

Vol. 5 | May 2022



The Monthly Bulletin

Official Newsletter



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Notable Recognitions & Accolades



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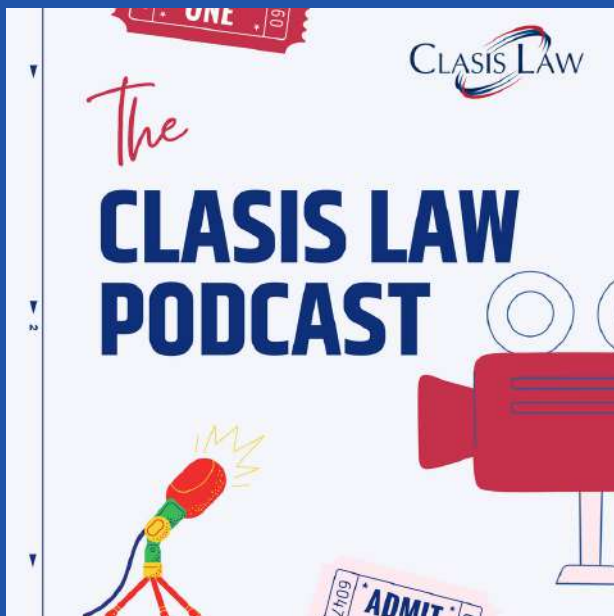
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Latest Episode Legal Remedies for Home Buyers

Other Episodes



- *Arbitration in Hong Kong*
- *Wills & Probate - Legal Overview for Indian Residents residing in Hong Kong.*
- *The Cost of War - Russia's invasion on Ukraine.*
- *CryptoHype*
- *Meta - The way ahead*
- *Privatization of BPCL*

GUEST ARTICLE



To Probate, or not to Probate? – An Analysis of laws relating to probate under Sections 57 and Section 213 of the Indian Succession Act, 1925

By – Mr. Vishak Gopinath
Legal Counsel (Counselect)
WeWork India Management Private Limited

Intestate Succession of property, in case of Hindus and Mohammadans, is governed by way of their respective personal laws of inheritance, and in case of Christians under the Indian Succession Act, 1925. Testamentary Succession, on the other hand, is governed by the Indian Succession Act, 1925 and encompasses laws of succession to those whom the property has been bequeathed by way of a Will/Testament and to whom normally, personal laws relating to succession would not apply. However, it must be noted that the extent and/or nature of property that may be bequeathed under a will may still be subject to limitations and restrictions imposed under the personal laws of inheritance of the testator.

Of Wills and Probates

A Will as defined under Section 2(h) of the Indian Succession Act, 1925 is a person's dying wish with regard to the manner in which his/her property should be utilised and devolved upon after his death.

The term Probate defined under Section 2(h) of the Indian Succession Act, 1925, in common parlance, would mean a copy of the Will being certified by a court of competent jurisdiction with regard to it being (i) genuine and without any disability; and (ii) the last Will of the testator. Probate gives the right to the person who has been named as the executor to execute the Will in the manner as expressed by the testator in the Will.

Evolution and development

The law relating to wills and probates are elaborate as they have been developed historically with its genesis going as far back as the Roman empire. The Romans are credited with the development of the concept of "Will" which has evolved over time.

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The English Law of testamentary succession also forms a modified version of this disposition, and with their colonization of Indian territories, successfully introduced the laws of testamentary succession in India as well. Ironically, though introduced by the British, there are vast differences in the English law of testamentary succession and the Indian Succession Act 1925. This being distinctively cited in 110th Report of the Law Commission, 1985 as well.

Prior to the Indian Succession Act, 1925, its predecessors, viz., the Indian Succession Act 1865 (applicable to all classes domiciled in British India other than Hindus, Mohammadens and Buddhists), The Hindu Wills Act 1870, and the Probate and Administration Act, 1881 were the laws governing Wills and probates until the Indian Succession Act 1925 was enacted, consolidating all the pre-existing legislations into one.

What does it confer?

