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Index

BSE and NSE mandates updation of Corporate Groups by Listed Companies.

Introduction:

With the increased globalization, India Inc. has become as dynamic as never before. As a result, various regulators are working in tandem with each other to bring ease of doing business and making the life of India Inc. easy.

In this article, we shall try to understand the Securities and Exchange Board of India ('SEBI') circular dated 24th August 2023 ('SEBI Circular 2023')[1] mandating additional disclosures by Foreign Portfolio Investors ('FPIs') that fulfil certain objective criteria and [2]circulars issued by Bombay Stock Exchange ('BSE') and National Stock Exchange ('NSE') in furtherance to the said SEBI circular 2023.

Background:

In the year 2020, Government of India issued a press note[3] which said that individual investors as well as corporates whose beneficial owners are from countries sharing land borders with India should invest in Indian companies only through government approval route. However, this press note was not applicable to FPIs neither were they required to disclose their beneficial owners. Therefore, there was a possibility that investors from countries sharing land borders with India would invest through FPIs.

To remove this lacuna, SEBI amended its Securities and Exchange Board of India (Foreign Portfolio Investment) Regulations, 2019 ('SEBI FPI Regulations') and through SEBI circular 2023, clarified that, all FPIs whose shareholding in one Indian corporate group is more than 50%, will have to declare details of its beneficial owners. But SEBI Circular 2023 did not prescribe the meaning of 'Corporate Group' ('CG').

Guidance from BSE & NSE:

As discussed above, as per SEBI Circular 2023, FPIs are required to disclose their beneficial owners if their shareholding in one Indian corporate group is more than 50%. For the purpose of this compliance, it was essential to have clarity about who all are included in corporate group. BSE and NSE have vide their circulars dt: November 30, 2023 ['November Circular'] provided criteria following which BSE and NSE would be identifying CG. Vide November Circular BSE and NSE inter-alia stated that all the subsidiary companies, associate companies of one parent company shall come in one CG and all such companies who are recognised as group companies on the website or in the annual report of the company, shall also be considered as CG companies. Further BSE and NSE has also stated that these disclosures would only be required to be given in case of listed companies only and not all companies within the group. As per November Circular, all the listed companies in the CG should disclose to BSE and NSE about any change in the CG structure within two working days from effective date of such change. This intimation had to be given through an email to NSE.

XBRL filing of change in CG - BSE circular dated February 9th, 2024:

In furtherance of the November Circular, BSE has issued circular dt: February 9, 2024 ['February Circular'][4]. February Circular reiterates the grounds enumerated in earlier circular, based on which, CG would be identified. As per February Circular BSE has introduced a new XBRL format for reporting changes in CG. This new format can be found on the BSE website. Updation in CG on BSE has to be done in XBRL form.

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[1] https://www.sebi.gov.in/legal/circulars/aug-2023/mandating-additional-disclosures-by-foreign-portfolio-investors-fpis-that-fulfil-certain-objective-criteria_75886.html

[2] ahttps://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20231130-27

[3] https://dpiit.gov.in/sites/default/files/pn3_2020.pdf

[4] https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20240209-41

Anamolies

a. Reasons for change in corporate group

November Circular and February Circular list some of the reasons for change in corporate group, post which, the companies need to intimate the change in CG to the BSE and NSE. However, there are some more events post which, there may be change in CG structure. In such a case, there arises a question that, in case there is change in CG structure due to any event which is not mentioned in the both the Circulars, then whether listed companies are required to give intimation to BSE and NSE?

