

Editorial

With the introduction of the concept of Corporate Governance and the rising need to ensure fair and ethical practices by a business, Vigil Mechanism and Whistleblowers have gained prominence. Whistleblower, being a person who reports matters of concerns within an organization requires protection from retaliation. For this, a Vigil Mechanism is required to be established by the companies who meet the threshold in order to provide safeguards against victimization. In this backdrop, this newsletter contains an article on Vigil Mechanism and Whistle Blower, wherein we have broken down the concept to understand its meaning, objective and the regulatory applicability and requirements.

We have also included exciting 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 and Statutory Compliance Calendar for the month of November 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
November 06, 2023

What's more in this month's issue.

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

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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 **33 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 October 2023 here is based on visitors to our site.

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

Rank in September	Change in Rank	Rank in October	Section reference	Section title
2	↑	1	188	Related party transactions
1	↓	2	134	Financial statement, Board's report, etc
3	↔	3	135	Corporate Social Responsibility
N	↑	4	139	Appointment of Auditors
5	↔	5	186	Loan and investment by company

Section 179 has been replaced with section 139 in top 5 Rankings.

LODR Top 5 Chartbuster Regulations

Rank in September	Change in Rank	Rank in October	Regulation reference	Regulation Title
1	↔	1	30	Disclosure of Events or Information
2	↔	2	17	Board of Directors
3	↔	3	23	Related Party Transactions
N	↑	4	28	In principle approval of recognized stock exchange(s)
N	↑	5	33	Financial Results

Regulations 44 and 34 have replaced with Regulation 28 and 33 in top 5 rankings.

IB Code Top 5 Chartbusters

Rank in September	Change in Rank	Rank in October	Section reference	Section title
3	↑	1	59	Definitions Voluntary liquidation of corporate persons
1	↓	2	5	Definitions
2	↓	3	3	Definitions
N	↑	4	33	Intimation of liquidation
N	↑	5	53	Distribution of assets

Section 7 and 60 have been replaced with Section 33 and 53 in the top 5 Ranking.

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Article of the Month:

'Vigil Mechanism and Whistle Blower'

Introduction:

The Companies Act, 2013 provides for establishment of vigil mechanism for directors and employees to report genuine concerns. With an aim to recognize the rights of the stakeholders and encourage co-operation between the listed entity and its stakeholders, Regulation 4(2)(d)(iv) and Regulation 22 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 additionally provide formulation of a Whistle Blower Policy enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices. The intent of formulating a Whistle Blower Policy is to ensure that the business affairs are being conducted in a fair and transparent manner and that the Company promotes professionalism, integrity, and ethical practices.

Understanding the term "Whistleblower"

The term whistleblower dates back to the 1970s wherein it was used for the law enforcement officials who used to blow a whistle to alert the public or fellow police. It was also used for sports referees who used a whistle to indicate an illegal/ foul play during the game. The usage of the term began in the literal sense of a 'Person who blows the whistle'. However, as time passed by, the term started being used metaphorically where it referred to a person calling out a wrongdoing or drawing attention to an illegal activity. Similarly, the Companies Act, 2013 and the SEBI (LODR) Regulations, 2013 adopted this term for a person who reports a genuine concern/ matter to the Company with an aim to draw attention to a wrongdoing within the Company.

Regulatory Requirements

1. **Applicability:**
   Section 177 of the Companies Act, 2013 read with the Rule 7 of the Companies (Meeting of Board and its Powers) Rules, 2014 mandates every listed company, companies that accept deposits from public, and companies that have borrowed money from banks and public financial institutions in excess of fifty crore rupees to establish a vigil mechanism.

2. **Responsibility:**
   The Audit Committee of the Company (If constituted) shall oversee the vigil mechanism of the Company. In case, any members of the committee have a conflict of interest in any given case, they should recuse themselves from the case and the others on the committee would be required to deal with the matter on hand. Further, in case of Companies that are not required to constitute an Audit Committee, a director shall be nominated to be play the role of the Audit Committee to whom the directors and employees report their genuine concerns.