A probate when granted would be a judgment in rem (Chandrabhai K Bhoir and Ors v. Krishna Arjun Bhoir, 2009 (2) SCC 315). Hence, a judgment in case of probate would bind the whole world. A Will is probated to ascertain that the Will in question is genuine and the last Will of the testator and that the intention in the said Will are those of the testator with regards to his property and to be carried out in the manner as bequeathed under the Will. This can be understood by the fact that in order to apply for a probate, a citation under Section 283 of the Indian Succession Act, 1925 has to be issued calling upon all persons who have an interest in the property to see the proceeding before grant of the probate in favour of the executor/legatee.

A probate is only in the nature of a certificate that the last Will of the testator has been proved before the Court and in no way decides any question of title of the deceased to the properties bequeathed in the Will.

Who can grant probate?

Only a Court of Original Civil Jurisdiction can grant probates. The executors and legatees should file the probate petition at the earliest as there stands a limitation of 3(three) years from the date of death of the testator. It is well settled that a probate is not a condition precedent to the filing of a suit relating to the property in the Will and the probate can be pursued parallelly to such a suit. However, the final decree of any court would be subject

GUEST ARTICLE

to the Will being probated by a court of competent jurisdiction.

Section 57 r/w Section 213

In India, probates were compulsory to prove the right of the legatee or executor who were residing in British India but not to those legatee or executor in the Part “B” States and Part “C” States. This position has continued even after the Constitution of India has come into force.

(Clarence Pais v. Union of India, 2001 (4) SCC 325)

By virtue of Section 57, all Wills (i) made by a Hindu, Buddhist, Sikh or Jain, within the territories that were erstwhile presidential towns / Presidencies under British India – (i.e. – Bombay, Calcutta and Madras) and (ii) executed outside the territories in (i) above but relates to immovable property situated in those territories have to be compulsorily probated. This section specifies the class of Wills for which probates are necessary. This does not mean that those wills that fall outside this class cannot be granted probate. For such Wills it is merely optional to probate. There is no prohibition to apply for grant of probate. No probate is necessary in order to set up a claim regarding property, either movable or immovable, not relating to property situated in the territories mentioned in Section 57(a).

For cases not falling under Section 57, in case a probate is not obtained, then the executor or legatee or anyone being an interest-holder in the Will would have to prove its genuinity in every such case wherein the Will has been referred to and this, on an adversarial level, would cement the plaintiff or the defendant at an equal footing and either party who has to rely on such Will would have to first get the same probated by a court of competent jurisdiction.

Further, Section 213 (1) Indian Succession Act 1925 essentially prohibits the recognition of the right of an executor or a legatee under a Will unless such a Will is probated, and further, sets down a rule of evidence and forms really a part of procedural requirement of the law of forum. However, Section 213 (2) clarifies that the requirement of probate is applicable only to those classes of Wills falling within the scope of Section 213(2). However, it is pertinent to note that Section 213 does not bar the executor or legatee to get a Will probated.

GUEST ARTICLE

It is clear that only those Wills which fall under Section 57 would have to be compulsorily probated, i.e Wills by Hindus, Sikhs, Buddhist and Jains within the territories which at the said date were subject to the Lieutenant-Governor of Bengal or within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay, i.e. present day Mumbai, Kolkata and Chennai. Probate is not compulsorily required by Indian Christians and Mohammadens by virtue of Section 213 (2).

On an analysis of Section 57 read with Section 213, it is clear that while Mohammadens and Indian Christians do not need to probate a Will compulsorily whereas Hindus, Buddhist, Sikhs, Jains and Parsis are compulsorily required to probate the Will if (i) the will was executed by the testator on Chennai, Kolkata and Mumbai; or (ii) the property is located or situated within the city limits of Chennai, Kolkata and Mumbai.

Opinion

The Law Commission in its 209th report, 2008, has proposed omission of the entire Section 213 citing the same to be discriminatory. Furthermore, lengthy litigation, court fees to probate and mischief by those who have ulterior motives citing frivolous interests would be unjust and cause pain and delay for the legatees who were to benefit from those properties bequeathed to them by the testator. This I presume, would have definitely not been the final intentions of the testator who having left for the heavenly abode has now given the herculean task to his legatees to probate the Will in case they fell under the Section 57 of the Indian Succession Act.