If we refer to the language of circular which reads as, *"In case of any change in its corporate group pursuant to <u>any event such as</u> Corporate Restructuring, Takeover, Merger, Demerger, Acquisition, Delisting <u>etc</u>., the companies have to intimate the Exchange within Two Working Days of the Effective Date of the change",* we may observe that the list of events provided is an illustrative list and therefore, disclosure has to be given in case of other changes as well. Such other changes may include events like listing of equity shares of any group company, or any equity listed entity ceasing to be a subsidiary or associate company.

b. Alignment with disclosure under regulation 30 of SEBI (Listing Obligations and Disclosure Requirements), Regulations 2015['SEBI LODR']

Listed companies are required to intimate acquisition(s) (including agreement to acquire), Scheme of Arrangement (amalgamation, merger, demerger or restructuring), sale or disposal of any unit(s), division(s), whole or substantially the whole of the undertaking(s) or subsidiary of the listed entity, sale of stake in associate company of the listed entity or any other restructuring. This is mandated as per Point 1, Para A, Part A, Schedule III of SEBI LODR.

Now as per the November Circular and February Circular any change in CG due to merger, de-merger, corporate restructuring etc. will also require disclosure. Hence listed companies would now have to submit disclosures pertaining to corporate restructuring under SEBI LODR and pursuant to the November Circular and February Circular. This would also help BSE and NSE to reconcile whether details of corporate restructuring have been disclosed under Circulars and as per SEBI LODR.

Further listed companies need to be mindful of the fact that two separate disclosures are to be given within two separate timelines for one same event. If even one disclosure is missed, then the company may have to face consequences.

Conclusion:

In conclusion, we can say that all the regulatory authorities work in tandem with each other to give effect to provisions which are in the best interest of the industry. Also, this co-ordination between the regulators helps to achieve ease of doing business as gaps in the provisions are addressed in a timely manner.

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Whether ex-promoter/directors are eligible to submit a Resolution Plan under Section 29A of the IBC if no disqualification is attached?

In the matter of Vishram Narayan Panchpor - Resolution Professional of Blue Frog Media Private Limited/Appellant Vs. Committee of Creditors - Blue Frog Media Private Limited & others - Respondents at National Company Law Appellate Tribunal dated 11 January 2024

Facts of the case*:*

- M/s. Blue Frog Media Private Limited - the Corporate Debtor (CD) had filed an application u/s 10 of Insolvency and Bankruptcy Code, 2016 (IBC/Code) which was admitted on 19 May 2021 by National Company Law Tribunal (NCLT).

- A resolution plan was submitted by Mr. Mahesh Mathai, Ex-Director of the CD. Mr. Mahesh Mathai was one of the Directors in the Company who resigned from the CD on 1 March 2018.

- Committee of Creditors (CoC) on 8 November 2021 by 91.86% vote share has approved the resolution plan submitted by Mr. Mahesh Mathani - Successful Resolution Applicant (SRA)

- Resolution Professional filed an application under Section 30(6) IBC seeking approval of the resolution plan.

- The NCLT rejected the application holding that SRA was not eligible u/s 29A of the IBC.

- An appeal was filed by Mr. Vishram Narayan Panchpor - (Resolution Professional/Appellant against the order passed by the NCLT.

Arguments of the Resolution Professional:

- It was argued that the NCLT erred in deeming SRA as ineligible while promoters or ex-management were not considered ineligible to submit a resolution plan unless they fell under any of the clauses provided in Section 29A of the IBC

- The SRA was not encompassed by any of the clauses under which ineligibility was associated with promoters or ex-management. Section 29A does not automatically render all promoters and directors ineligible. Ineligibility is only attached if they fall under any of the clauses outlined in Section 29A.

- NCLT had referred to section 29A(c) which was not attracted. Reliance was palced on the judgment of Hon'ble Supreme Court Hari Babu Thota vs. Shree Aashraya Infra-Con Ltd wherein it was submitted that the NCLT has misinterpreted Section 29A in holding that SRA as ineligible whereas none of the conditions under Section 29A were attracted and Section 29A per se does not make directors/ promoters ineligible.

- It was submitted that none of the banks, whether nationalized or commercial, were creditors of the corporate debtor. Therefore, there was no question of the applicability of Section 29A (c).

- The COC had already approved the resolution plan, and the SAR was never deemed ineligible.