3. **Duties of the Company w.r.t. vigil mechanism:**
   The vigil mechanism shall provide for adequate safeguards against victimization of the directors and employees who avail the benefit of the mechanism. Further, direct access to the chairperson of the Audit Committee or the director playing the role of the Audit Committee shall be provided, in exceptional circumstances. The details of establishment of the vigil mechanism shall be disclosed by the Company on its website (If any) and in its Board's Report.

4. **Consequences of frivolous complaints:**
   In case of repeated frivolous complaints being filed by any director or employee, the Audit Committee or the director nominated to play the role of the Audit Committee for the purpose of Vigil Mechanism may take suitable action against the director or employee and such action shall include reprimand.

What constitutes genuine concerns?

Vigil Mechanism is required to be established to enable the stakeholders to make disclosures with respect to any unethical or improper practice. Although the Act does not specifically provide for the activities covered under the ambit of 'genuine concerns' that could be reported, following is an illustrative list of concerns/ practices that can be reported under the Vigil Mechanism:

a. Abuse of authority by a Director
b. Manipulation of Company data/ records
c. Financial irregularities including fraud/ suspected fraud
d. Leak of Unpublished price sensitive information
e. Disclosure of confidential information without authorization
f. Misappropriation of company's funds
g. Adoption of Illegal practices for the business operations
h. Breach of data privacy

The Whistle Blower Policy:

As required under the SEBI (LODR) Regulations, 2015, the Company shall formulate a Whistle blower Policy which provides for a framework for establishment of vigil mechanism and reporting genuine concerns. The Whistle Blower Policy may provide for the following, including but not limited to:

1. **Terms and its definitions:**
   The policy may provide for the exact definition of the terms used across the policy or may provide references to the relevant acts/ rules/ regulations for ease of reference.

2. **Scope and Objective of the Policy:**
   The scope shall mention the stakeholders to whom the policy shall be applicable and the matters to be included within the ambit of the policy. The stakeholders may include Employees (Directors, interns, probationers), investors, business associates, service providers, vendors, stakeholders of subsidiary companies, etc. The purpose of the policy shall be to provide a safe environment for the whistleblowers and promote reporting of concerns thereby ensuring highest ethical standards in the Company.

3. **Exclusions:**
   The policy shall clarify on the matters that shall not be included in the ambit of disclosures under the Whistle Blower Policy. Such matters may include personal grievances, company policies, sexual harassment, grievances related to employees' own careers or careers of other employees, dissatisfaction with appraisals.

4. **Manner of reporting a Complaint:**
   The Company may provide for a helpline number or an email address to which the whistleblower may report a reportable matter. For reporting in exceptional circumstances, the email address of the Chairperson of the Audit Committee may also be provided. The report shall contain as much information about the suspected violation as one can provide.

5. **Prevention of Retaliation:**
   As required by the applicable laws and regulations, the policy shall clearly state that no person shall take any adverse action against any person complaining/ reporting about a concern or assisting in the investigation of a suspected violation. Appropriate disciplinary action shall be taken against anyone responsible for retaliation. Retaliation shall include discrimination, reprisal, harassment, or vengeance of any manner.

6. **Protection of identity of the Whistleblower:**
   The policy shall provide for the maintaining confidentiality of the identity of the whistleblower. This shall be done with an aim to prevent victimization of the person reporting the concerns and providing a sense of relief to the Whistle blower to report the matter without fear of retaliation or intimidation. However, it

may also be stated that the identity of the person may be made known in case it is vital for the purpose of the investigation.

7. Procedure for investigation of a complaint:

The manner of investigation of a report shall be specified in the policy. It shall be the duty of everyone working for the Company to cooperate in the investigation of report of the suspected violations. It shall also specify the circumstances under which the Chairman of the Audit Committee shall be involved in the investigation.

8. Responsibility of Compliance and Policy review:

The policy shall cast the responsibility for the compliance with the provisions of Vigil Mechanism and Whistle Blower on the Board of Directors of the Company or the Audit Committee as the case maybe. Further, it also be ensured that the policy is reviewed time-to-time on a regular basis to keep it in line with the latest developments and requirements.

