



Monthly Newsletter

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Indian economy witnessed a GDP growth of over 7% for the third year in succession in 2016-17. In the current year 2017-18, it is estimated to grow at 6.5% as per first advanced estimates released by CSO. However, expectations are for growth of GDP of 6.75% as indicated by more recent data from different sectors. Further, major reforms taken in the past year such as Goods and Services Tax, passage of the Insolvency and Bankruptcy Code (Amendment) bill and implementation of recapitalization package to strengthen the public sector banks should allow Indian economy to grow at more than 7% in the next financial year, reinstating India as world's fastest growing major economy.

The vision of MCA is to become a facilitator of world class governance of corporates. Corporate governance is beneficial for companies as it helps enhance their image, acceptability and profitability. An environment needs to be created where the companies compete for ratings in corporate governance which play an important role in their evaluation. To strengthen the Corporate governance practices, capabilities of key professionals engaged in the process such as Independent Directors and Women Directors, need to be enhanced. To this effect, an agreement was signed between Indian Institute of Corporate Affairs and International Finance Cooperation on 31st January, 2018.

Insolvency and Bankruptcy process has taken good shape over the past one year. A major factor behind the effectiveness of the new Code has been the adjudication by the Judiciary. The Code provides strict time limits for various procedures under it. In this process a rich- case law has evolved reducing the scope of legal uncertainty. The Insolvency Law Committee is working to identify and suggest ways to address issues faced by stakeholders in the implementation of IBC in a dynamic fashion.

MCA has contributed significantly towards improvement of rankings in Ease of Doing business in the country. There is more scope to improve India's ranking with respect to starting a business. In this regard, MCA, has recently launched more Government Process Re-engineering initiatives for making the incorporation process speedy, simple and reducing the number of procedures involved for starting a business, namely: (i) Introduction of "RUN- Reserve Unique Name" web service for name reservation, (ii) zero fee for incorporation of all companies with authorized capital upto ₹10 lakh and (iii) Re-engineering the process of allotment of DIN by allotting it through the combined SPICe form only at the time of an individual's appointment as Director.

With a view to increase awareness and improve compliance of CSR provisions among companies, MCA has issued clarificatory circulars and frequently asked questions. Further, it also organized various seminars and workshops in collaboration with professional institutes and apex business chambers on the subject. In addition penal provisions under section 134(8) of Companies Act 2013 have been invoked for non-compliance of CSR provisions. Recently, National CSR Data Portal and Corporate Data Portal have also been launched by Shri Arun Jaitley, Union Minister of Finance and Corporate Affairs.

Companies (Amendment) Act, 2017

Government has notified the Companies (Amendment) Act, 2017 (Amendment Act) on 3rd January, 2018. The provisions of this Amendment Act shall come into force on the date/s as the Central Government may notify through the Official Gazette. Provisions in the Amendment Act have important bearing on the working of the IBC, 2016. Some of them are:

- (i) Earlier, Section 53 of the Companies Act, 2013 prohibited issuance of shares at a discount. Now, under the amendment of the Act allows companies to issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan such as resolution plan under the Code or debt restructuring scheme.
- (ii) Earlier, Section 197 of the Companies Act, 2013 required approval of the company in a general meeting for payment of managerial remuneration in excess of 11% of the net profits. Now, the Amendment Act requires that where a company has defaulted in payment of dues to any bank, public financial institution, non-convertible debenture holder or any other secured creditor, prior approval of the above mentioned entities, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting for such payment of managerial remuneration.
- (iii) Earlier, Section 247 of the Companies Act, 2013 prohibited a registered valuer from undertaking valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets. Now, the Amendment Act prohibits a registered valuer from undertaking valuation of any asset in which he has direct or indirect interest or becomes so interested at any time during three years prior to his appointment as valuer or three years after valuation of assets was conducted by him.

Companies (Amendment) Act, 2017 is available at www.ibbi.gov.in and www.mca.gov.in.

Amendments to IBBI Regulations, 2016 and 2017.

IBBI has amended (i) the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and (ii) the IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017 on 31st December, 2017.

According to the Regulations, a Resolution Plan needs to identify specific sources of funds to be used for paying the liquidation value due to dissenting creditors. For this purpose, the 'Dissenting Financial Creditor', according to amended Regulations, means a financial creditor who voted against the Resolution Plan or abstained from voting

for the Resolution Plan, approved by the Committee of Creditors.

As per the Amendments, it is not necessary to disclose 'liquidation value' in the Information Memorandum. After the receipt of Resolution Plan(s) in accordance with the IBC, 2016 and the Regulations, the Resolution Professional shall provide the liquidation value to every member of the Committee of Creditors after obtaining an undertaking from the member to the effect that such member shall maintain confidentiality of the liquidation value and shall not use such value to cause an undue gain or undue loss to itself or any other person. Also, the Interim Resolution Professional or the Resolution Professional, as the case may be, shall maintain confidentiality of the liquidation value.

