrangement with any investor, or the persons referred above, by way of side letters or otherwise which leads to the discrimination amongst the investors.
- A statement by the board of directors certifying that the entity is in compliance with the applicable provisions of securities laws and that the delisting, in their opinion is in the interest of the holders of such securities.
- Name and contact details of the compliance officer of the entity.

5. Send the notice of delisting to the holders of such securities, containing all the disclosures as specified in the Notification not later than three working days from the date of receipt of in-principle approval. The notice of delisting shall also contain the provision of e-voting for the holders and a copy of the same shall also be made available on the website of the entity.

6. Obtain approval from all such security holders within **fifteen working days** from the date of the notice of delisting and NOC from the debenture trustee in case of the delisting of non-convertible securities.

7. The delisting proposal shall be deemed to have failed in case of non-receipt of in-principle approval from any of the stock exchanges; or non-receipt of requisite approval from the holders of such securities or non-receipt of NOC from the debenture trustee in case of proposal for delisting of non-convertible debt securities.

   In such cases, the entity shall intimate the same to the Stock exchange within **one working day** from the date of event of failure of delisting proposal.

8. A final application shall be made to the stock exchange by the entity within **five working days** from the date of obtaining requisite approval from the holders of the said securities which shall be disposed of by the stock exchange **within fifteen working days** of the receipt, following which, the securities shall be delisted from the Stock Exchange.

9. The entity may choose to delist such securities or shares from all the stock exchanges where it is listed except one such stock exchange having nationwide trading terminal, in such cases the provisions of Reg 64 B to Reg 64 G shall not be applicable and the entity shall:

- Obtain prior approval of the Board of directors.
- Make an application to the stock exchange for delisting.
- Disclose the fact of the delisting from the stock exchange, the reasons thereof and the continuation of listing of such securities on the stock exchange having nationwide terminals, on its website.
- Obtain NOC from the Debenture Trustee in case of proposed delisting of non-convertible debt securities.

Solution for Quiz:

Q1. C	Q2. c	Q3. d	Q4. c	Q5. b

Solution for Take a Guess:

1.	AD LITEM
2.	AD ARBITRIUM
3.	CONSENSUS AD IDEM
4.	HABEAS CORPUS
5.	ONUS PROBANDI

Solution for Who am I ? :

1.	Corporate Governance
2.	Penalty
3.	Merger
4.	Private Placement
5.	ESOP (Employee Stock Ownership Plan)

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



Say hello to

BLISS

Board Leaders Integrated Software Solution

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E - Repository for All Secretarial Records

Risk Management Dashboard & Email Alerts

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