In this manner, the concept of Vigil Mechanism and Whistle blower is emerging and evolving in the regulatory world, thereby promoting reporting of complaints without the fear of retaliation or victimization of the whistleblowers.

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BLISS Tips for the Month

BLISS Tips #277: With BLISS, Eliminate the risk of non-compliance by tracking pending Registers, Returns and Action Trackers

Once the Agenda is finalized for a Board, Sub-Committee Meeting or Shareholder meeting and when a Circular Resolution is approved in BLISS, all the related Registers, Returns and other actions to be updated gets triggered as pending activities along with their due dates. When any changes are made to the Meeting date in the Agenda or the Approval date in Circular Resolution, BLISS automatically triggers updated due dates for the pending activities.

Users with reminder status marked as 'Yes' get reminder alerts for these activities on their registered email IDs. All the pending Registers can be updated in BLISS, the filed Returns along with the challan and SRN can be stored in BLISS as a part of the e-repository and the Event based and Calendar based Action Trackers can be assigned and updated under the Action Trackers tab. This feature ensures that all the required compliance activities are undertaken by the Company, thereby eliminating the risk of non-compliance.

BLISS Tips #278: Report generation using BLISS.

BLISS automatically creates a Master Data of the Company Profiles added in the tool and enables the users to download various types of reports such as Directors, KMPs, Auditors, Holding Cos and Subsidiary Companies, Dividend, Share Capital etc., for a specific set of companies or the entire Group of Companies to which the user has access, using the 'Report Generation' functionality.

The users with 'Reporter Role' can generate the said reports. This helps large groups with multiple companies to effortlessly generate frequently required information from BLISS.

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

1. **The gap between two Risk Management Committee Meetings shall not exceed _____ days**
   a. Sixty
   b. One Hundred and Eighty
   c. One Hundred and Twenty
   d. Ninety

2. **In case of change in name of a listed entity, atleast _____ percent of the total revenue in the preceding one year shall be accounted for by the new activity suggested by the new name:**
   a. Fifty
   b. Twenty-Five
   c. Seventy-Five
   d. Thirty

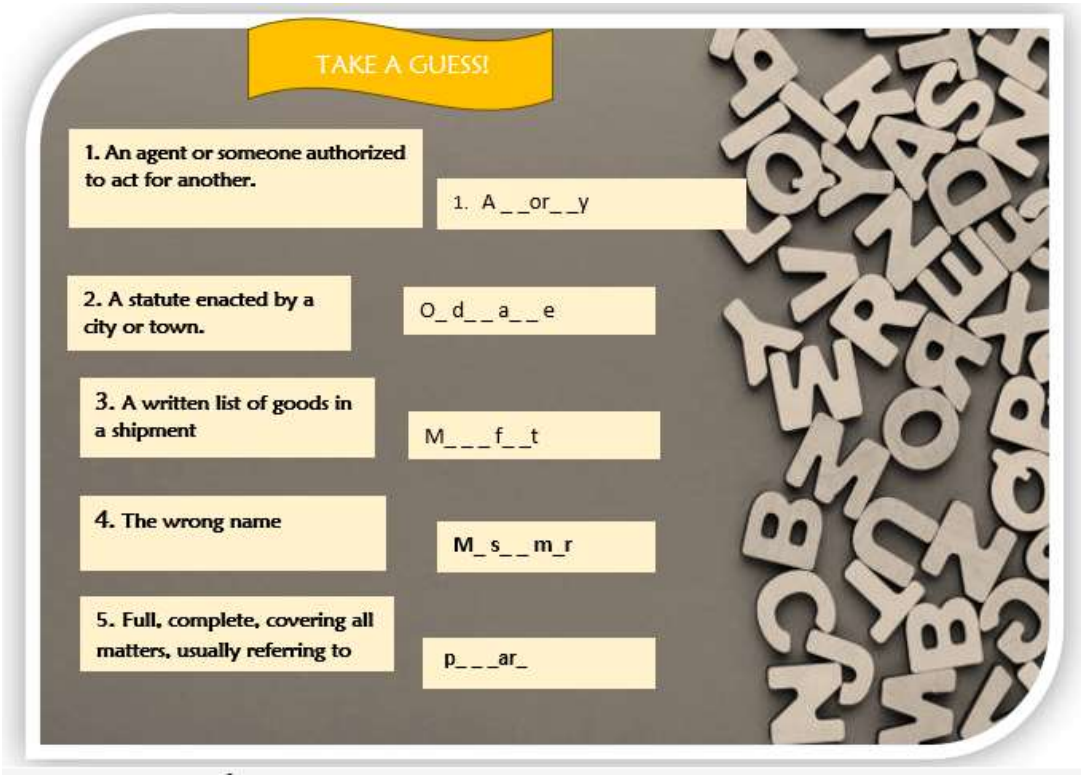
3. **The certificate regarding maintenance of 100% security cover shall be submitted to the Debenture trustee on a _____ basis**
   a. Yearly
   b. Monthly
   c. Quarterly
   d. Half-yearly