Disclaimer – *The views expressed here are of the author alone and do not represent the views of any organization and readers should not act on the basis of this information without seeking professional legal advice.*



LEGAL UPDATE



Decree Holders are not Financial Creditor under the Insolvency and Bankruptcy Code, 2016 – Upholds Supreme Court

The Hon'ble Supreme Court has recently upheld a Judgement of the Division Bench of Tripura High Court in the case of *Sri Subhankar Bhowmik vs Union of India*⁽¹⁾ wherein it was held that a Decree Holder cannot be treated at par with Financial Creditors in a Corporate Insolvency Resolution Process (CIRP) initiated under the Insolvency and Bankruptcy Code, 2016 (**Code**).

The Public Interest Litigation (**PIL**) was filed by the petitioner before the Hon'ble Tripura High Court with the prayers that the Court issue a Writ of Certiorari declaring Section 3(10) of the Code read with Regulations 9A ultra vires and strike the same down as it violates Article 14 Constitution of India in as much as it fails to define the terms "other creditors" or the impugned provisions be harmoniously interpreted to include the words "decree holders". It was further prayed by the petitioner that a Writ of Certiorari be issued declaring the claims filed under a CIRP by a decree holder under Regulation 9A of the CIRP Regulations be considered at par with the claims filed by "financial creditors".

It was the Petitioner's submission that the Code does not classify as to what class of creditors the term "decree holder" belong and thus the same was required to be ironed out. It was also suggested that as there was no specific classification of "decree holders" into a specific class of creditors, all decree holders fell within the ambit of the residual class of other creditors which

was arbitrary and violative of Article 14.

Examining in detail the provisions of the Code, the Court stated that the parliament has recognised five types of creditors namely financial creditors, operational creditors, secured creditors, unsecured creditors and decree holders. The court further stated that the terms financial creditors, operational creditors, secured creditors have been defined in Sections 5(7), 5(20) and 3(20) respectively and by necessary implication, any creditor not qualifying as secured creditor under the provisions of Section 3(30) would mean an unsecured creditor.

The Court observed that although it seems that a "decree holder" is omitted, a closer examination of the Code reveals otherwise. It further observed that a right of a decree holder is the right to execute the decree in accordance with law. It further stated that even if a decree is subject to the appellate process and attains finality, the only recourse available to the decree holder is to execute it in accordance with the relevant provisions under Civil Procedure Code, 1908. The Court further stated that as a moratorium comes in force by virtue of Section 14(1) of the Code, the execution of a decree itself is frozen.

The Court further held that the Code has rightly recognised the claim of decree holder under the CIRP. However, it also imposes a moratorium under Section 14 on the execution of the claim of decree holders against the Corporate Debtor on the

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ground that the real objective behind the enactment of the Code is to preserve and that the real objective behind the enactment of the Code is to preserve and maximise the assets of the Corporate Debtor and to ensure that the assets of the Corporate Debtor are protected to fructify the intention of the legislature that is to ensure revival and continuation of the Corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation.

The Court observed that, *“Once seen in the aforesaid context, the claim of a decree holder, is subject to all the rigors of the resolution process and has to be satisfied along with all other claims, in accordance with the waterfall mechanism envisaged by the IBC. Since the claims cannot be classified as operational or financial, appropriate provisions (Regulation 9A) and forms (Form F) for filing of claims is provided in the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*

This is also reflected in the title to Form F which reads “Proof of Claim by Creditors (Other than Financial Creditors and Operational Creditors). It is trite to say that the assets of a corporate debtor inure to the benefit of all creditors, decree holders being one of them. The distinction of decree holder’s creditors from “financial creditors” and “operational creditors”, as seen aforesaid is intelligible and take forward the purpose of the IBC. The same cannot be stated to be discriminatory or arbitrary”.

The Court further held that the plea by the Petitioner for a decree holder to be made a part of the Committee of Creditors was untenable as a decree holder holds a decree as a result of determining dispute through an adversarial process of litigation. The Court opined that the process as envisaged by IBC being a process which is non-adversarial in nature, to put the same with the person who is an adversarial claimant would defeat the purpose of the Code and eventually, dismissed the petition.