NCLAT analysis:

- A plain reading of Section 29A of IBC indicates that a person shall not be eligible to submit a plan if such person, or any other person acting jointly or in concert with such person is covered by any of the clauses mentioned from (a) to (g).
- Section 29A(c) is attracted when at the time of submission of the plan, the person has an account or an account of a CD under the management or control of such person or of whom such person was a promoter, was classified as Non- Performing Assets(NPAs).
- Present is a case where as per submission of the appellant, no bank is creditor of the CD.
- Present is not a case even there is any suggestion or material that account of SRA or the CD is NPA on the date of submission of the Resolution Plan, therefore, there is no question of applicability of Section 29A(c) of IBC.
- Present is not a case where it was pleaded or alleged that any of the clauses (a) to (g) are attracted with respect SRA.
- The Hon'ble Supreme Court in *Hari Babu Thota* (supra) case- a plan proposed by the promoter was approved by the CoC and the application was filed by the resolution professional for approval of the plan which was dismissed on the ground that the promoters could not have presented the plan. In final appeal, the Hon'ble Supreme Court held that there was no per se disqualification u/s 29A. MSME certificate was issued after commencement of the CIRP, hence, Section 240A was not relied by the NCLT.
- The present case does not involve the invocation of any clauses under Section 29A to establish the ineligibility of the SRA. The ineligibility is solely based on the premise that the SRA served as the promoter of the corporate debtor until 2018 when he resigned. The interpretation adopted by the NCLT does not align with the true and accurate understanding of Section 29A. Section 29A does not automatically render promoters and directors ineligible to submit a plan unless they fall under clauses (a) to (g). As none of clauses (a) to (g) are applicable to the SRA in this case, the mere fact that he was a promoter and director should not render him ineligible to submit a Resolution Plan**.**
- NCLT committed error in holding that the SRA ineligible to submit a Resolution Plan. And accordingly, the appeal was disposed of.

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Can a company give loan to an employee of a company who is relative of director of the company?

Background:

The assets and cash reserves of any company are inherently for the expansion and interest of the business of the company and its shareholders. Like it is in the case of sole proprietorships and partnership firms that the interest involved are of limited individuals the same cannot be the case for business structures as that of a company.

In case of structures where limited interest is involved as mentioned aforesaid it is easier to use the funds of the business as deemed necessary by the people who run the business but in the case of a company various restrictions are in place as to how to utilise the cash reserves of the company.

Also, the transactions involved in case of a company are highly regulated and must be within the scope of the applicable laws on the Company. The Companies Act, 2013 is one such act which regulates the activities and transactions of the Companies.

Introduction:

To use the funds of the company in the most prudent manner is the inherent responsibility of the Board of directors of the company.

Section 166 of the Companies Act, 2013 is the most crucial section which highlights the position of a director as a designated fiduciary. It becomes very crucial how the decisions taken by the Board affect the shareholders of the company.

Directors of the company cannot take access to the funds of the company for their own benefit or the benefit of their relatives directly or indirectly, the same is highlighted under sub section (5) of section 166 of the Act.

Also sub section (1) of section 185 specifically lists out prohibited parties to whom loans cannot be advanced by the company which we will understand in this article going forward.

Further reference can also be drawn to the view of the Justice Cohen Committee Report of June 1943[i] wherein it states *"We consider it undesirable that directors should borrow from their companies. If the director can offer good security, it is no hardship to him to borrow from other sources. If he cannot offer good security, it is no hardship to him to borrow from other sources. If he cannot offer good security, it is undesirable that he should obtain from the company credit which he would not be able to obtain elsewhere."*

Let's try to understand in this article that whether the directors of the company or their relatives are allowed to obtain loans or finances from the company?

Prohibition imposed by the Act:

The primary section which deals with granting of loans to directors of the company is Section 185 of the Companies Act, 2013. The wordings of sub section (1) of section 185 start with the words *"No Company shall"* which implies that sub section (1) has a negative language, and it imposes prohibition on the company.