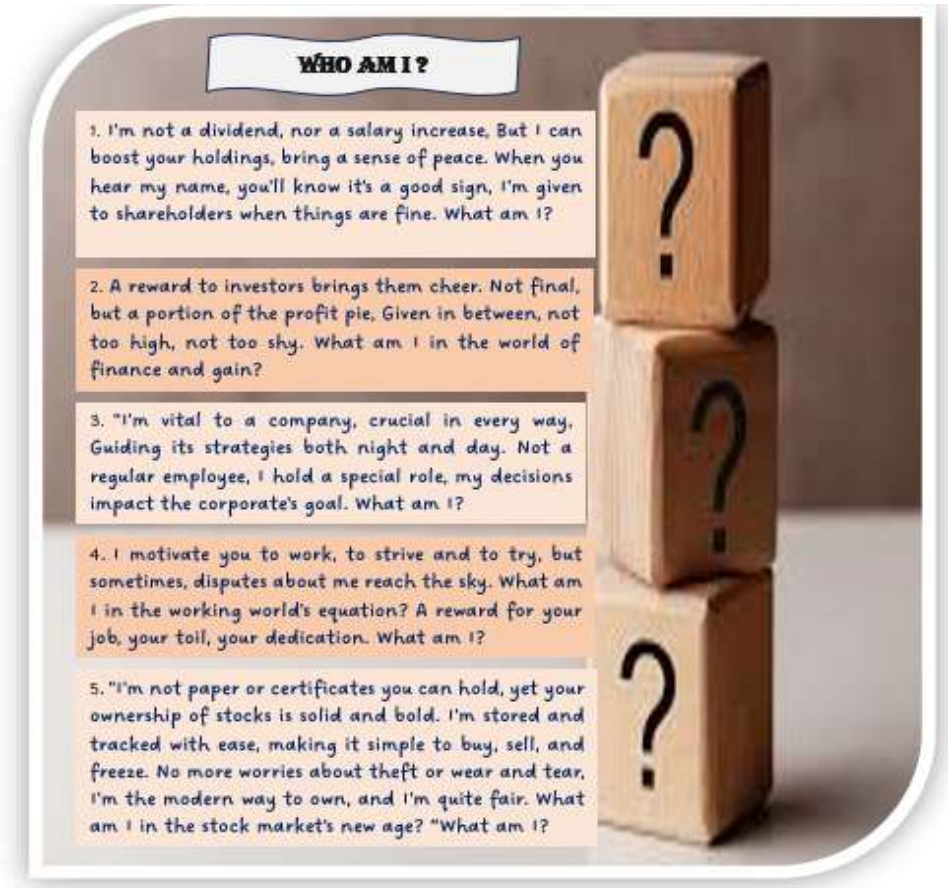
4. **The annual impact report to be submitted by a Social Enterprise to the Social Stock Exchange shall be audited by a:**
   a. Statutory Auditor
   b. Social Auditor
   c. Social Impact Firm
   d. Secretarial Auditor

5. **The Chairperson of the _____ Committee shall be present at the annual general meetings to answer queries of the security holders**
   a. Nomination and Remuneration
   b. Audit
   c. Stakeholders Relationship
   d. Risk Management