(1) WP (C)(PIL) No. 04/2022

JUDGEMENTS

In the matter of M/s Precision Automation and Robotics India Private Limited (“Company”) for non-appointment of woman director

In terms of the provisions of Section 149(1) of the Companies Act, 2013 (“Act”), the turnover of the Company as per financial statement 2014-15 exceeded the threshold limit. Therefore, it was required to appoint a woman director on the Board with effect from April 1, 2015. However, the Company did not appoint a woman director till the adjudication notice dated December 21, 2021 was issued by the Registrar of Companies, Maharashtra, Pune (“ROC”) to the Company and its officers for violation of section 149 of the Act to which reply was submitted by the Company stating that they are searching for a suitable candidate.

The ROC, after considering the facts & circumstances of the case and submissions made by the authorised representative imposed a penalty of INR 300,000/- on the Company and INR 11,84,500/- on officers in default.

[Read More](#)

In the matter of M/s. SSAB Energy & Minerals Limited (“Company”) for non-maintenance of registered office

In the present case, on the basis of a complaint received by the Registrar of Companies, Odisha, Cuttack (“ROC”) regarding non-delivery of letter to the Company, the ROC issued show cause notices to the Company and its officers-in-default for violation of the

provisions of section 12(1) of the Companies Act, 2013 (“Act”). The show cause notices were returned on several occasions with the remark “No such company & insufficient address”.

The Company subsequently on January 18, 2022 filed e-form INC-22 with the MCA intimating the shift of the registered office w.e.f. December 22, 2021.

After considering the facts and circumstances of the case, the ROC imposed a penalty of INR 70,000/- on the Company and INR 3,47,000/- on its directors for violation of the provisions of section 12 of the Act for the period from October 12, 2021 till December 22, 2021.

[Read More](#)

In the matter of M/s. KKDIL Nidhi Limited (“Company”) for non-filing of e-forms AOC-4 and MGT-7 for the financial year ended March 31, 2019 and March 31, 2020

In the present case, on the basis of Supplementary Inspection Report, the Registrar of Companies, Odisha, Cuttack (“ROC”) issued a show cause notice to the Company and its officers for violation of Section 92(4) and 137(1) of the Companies Act, 2013 (“Act”). The Company had not filed the Annual Return and Financial Statements for the financial year ending March 31, 2019 and March 31, 2020.

According to the provisions of section 92(4), every company is required to file a copy of annual return with the concerned Registrar of Companies where the registered office of the

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penalty company is situated within 60 days from the date of the Annual General Meeting (“AGM”). As per the provisions of section 137(1), every company is required to file a copy of the financial statement with the concerned Registrar of Companies where the registered office of the company is situated, including consolidated financial statement, if any, within 30 days of the date of AGM.

The ROC imposed the following penalties for the aforesaid violations:

(a) INR 8,50,000/- on the Company and INR 5,55,000/- on its directors for violation of the provisions of section 137 of the Act for the period from November 1, 2019 to February 28, 2022;

(b) INR 1,32,000/- on the Company and INR 3,96,000/- on its directors for violation of the provisions of section 94 of the Act for the period from December 1, 2019 to February 28, 2022;

(c) INR 4,84,000/- on the Company and INR 4,45,200/- on its directors for violation of the provisions of section 137 of the Act for the period from November 1, 2020 to February 28, 2022; and

(d) INR 95,400/- on the Company and INR 2,86,200/- on its directors for violation of the provisions of section 94 of the Act for the period from December 1, 2020 to February 28, 2022.

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CORPORATE REGULATORY UPDATES

Companies (Indian Accounting Standards) Amendment Rules, 2022

The Ministry of Corporate Affairs (“MCA”) notified the Companies (Indian Accounting Standards) Amendment Rules, 2022 in consultation with National Financial Reporting Authority to further amend the Companies (Indian Accounting Standards) Rules, 2015 vide notification no. G.S.R 255(E) dated March 23, 2022.

Standardization of Ratings Scales used by credit rating agencies: Extension of timeline for implementation

On 1 April 2022 the Securities and Exchange Board of India (“SEBI”) issued a circular for the extension of timeline of implementation for the standardization of ratings scales used by credit rating agencies. Earlier, SEBI, on 16 July 2021 issued a circular and advised the credit rating agencies to either align their rating scales with the rating scales prescribed under the guidelines of respective financial sector regulator in terms of Regulation 9(f) of SEBI (Credit Rating Agencies) Regulations, 1999.