Sub section (1) of Section 185 can be read as under:

(1) No company shall, directly or indirectly, advance any loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by, —

(a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or

(b) any firm in which any such director or relative is a partner.

So, it can be seen that sub section (1) of section 185 specifically **lists out prohibited parties to whom loans cannot be advanced by the company**. They **can be identified** as follows:

- Directors of the company,
- Directors of the Holding company,
- Relatives of the directors of the company,
- Relatives of the directors of the holding company,
- Partners of directors of the company and holding company,
- A firm including LLP wherein the director of the company or its holding company is a partner.

Further, **prohibition is also imposed upon the nature and means by which loans can be advanced** by the company **to the aforesaid identified prohibited parties**.

The scope of sub section (1) of section 185 is very wide as it includes the words such as "*indirect*" and expressions like "*loan represented by book debt*". As per the Oxford dictionary the term *"indirect"* means not done directly i.e., conducted through intermediaries. So, it implies that the law maker wants to prohibit the director or other aforesaid prohibited parties from being the beneficiary of the advances or finances from the company even in an indirect manner.

The term *"book debt"* as per Cambridge dictionary means money that a company has not yet received from customers who owe it. This implies that, if the company has given any goods or services to the director or any of the aforesaid prohibited parties listed out in sub section (1) of section 185 and the said person has not paid for the same for abnormally extended periods then such transactions may be considered as a loan in the nature of book debts.

Hence, the purview of section 185 is not only limited to loan in the nature of money but also loan in the nature of kind.

Now after analysing sub section (1) it is clear that certain prohibited parties are identified to whom loans cannot be advanced by the company which also includes relatives of director of the company.

But what if such relative of the director is also an employee of the company and the said person is seeking such loan or finance from the company in the capacity of an employee of the company?

Position as an employee v/s Position as a relative of director of the Company:

Sub section (1) of section 185 prohibits the giving of loan to the relatives of directors of the company and relatives of directors of holding company. It does not include persons who are only the employees of the company and are not related to the directors of the company or the directors of the holding company.

Further if we read sub section (3) of section 185 it provides an exception to sub section (1) i.e. it allows giving of loan to the Managing Director or Whole Time Directors of the Company as a part of service conditions extended to all the employees or pursuant to any scheme approved by the members by a special resolution. But interestingly it does not provide for loan to relatives or partners of directors as part of even service contract.

Thus, sub section (3) of section 185 which is the exemption clause of Section 185 does not give a carve out to a person receiving loan from the company in the capacity of an employee and who is also the relative of the director of the company or the relative of director of the holding company. In this case, if we apply the interpretation principle that express mention of one thing implies exclusion of other[ii], then it can be interpreted that as sub-section (3) of section 185 expressly allows giving of loan to managing or whole time director being employee of the company, therefore relatives of director of the company or holding company being an employee of the company will not be exempt from provisions of sub-section (1) of section 185 as it does not expressly provide for same.

Having an analysis of the aforesaid explanation, a view can be taken that relatives of directors of the company or holding company, even though employees of the company cannot be covered under the purview of sub section (3) of section 185 and hence shall fall within the ambit of sub section (1) of section 185.

Here we have to say that the position of the individual receiving the loan is more dominant as a relative of a prohibited person i.e.as the relative of the director of the company or director of the holding company vis a vis his position as an employee of the company.

This again draws us to a question that as an employee of a company in times of genuine financial needs the employee usually looks up to his company or employer for assistance, so will an employee just because he is a relative of prohibited person be deprived of such support from the company?

A possible solution

If we refer to the provisions of Companies Act 2013 with respect to grant of loan to employees, we may notice that all sections regulating grant of loans like sub section (3) of section 67, sub section (2) of section 186 etc. exempt loans to employees. Further subsection (3) of section 185 also talks about grant of loan to employee as a service available to all employees of the company. Therefore, looking at the intention of the Act it does not appear that the Act wants to prohibit the companies from giving loans to its employees whether or not they are relatives of directors.