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Brain Teasers





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, 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 November 2023

Compliances for Companies under Companies Act, 2013			
Sl. No.	**Compliance Requirement**	**Section/ Rules**	**Due Date**
1.	Form MGT-7/ MGT-7A- Annual Return	Section 92 read with rule 11 of the Companies (Management and Administration) Rules, 2014	Within 60 days of holding the Annual General Meeting
2.	Form MGT-8- Certificate by Practicing Company Secretary for companies which meet the conditions : A listed company or a company having paid-up share capital of Rs 10 crore or more or Turnover of Rs 50 crore or more	Section 92 read with rule 11 of the Companies (Management and Administration) Rules, 2014	Within 60 days of holding the Annual General Meeting
3.	PAS-6- Reconciliation of share capital audit report on half yearly for listed and unlisted public companies	Rule 9A of the Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2019	29.11.2023 (For half-year ending on 30th September)
SEBI (LODR) Regulations, 2015 Compliances			
Sl. No.	**Compliance requirement**	**Regulation reference**	**Timeline**
1.	Statement of deviation(s) or variation(s)	32(1)	Within 45 days from the end of the quarter/Within 60 days from the end of the last quarter- November 14
2.	Quarterly and year-to-date standalone financial results	33(3)(a)	Within 45 days from the end of the quarter/Within 60 days from the end of the last quarter- November 14
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
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	29(1)	Within 2 Working days of receipt of intimation of

	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.		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 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.	29(2)	within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or 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 October 2023

- **03-10-2023**

MCA exempts arrangements/ agreements relating to aircraft, aircraft engines etc. from the application of moratorium provision under IB Code.

Central Government has notified that the provisions of declaration of Moratorium under IB Code, 2016 shall not apply to transactions, agreements and arrangements relating to aircraft, aircraft engines, airframes and helicopters.

This has been notified pursuant to the Convention on International Interests in Mobile Equipment and the Protocol therein on matters specific to aircraft equipment adopted under the joint auspices of International Civil Aviation Organization and the International Institute for the Unification of Private Law further accession of the said convention and protocol by India on 31/03/2008.

- **06-10-2023**

SEBI further extends the certain relaxations from compliance with provisions of SEBI (LODR) Regulations, 2015.

a. SEBI vide its multiple circulars had extended the relaxation from dispatching a hard copy of the statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those shareholders and holders of non-convertible securities who have not so registered till September 30, 2023.

b. SEBI through its master circular dated July 11, 2023, had relaxed the applicability of the provision to send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against each resolution till September 30, 2023.

In the light of fact that MCA vide its General Circular dated September 25, 2023, extended the relaxation from sending physical copies of financial statements (including Board's report, Auditor's report or other documents required to be attached therewith) to the shareholders, for the AGMs conducted till September 30, 2024, SEBI has also vide this circular further extended this relaxation till September 30, 2024.

- **07-10-2023**

SEBI further extends the certain relaxations from compliance with provisions of SEBI (LODR) Regulations, 2015.

a. SEBI vide its multiple circulars had extended the relaxation from dispatching a hard copy of the statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those shareholders and holders of non-convertible securities who have not so registered till September 30, 2023.

b. SEBI through its master circular dated July 11, 2023, had relaxed the applicability of the provision to send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against each resolution till September 30, 2023.

- **17-10-2023**

NSE mandates filing of voting results of General Meeting in XBRL mode.

Pursuant to the disclosure requirement of filing the voting results of general meeting, that the companies were earlier required to file with the stock exchange in PDF & XBRL format, NSE now mandates it to be done in XBRL mode w.e.f 01/11/2023.

NSE has further clarified that for the above purposes, XBRL filing shall be solely treated as compliance for filing of voting results of general meeting and no PDF submission shall be considered from the effective date.

NSE has also specified the path for the above filing as under:
NEAPS > Compliance > Common XBRL Upload > Voting Results

- **20-10-2023**

MCA notifies Companies (Incorporation) Third Amendment Rules, 2023 w.e.f. 21/10/2023.