According to the Amendments, a Resolution Applicant shall submit the Resolution Plan(s) to the resolution professional within the time given in the invitation for the Resolution Plans in accordance with the provisions of the Code. This will enable the Committee of Creditors to close a resolution process as early as possible subject to provisions in the Code and the Regulations.

The Amendments have come into force from 2nd January, 2018 on their publication in the Gazette of India.

The Amendments are available at www.mca.gov.in and www.ibbi.gov.in

Syllabus of educational courses for valuation examinations

The Central Government notified the commencement of section 247 (relating to valuers) of the Companies Act, 2013 with effect from 18th October, 2017. It also notified the Companies (Registered Valuers and Valuation) Rules, 2017 on 18th October, 2017.

IBBI, being the Authority, in pursuance of the first proviso to rule 5 (1) of the Rules specified the details of educational course for the Asset Class of 'Securities or Financial Assets' on 30th December, 2017. It has published details for the Asset Classes of (a) Land and Building, and (b) Plant and Machinery. In pursuance of the rule 5 (3) of the Rules, IBBI published the syllabus, format and frequency of the valuation examination for the Asset Class of 'Securities or Financial Assets' on 30th December, 2017.

A person wishing to be a valuer needs to pass the prescribed valuation examination. The details of educational courses and syllabus of valuation examinations are available on IBBI website www.ibbi.gov.in.

CSR expenditure

CSR expenditure reported by 5870 and 7983 companies respectively for the years 2014-15 and 2015-16, as per the filings made on MCA21 registry upto 31st March, 2017, is ₹ 9,553.72 crores and ₹ 13,625.25 crores respectively.

Review of Corporate Sector:

As on 31st December, 2017 the number of companies registered under the Companies Act was 17,20,682. Of these, 5,37,556 companies were closed; 5,976 companies are under liquidation, 32,109 companies are in the process of being struck-off from the register, 111 companies were in the process of being re-activated and 1,155 companies have so far obtained the "dormant" status according to Section 455 of the Companies Act, 2013. Further, a total number of 3 companies have not filed their Annual Returns/ Balance Sheets for the past two consecutive years or more, and therefore not counted as active. Thus, there are 1,135,939 active companies, including 1,56,808 companies which were incorporated within the preceding eighteen months (not due for Annual Statutory Filings).

A total of 8,547 companies, including 477 One Person Companies (OPCs), were registered under the Companies Act, 2013 during December, 2017 with authorized capital of ₹ 4,238.19 Crore. The breakup of the newly incorporated companies by type is as follows:

Type of Company	No. of Companies registered in December, 2017	Total Authorised Capital (Rs in Crore)
Company limited by Shares	8,520	4238.18
Of which,		
(a) Private	8,346	1,643.70
Of which,		
One Person Companies	477	10.92
(b) Public	174	2,594.48
Company limited by Guarantee	18	0.11
Of which,		
(a) Private	25	0.01
(b) Public	2	--
Unlimited Company	--	--
Grand Total	8,547	4,238.19

During the Month of December, 2017, Maharashtra had maximum number of company registrations (1,547) followed by Delhi (1,165) and Uttar Pradesh (792). "Business Services" topped the economic activity-wise classification (4,708) of newly registered companies. During December, 2017, 8,520 (out of 8,547) companies were registered as companies limited by shares with authorized capital of Rs. 4,238.18 crore.

For more statistical details about the growth of the corporate sector, the reader is invited to the 'Monthly Information Bulletin on Corporate Sector', at URL: mca.gov.in/MinistryV2/InformationBulletin.html.

Major Events

1. Launch of National Corporate Data and CSR Data Portals

Shri Arun Jaitley, Union Minister for Finance and Corporate Affairs launched the National CSR Data Portal & Corporate Data Portal on 19th January, 2018. He stated that the initiative is a significant step towards bringing accountability and transparency for corporate India. By making the portals accessible to general public, it will ensure high level of compliance and also in institutionalising and consolidating the CSR activities.

Shri P.P. Chaudhary, MoS (Corporate Affairs and Law and Justice), on this occasion added that the launch of both the portals reflects government's commitment towards leveraging technology for smart governance. He suggested that CSR projects should be geo-tagged and aimed at the poorest of the poor.

Shri Injeti Srinivas, Secretary, Corporate Affairs, stated that the dual launch had created a landmark in bringing about 100 percent transparencies in corporate governance by making public over 4-crore filings of nearly 1.2 million companies. He added that the two portals would promote corporate transparency and accountability to public at large and also facilitate social audit of CSR projects, besides bringing together CSR contributors, implementers and beneficiaries and aligning CSR activities with national development goals.



The Union Minister for Finance and Corporate Affairs, Shri Arun Jaitley at the launch of the National CSR Data Portal and Corporate Data Portal, in New Delhi on January 19, 2018. Shri P.P. Chaudhary, Minister of State for Law & Justice and Corporate Affairs, Shri Injeti Srinivas, Secretary, Ministry of Corporate Affairs, Amardeep Singh Bhatia, Joint Secretary, Ministry of Corporate Affairs and Shri Chandrajit Banerjee, Managing Trustee, NFCG & DG, CII are also seen.