Nevertheless, considering the prohibitions mentioned under sub section (1) of section 185, when loan is being given to an employee who is relative of director, company should take some precautions in order to avoid misuse of funds and non-compliance of law. For example, the facility under which the loan is being given to employee who is relative of director, must be a genuine facility used by various employees from time to time. The purpose of taking loan should be genuine and interest should be charged as per market rates. In other words, company should take care that such loan transaction should be at arm's length basis.

Audit committee approval

If we refer to definition of related party clause (i) of section 2(76) of Companies Act 2013, we understand that relative of a director is the related party of the company and clause (iv) sub section (4) of section 177 states that all transactions with related parties should be approved by audit committee.

So, in cases where there is a genuine need of the employee of the company who is also a relative of director of the company it can be said that such transaction of advancing loan to the employee of the company being a transaction with related party, can be routed through Audit committee as an additional good governance. The rationale being that Audit committee consists of external experts such as independent directors which are capable of examining the veracity and need of such transactions.

Conclusion

To sum up a view can be taken that depending upon the genuineness of the situation a call must be taken to grant or not to grant loans to relatives of prohibited parties.

In cases where it is applicable routing the same through audit committee would ensure that the veracity and genuine need of such transaction is evaluated, provided proper record of the transaction is maintained and fair and proper disclosures in this regard are made to the Audit committee.

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[i] https://www.mca.gov.in/bin/dms/getdocument?mds=nryNnBKRmzzz4PP4Tti3fw%253D%253D&type=open
[ii] Expressio unis est exclusio alterius

Engaging Stakeholders Effectively During an IPO: A Promoter's Guide

An Initial Public Offering (IPO) marks a significant milestone in a company's journey. It is not just about unlocking value and going public; it's a transformative event that reshapes, extends and concrete a company's relationship with its stakeholders. As a promoter gearing up for this crucial phase, effective and close stakeholder engagement becomes paramount. Engaging stakeholders during an IPO isn't just about raising capital; it is about fostering trust, managing expectations, and ensuring a smooth transition into the public sphere. A successful IPO effectively is a reflection of joint efforts and timely, precise delivery of output from the core IPO team of the Company, alongside promoters. The core IPO team may consist of the executive Board members, the transformative chief, CEO, CFO, Legal & Compliance head, Head-strategy, Head Business Development and so on. Shaping the core management team, planning succession, and creating, maintaining a sustainable environment for the core management is key to the success of IPO. Drawing understanding of the core stakeholders of IPO and mapping the relevance of each contributor hence becomes crucial initiator of the process.

Understanding Stakeholder Dynamics:

Stakeholders encompass a broad spectrum, a with its neutral, supporting and even turbulent perspective to the issue. Each relevant to be identified and addressed to during the IPO process. All the relevant stakeholders including promoter family, investors, employees, customers, suppliers, regulatory bodies, and the community at large lay a pathway of IPO with each one contributing to the company's success in the IPO. Promoter family out of all stakeholders caters the most important role in the IPO process. As witnessed in various classic IPO cases such as JM Baxi Port's Rs. 2500 Crores IPO[i], the unresolved issues within family w.r.t. to the business derails the IPOs process especially where equity stake of the Company is involved. It must be addressed right in time the understanding of business by promoter family and support to enhance the, if Recognizing and understanding their concerns, aspirations, and expectations is the first step towards effective engagement. Apart from promoter family, the main players including investors, customers, regulatory bodies, employees are also to be dealt with sensitivity, care and practical approach.

Transparent Communication:

Transparent and consistent communication is the cornerstone of successful stakeholder engagement. With especially demanding and ever increasing quantum of decisions, transactions and process an IPO dictate, laying down expectations and ambit of each key stakeholder becomes stepping stone. Developing and following through clear, concise, timely communication channels facilitates the passage of information. Keeping stakeholders frequently engaged with major IPO milestones, seeking their contribution at right time, placing the expectations with using principles like man-to-man markings may add further to the engagement level. Whether it is through press releases, meetings, or dedicated communication channels, ensure that stakeholders feel included and well-informed.