In case of shifting of registered office from one state or Union Territory to another state, where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016 and where no appeal against such resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the said resolution plan, the shifting of the registered office may be allowed. Further, the provision for inclusion of costs in the order passed by the Central Government confirming the alteration has been omitted.

- **SEBI notifies the SEBI (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2023 w.e.f. 20/10/2023.**

The amendment states that the unclaimed amount transferred to the Investor Education and Protection Fund constituted in terms of section 125 of the Companies Act, 2013 shall not bear any interest and such unclaimed amount may be claimed in the manner as may be specified by the Board.

- **26-10-2023**

BSE revises annual listing fees for Privately Placed Debt Instruments (PPDIs) w.e.f. 01/11/2023

BSE has revised its annual listing fees to be paid by the listed entities for listing of its Privately Placed Debt Instruments (PPDIs) w.e.f. November 01, 2023. The revised fees shall be applicable on the incremental debt securities to be listed on and after November 01, 2023, and to the existing capital. The revised schedule of the annual listing fees is specified in the circular.

- **27-10-2023**

MCA notifies the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023

1. Every public company which has issued share warrants prior to the commencement of the Companies Act, 2013 and not converted them into shares shall:

   a. Within a period of 3 months of commencement of the aforementioned rules, inform the Registrar about the details of such share warrants in Form PAS-7.

   b. Within a period of 6 months of commencement of the aforementioned rules, require the bearers to surrender the share warrants to the company and get the shares dematerialized in their account.

   c. Further, the company shall place a notice for the said surrender in Form PAS-8 on its website, and publish the same in an English and a vernacular newspaper.

In case the bearer does not surrender the warrants, the Company shall convert the warrants to shares and transfer the same to the Investor Education and Protection Fund.

2. The notification also provides for the issue of securities in dematerialized form by private companies in the following manner:

   a. Every private company (except small companies as at the end of FY) shall comply with the said requirements within 18 months of closure of the financial year.

   b. The private companies shall ensure that before making an offer for issue/ buyback of securities, bonus/ rights issue, the entire holding of securities of its promoters, directors, key managerial personnel has been dematerialized.

c. Every holder of securities of the private companies prior to transferring securities or subscribing to securities by way of private placement, bonus issue, rights issue, shall ensure that the securities are in dematerialized form.

3. The notification also provides for the formats of the Form PAS-7 (Details of pending share warrants) and Form PAS-8 (Notice for bearers of pending share warrants).

MCA notifies the Companies (Management and Administration) Second Amendment Rules, 2023

1. The notification requires every Company to designate a person for furnishing information to the Registrar w.r.t. beneficial interest in the shares of the Company.
2. The person designated for the said purpose shall be a Company Secretary ('CS'), if required to be appointed by the Company; or a Key Managerial Personnel ('KMP') (Other than a CS); or every director in case the Company does not have a CS or a KMP.
3. Until such person is appointed, the CS, if required to be appointed; Managing Director ('MD')/ Manager in case there is no CS; every director in case there is no CS/ MD/ Manager, shall deemed to be the designated person.
4. The details of the designated person shall be informed by the Company in the Annual Return and any change in the designated person shall be intimated to the Registrar in **Form GNL-2.**

- **30-10-2023**

MCA notifies the effective date of Section 5 of Companies (Amendment) Act, 2020 (29 of 2020).

MCA hereby notifies 30th October, 2023 as the effective date for sub-section (3) and (4) of Section 23 of the Companies Act, 2013 (which were yet to be notified), w.r.t. issue of securities for listing on permitted stock exchanges in permissible foreign jurisdictions or other jurisdictions and exemption by Central Government to any class or classes of public companies under sections mentioned therein.

Solution for Quiz:

Q1. B	Q2. A	Q3. D	Q4. B	Q5. C

Solution for Take a Guess:

1.	Attorney
2.	Ordinance
3.	Manifest
4.	Misnomer
5.	Plenary

Solution for Who am I ? :

1. Bonus Shares	2. Interim Dividend
3. Key Managerial personnel	4. Remuneration
5. Demat Shares	

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

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