After receiving views from the credit rating agencies, SEBI decided to extend the date of applicability of the section B of the aforesaid circular.

Credit rating agencies shall ensure compliance with the provisions of the aforesaid circular on or before 30 June 2022.

Standardization of industry classification - Applicability to credit rating agencies

On 1 April 2022, SEBI issued a circular on the standardization of industry classification.

A standing committee was constituted by SEBI known as Market Data Advisory Committee (MDAC) comprising of representatives from stock exchanges, depositories and other market participants for the examination of industry classification structures and developed a harmonized four level industry classification framework for adoption by all stakeholders.

The framework has been devised to bring uniformity in the classifications being used across sectors and credit rating agencies are advised to use the classification for the purpose of rating exercise, peer benchmarking, research activities including research for Economy, Industries and Companies.

The industry classification shall be applicable to credit rating agencies from 1 October 2022.

Master Direction on Framework of Incentives for Currency Distribution & Exchange Scheme for bank branches including currency chests based on performance in rendering customer service to the members of public

On 1 April 2022, the Reserve Bank of India (“RBI”) released the Master Direction on Framework of Incentives for Currency Distribution & Exchange Scheme for bank branches including currency chests based on performance in rendering customer service to the members of public.

The Master Direction entails a framework of incentives titled Currency Distribution & Exchange Scheme (CDES) for bank branches including currency chests has been formulated in order to encourage all bank branches to provide better customer service to the members of public keeping in view the objectives of Clean Note Policy as part of currency management.

CORPORATE REGULATORY UPDATES

Master Direction on Penal Provisions in deficiencies in reporting of transactions/ balances at Currency Chests

On 1 April 2022, RBI released the Master Direction on Penal Provisions in deficiencies in reporting of transactions/balances at Currency Chests for realising the objectives of Clean Note Policy as part of currency management. With a view to sustain these efforts and to ensure discipline among the banks for timely and accurate reporting of currency chest transactions, instructions on the subject have been issued from time to time.

The Direction entails a framework for the reporting procedure, delayed/wrong reporting, levy of penalty, rate of penal interest and the competent authorities.

Revision of UPI limits in Public Issue of Equity Shares and convertibles

On 5 April 2022, SEBI issued a circular for the revision of Unified Payment Interface (UPI) limits in Public Issue of Equity Shares and convertibles. UPI was introduced by SEBI on 1 November 2018 as an additional payment mechanism with Application Supported by Blocked Amount (ASBA) for Retail Individual Investors.

SEBI now decided that all Individual Investors applying in Public Issue where the application amount is upto INR 500,000 shall use UPI and shall provide their UPI ID in their bid-cum application which has to be submitted to any of the following entities-

- (a) a syndicate member;
- (b) a stock broker registered with a recognized stock exchange;
- (c) a depository participant;
- (d) a registrar to an issue and share transfer agreement.

This circular shall come into force from 1 May 2022.

Companies (Management and Administration) Amendment Rules, 2022

The Ministry of Corporate Affairs ("MCA") notified the Companies (Management and Administration) Amendment Rules, 2022 to further amend the Companies (Management and Administration) Rules, 2014 vide notification no. G.S.R. 279(E) dated April 6, 2022. Through this amendment, MCA has inserted a new Rule 14(3) thereby restricting the inspection of particulars of register or index or return in respect of the members of a Company. According to the amendment, the following particulars shall not be available for any inspection under the provisions of the Companies Act, 2013:

- (i) address or registered address (in case of a body corporate);
- (ii) e-mail ID;
- (iii) Unique Identification Number; and
- (iv) PAN Number

Guidelines in pursuance of amendment to SEBI KYC (Know Your Client) Registration Agency (KRA) Regulations, 2011

On 6 April 2022, SEBI issued guidelines related to the SEBI KRA Regulations, 2011. The Regulations were amended vide Gazette Notification dated 22 January 2022. To implement the regulations effectively, SEBI issued guidelines, some of which have been mentioned below:

- (a) KRAs shall continue to act as repository of KYC data in the securities market and shall be responsible for storing, safeguarding and retrieving the KYC documents and submit to the Board or any other statutory authority as and when required.

CORPORATE REGULATORY UPDATES

(b) KRAs shall independently validate records of those clients (existing as well as new) whose KYC has been completed using Aadhaar as an OVD (officially valid document).