2. IICA-IFC MoU

A Cooperation Agreement was signed between the Indian Institute of Corporate Affairs (IICA) and International Finance Corporation (IFC) at New Delhi on 30th January, 2018. The agreement will strengthen Corporate Governance practices in India by enhancing the capabilities of key professionals engaged in the process over a two year period. The aim is to strengthen the institution of Independent Directors, Women Directors and other Corporate Governance Professionals. The programme also aims at instituting a Corporate Governance Index for monitoring the improvements in compliance and governance practices of public as well as private sector companies annually.

3. Orientation Programme for new Independent Directors

Shri P.P. Chaudhary MoS (Law & Justice and Corporate Affairs), inaugurated the two-day Orientation Programme for newly appointed Independent Directors (IDs) of Public Sector Banks and Public Sector Undertakings at IICA campus, Manesar on 11th January, 2018. He emphasised that role of IDs in companies is important as they impart a balanced view in the Board meetings which lends transparency and credibility to their proceedings. He further added that Government is considering to develop a data base of IDs at IICA.

4. IICA – IPPB Agreement

IICA and India Post Payments Bank (IPPB) signed an Agreement on 2nd January, 2018 for capacity building of IPPB through training of its officials/employees besides providing research support by instituting Research Chairs in the emerging area of payment banking. IPPB is a flagship “financial inclusion” initiative of Government of India to cover major portion of the country’s population that is outside the ambit of formal banking.

On this occasion, Secretary, MCA, Shri Injeti Srinivas remarked that after green and white revolution, a Financial Revolution in India is all set to transform the rural economy. With massive network of post offices, IPPB can effectively help the process of financial inclusion in India. Secretary, Department of Posts, Shri A.N. Nanda stated that mobilization of household savings has been facilitated by Department of Posts since long and added that IPPB, with this collaboration, shall further strengthen the Prime Minister’s Jandhan Yojana.

5. Strategy Brainstorming session

A Brainstorming session on the Action Implementation Plan of MCA arising out of Strategy Document, 2017 under the Chairmanship of Secretary, MCA was held on 6th January, 2018 in New Delhi wherein all senior officers of MCA attended. Action Implementation Plan of MCA was discussed and all the division heads gave a presentation on the status of their respective strategic action points and the envisaged actions in the future. Secretary, CA emphasized that MCA should play a greater role in good governance, growth and overall nation building. He stated that there is a greater need to build capacity in India to better utilize its demographic dividend. Some important research ideas were identified for better utilization of the huge MCA21 database with the Ministry.

6. Annual Convocation of ICAI

The Institute of Chartered Accountants of India (ICAI) organized its annual convocation on January 24 to award certificates of membership to over 2500 new members and felicitate rank holders of the recent CA examinations at New Delhi. Shri Injeti Srinivas, Secretary, MCA, the Chief guest stated that since the ICAI was set up by an Act of Parliament, it was an endorsement that CAs perform a critical role in nation building.

Senior Appointments

Shri Amardeep Singh Bhatia assumed the Charge of the post of Director, SFIO on 8th January, 2018.

Notifications

- (i) Vide Notification GSR No. 48(E) issued on 20th January, 2018, this Ministry has amended the Companies (Registration Offices and Fees) Rules, 2014. In rule 10, in sub-rule (3), it has been mandated that no re-submission of the application is allowed in the case of reservation of a name through web service – RUN. Further, in the principal Act, in the Annexure, in Item-I (Fee for filings etc. under section 403 of the Companies Act, 2013), the Table of Fees to be paid to the Registrar has been substituted.
- (ii) Vide Notification GSR No. 49(E) issued on 20th January, 2018 this Ministry has amended the Companies (Incorporation) Rules, 2014 to provide that henceforth the application for reservation of name shall be made by using RUN (Reserve Unique Name) available through web service at www.mca.gov.in. Further, Rule 12 has been amended to provide that application for registration of a company shall be made in Form INC-32 with the concerned Registrar and wherever the objects of the proposed company require registration of approval with sectoral regulator such as RBI, SEBI, the registration or approval as the case may be shall be obtained before perusing such objects. These rules have further mandated that with effect from 26th January, 2018, the new company getting incorporated with the nominal capital of less than or equal to ₹10 lakhs or companies not having share capital but having less than 20 members as per its articles will be exempted from paying fees for its incorporation. Accordingly, the relevant forms have been substituted/amended.
- (iii) Vide Notification GSR NO. 51(E), issued on 22nd January, 2018 this Ministry has amended the Companies (Appointment and Qualification of Directors) Rules, 2014 to provide that an applicant who intends to be appointed as a Director of an existing company shall make an application in DIR-3 for allotment of DIN. Further, in case the proposed directors who are not more than 3 and not having approved DIN, their particulars can be submitted in Form No. INC-32 (SPICe) for allotment of DIN. Consequent upon aforesaid amendments, DIR-3 and DIR-12 have also been substituted.
- (iv) Vide Notification GSR 351(E), issued on 23rd January, 2018, Provisions of Section 1 and Section 4 of the Companies (Amendment) Act, 2017 have been brought into force from 26th January, 2018.