(c) The systems of Registered Intermediaries (RIs) and the KRAs shall be integrated to facilitate seamless movement of KYC documents to and from the RIs to the KRAs.

(d) On successful completion of KYC validation, a unique client identifier called KRA identifier shall be assigned by KRA to the client and such KRA identifier may be used by the client for opening of account with any other intermediary, without repeating the KYC process. KYC records of all existing clients (who have used Aadhaar as an OVD) shall be validated within a period of 180 days from 1 July 2022.

The validation of all KYC records (new and existing) shall commence from 1 July 2022.

Establishment of Digital Banking Units (DBUs)

On 7 April 2022, RBI issued a notification and introduced the concept of Digital Banking Units (DBU). In recent times, digital banking has been the preferred banking service delivery channel. Pursuant to the Union Budget 2022-23, guidelines have been prepared for setting up of DBUs by the commercial banks on the recommendations of the Working Group formed by RBI. The guidelines related to the establishment of the DBU have been issued and shall be come into effect from the date of issue of the Circular.

Companies (Incorporation) Amendment Rules, 2022

The Ministry of Corporate Affairs ("MCA") notified the Companies (Incorporation) Amendment Rules,

2022 to further amend the Companies (Incorporation) Rules, 2014 vide notification no. G.S.R. 291(E) dated April 8, 2022. Through this amendment, MCA has inserted a proviso to Rule 12 wherein a company being incorporated as Nidhi will require a declaration by the Central Government under section 406 of the Companies Act, 2013 before commencement of business and a declaration in this behalf shall be submitted at the stage of incorporation by the company. Further, INC-20A has also been revised to capture the aforesaid declaration by a Nidhi Company.

Section 24 and Section 56 of the Banking Regulation Act, 1949 – Maintenance of Statutory Liquidity Ratio

On 8 April 2022, the RBI, decided to institute the Standing Deposit Facility (SDF) with immediate effect. It also decided that the balances held by banks with the RBI under the SDF shall be an eligible Statutory Liquidity Ratio (SLR) asset and such balances shall form part of "Cash" for SLR maintenance. Banks shall report the SDF balances under "Cash in hand" in Form VIII or Form I, as applicable. The balances held by banks with RBI under the SDF shall not be eligible for Cash Reserve Ratio maintenance.

Clarification on applicability of Regulation 23(4) read with Regulation 23(3)(e) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions

On 8 April 2022, SEBI issued a clarification on Regulation 23 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. In order to facilitate listed entities to align their processes to conduct AGMs and obtain omnibus shareholders' approval for material RPTs, SEBI decided to specify that the shareholders' approval

CORPORATE REGULATORY UPDATES

of omnibus RPTs approved in an AGM shall be valid upto the date of the next AGM for a period not exceeding 15 months.

In case of omnibus approvals for material RPTs, obtained from shareholders in general meetings other than AGMs, the validity of such omnibus approvals shall not exceed one year. The Stock Exchanges have been instructed to bring the provisions of this circular to the notice of all listed entities that have issued specified securities and also disseminate on their websites.

Standard Operating Procedures (SOP) for dispute resolution available under the stock exchange arbitration mechanism for disputes between a listed company and its shareholder(s) investor(s)

On 8 April 2022, SEBI, issued the Standing Operating Procedure (SOP) by 1 June 2022 for operationalizing the resolution of all disputes pertaining to or emanating from investor services such as transfer/transmission of shares, demat/remat, issue of duplicate shares, transposition of holders, etc. and investor entitlements like corporate benefits, dividend, bonus shares, rights entitlements, credit of securities in public issue, interest /coupon payments on securities, etc.

The recognized stock exchanges are to bring the provisions of this circular and the SOP put in place in this regard to the notice of listed companies and also to disseminate the same on their website.

Notification on Compliance Function and Role of Chief Compliance Officer (CCO)-NBFCs

On April 11, 2022, RBI issued a Notification on "Compliance Function and Role of Chief Compliance Officer – NBFCs".

RBI had previously issued guidelines on Scale Based Regulations: a revised Regulatory Framework for NBFCs in October 2021. Within it NBFCs who belonged to the upper layer (NBFC-UL) and middle layer (NBFC-ML) were required to have an independent Compliance Function and Chief Compliance Officer. This Notification, due to the above requirement, shall be applicable to only NBFC-ULs and NBFC-MLs. NBFCs who belong in the base layer (NBFC-BL) shall continue to be governed by the existing Master Direction – Non-Banking Financial Company – Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 or Master Direction – Non-Banking Financial Company – Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016, as may be applicable.

This Notification broadly sets out that proper principles, standards and procedures for compliance function shall be put into place for NBFC-UL and NBFC-ML.

NBFC-ULs and NBFC-MLs must put in place a board approved policy and compliance function based upon the Framework provided in the annex latest by 1 April 2023 and 1 October 2023, respectively.

Updated Operational circular for issue and listing of Non-convertible Securities, Securities Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper

On 13 April 2022, SEBI issued an updated operational circular to circular dated 10 August 2021. The updated circular covers instruments under SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 ("NCS Regulations"). SEBI had issued multiple circulars covering the procedural and operational aspects, since the

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notification of SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013. The stipulations contained in (Annex-1) of the operational circular, which were a consolidation of the existing circulars have been superseded by (Annex-1) of the updated operational circular. The operational circular provides a chapter-wise framework for the issuance, listing and trading of non-convertible securities, Securitized Debt Instruments, Security Receipts, Municipal Debt Securities or Commercial Paper. While this circular covers instruments under the NCS Regulations, certain chapters contain provisions applicable to issue of securities under the SEBI (Issue and Listing of Securitized Debt Instruments and Security Receipts) Regulations, 2008 and SEBI (Issue and Listing of Municipal Debt Securities) Regulations, 2015.

Recognized Stock Exchanges, Depositories, other SEBI registered intermediaries, Issuers and other stakeholders are directed to:

- comply with the conditions laid down in this circular;
- put in place necessary systems and infrastructure for implementation of this circular
- make consequential changes, if any, to their respective bye-laws and bidding portal
- communicate and create awareness amongst stakeholders.

Nidhi (Amendment) Rules, 2022

The Ministry of Corporate Affairs (“MCA”) has notified the Nidhi (Amendment) Rules, 2022 to further amend the Nidhi Rules, 2014 vide notification no. G.S.R. 301(E) dated April 19, 2022 to safeguard the interest of general public through insertion and substitution of various provisions.

Notification on Master Direction-Credit Card and Debit Card-Issuance and Conduct Directions, 2022

On 21 April 2022, RBI issued the Master Directions on “Credit Card and Debit Card- Issuance and Conduct Directions, 2022”. The provisions of these directions relating to the credit cards shall apply to every Scheduled Bank (excluding District Central Co-operative Banks) and all Non-Banking Financial Companies (NBFCs) operating in India and the provisions relating to debit cards shall apply to every bank operating in India.

These directions cover the general conduct, regulations to credit, debit and co-branded cards, which shall be read in consonance with prudential, payment and technology along with cyber security related directions applicable to credit, debit and co-branded cards, as issued by the Reserve Bank.

These directions shall be effective from 1 July 2022.

Notification on the Legal Entity Identifier (LEI) for Borrowers

On 21 April 2022, RBI issued that the Guidelines on Legal Entity Identifier (LEI) stand extended to Primary (Urban) Co-operative Banks and Non-Banking Financial Companies. It is further advised that non-individual borrowers enjoying aggregate exposures of INR 5 Crore and above from banks and financial institutions shall be required to obtain LEI codes as per the timelines given in the annexure of the notification.

Borrowers who fail to obtain LEI codes from an authorized Local Operating Unit shall not be sanctioned any new exposure nor shall they be granted renewal/enhancement of any existing exposure. However, Departments/Agencies of Central and State Governments (not Public Sector

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Undertakings registered under Companies Act 1956 / 2013 or established as Corporation under the relevant statute) shall be exempted from this provision.

The timeline for obtaining LEI by borrowers has been defined in the notification based on total exposure.

Circular on Creation of Honorary Designations at Board Level in Urban Co-operative

On 21 April 2022, RBI directed the Urban Co-operative Banks not to create any honorary positions/titles at Board level or confer such titles that are non-statutory in nature and to eliminate any such existing positions/titles within one year from the date of this circular.

While such positions/titles may be indicative of certain privileges/rights for the incumbent to access all board materials and participate in board/committee meetings, enforcing liability or obligations on such person may be difficult. Such positions may be seen as creating conflicts of interest as well as creation of a parallel or shadow authority impeding effective and independent functioning of the legally constituted board in the best interest of all its stakeholders.

Companies (Registration of Charges) Amendment Rules, 2022

The Ministry of Corporate Affairs ("MCA") has notified the Companies (Registration of Charges) Amendment Rules, 2022 to further amend the Companies (Registration of Charges) Rules, 2014 vide notification no. G.S.R. 320(E) dated April 27, 2022. Through this amendment, MCA has inserted sub-rule (5) in rule 3 wherein rule 3 shall not be applicable if any charge is created or modified by a

banking company under section 77 of the Companies Act, 2013 in favour of the Reserve Bank of India when any loan or advance has been made to it under section 17(4)(d) of the Reserve Bank of India Act, 1934.

SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2022

On 27 April 2022, SEBI notified the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2022. The amendments relating to sub-regulation (3A) of regulation 32, regulation 49, regulation 129, regulation 145, clause (10) and clause (15) of Part A of Schedule XIII, and Schedule XIV carried out by the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2022 shall come into force in the following manner:

- (a) for public issues of a size less than INR 10,000 crore and opening on or after 1 April 2022; with effect from 1 April 2022;
- (b) for public issues of a size equal to or more than INR 10,000 crore and opening on or after 1 April 2022; with effect from 1 July 2022.

Reduction of timelines for listing of units of Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InvIT)

On 28 April 2022, SEBI in continuing endeavour to streamline the process of public issue of units of Real Estate Investment Trust (REIT) decided to reduce the time taken for allotment and listing after the closure of issue to 6 working days as against the present requirement of within 12 working days.

CORPORATE REGULATORY UPDATES

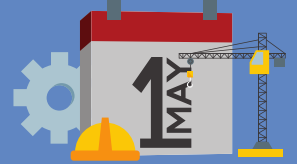
Similarly, on 28 April 2022, SEBI in continuing endeavour to streamline the process of public issue of units of Infrastructure Investment Trust (InvIT) decided to reduce the time taken for allotment and listing after the closure of issue to 6 working days as against the present requirement of within 12 working days. Several timelines from issue closure till listing were reduced by the Board to bring in

efficiency and to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

The SCSBs, stock exchanges, depositories, intermediaries shall co-ordinate to ensure completion of listing (through public issue) and commencement of trading of units of REITs and InvITs, within 6 working days from the date of closure of issue.



Off Beat Section



International Workers' Day or *Labour Day* or *May Day*, is a celebration by labourers and the working class which occurs every year on 1 *May* (**May Day**). This day is a national public holiday in many countries while some countries celebrate Labour Day on other dates as significant to them. Let's read about some interesting facts about this day in few countries across the globe.



India - Labour Day is a public holiday held on every **1 May**. The first celebration in India was organized in Madras (*now Chennai*) by the Labour Kisan Party of Hindustan on **1 May 1923**.



Australia - International Workers Day occur on **1st May**, while in the various states and territories of Australia it generally falls on other days. In the Northern Territory and Queensland, Labour Day is celebrated on the *first Monday of May*, which is a public holiday under the name of "*May Day*".



Ukraine - It is a public holiday in Ukraine, inherited from the Soviet era. May Day as a day of workers' solidarity in Kyiv began as early as **1894**. Until 2018, *2 May* was a public holiday (as in the Soviet era). However, 1 May was renamed in 2017 from "**Day of International Solidarity of Workers**" to "**Labour Day**".



Canada - In Canada, Labour Day is celebrated in **September**. In 1894, the government of Prime Minister *John Sparrow David Thompson* declared the first Monday in September as Canada's official Labour Day.

CLASIS LAW



Tolstoy House,
4th Floor, Tolstoy Marg,
New Delhi – 110 001, India
Tel : +91 11 4213 0000
Fax : +91 11 4213 0099

Bajaj Bhawan,
1 st Floor, 226, Nariman Point,
Mumbai – 400 021, India
Tel : +91 22 4910 0000
Fax : +91 22 4910 0099

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