Designing the communication channels, setting the expectations and pathway of communication to the core IPO Team of Company can further structure the Company communications strategy during the crucial times.

Managing Investor Expectations:

Investors, both existing and potential, are key stakeholders during an IPO. Managing their expectations involves setting realistic goals, validating the company's growth strategy, and providing a transparent financial outlook. Clear identification and communication about risks, challenges, and opportunities is crucial to building trust and confidence among the investors. Investors may have expectations w.r.t equity stake in the Company against their debts or increase in the stake post IPO. Revisiting and analysing the various share purchase and transfer agreements a Company would have entered with investors and addressing and moderating the expectations of investors would require close stakeholder engagement.

In addition to addressing the expectations, involving existing investors in key-contributors of IPO such as fund utilisation, forming the issue size of IPO, dilution of holdings during the process etc. are few dynamic aspects where transparent communication with investors would also let promoters and Company form trust.

Employee Inclusion and Support:

Employees are the backbone of any company. An IPO can bring about uncertainties and changes within the organization. Engaging with employees early in the process, addressing their concerns, and outlining how the IPO impacts them directly are few effective actions promoter can take as per their discretion to build the organisation structure as designed. Providing formal support, such as education about stock options or offering employee-centric benefits, can foster a sense of inclusion and motivation. With increased numbers of operations and expansion of business, prior trainings to the employees, redefining their roles and responsibilities, alignment of employees with new and upcoming business growth plans will yield better output and productivity from employees.

Customer and Supplier Relations:

Maintaining strong relationships with customers and suppliers is vital. Reassuring them about the company's commitment to quality, service, and continued partnerships post-IPO is essential. Address any concerns they might have about potential disruptions and emphasize the positive impact the IPO will have on the company's growth and stability.

Navigating Regulatory Requirements:

Navigating regulatory compliance is a critical aspect of an IPO. Engaging with regulatory bodies transparently and proactively to ensure compliance and a smooth transition into the public market. Compliance failures can lead to setbacks and erode stakeholder trust to a large extend impacting the entirety of IPO process. Detailed pre-IPO due diligence, understanding financial and operational impact of non-compliances if any post diligence and addressing the issues in timely manner can reflect upon swifter regulatory approvals during the process. Having identified pre-IPO key-regulatory aspects, engaging and elevating the organisation for post IPO regulatory compliance requirements would be a base stakeholder engagement required for the IPO.

Community Engagement:

A company's IPO can have a broader impact on the community it operates in. Engage with the local community, addressing any concerns or showcasing how the IPO will contribute positively to the community's welfare. Demonstrating corporate social responsibility can enhance the company's reputation and goodwill.

There have been instances in India where IPOs faced challenges due to issues related to stakeholder engagement or other factors contributing to a lack of success:

1. **Coffee Day Enterprises (2015)**: This IPO faced challenges after the listing due to concerns related to the company's debt, corporate governance issues, and the tragic demise of the company's founder. Stakeholders, including investors, raised questions about the company's disclosures.

2. **PNB Housing Finance (2016)**: The IPO of PNB Housing Finance faced criticism due to concerns regarding the pricing strategy and stakeholder engagement. There were allegations of lack of transparency in the IPO pricing process, which led to scrutiny by regulatory bodies and investors.

3. **HAL (Hindustan Aeronautics Limited) IPO (2018)**: The IPO of HAL faced challenges with respect to investor interest and subscription levels. Some attributed this to concerns about the valuation, **lack of clarity on future prospects, and limited engagement with potential investors.**

4. **SBI Cards and Payment Services (2020)**: While the IPO was successful in terms of fundraising, there were concerns raised about the valuation and market conditions. Some analysts pointed out that the company might not have engaged adequately with investors to address concerns about asset quality and the impact of COVID-19 on the credit card industry.

In these cases, issues related to stakeholder engagement, transparency, pricing strategies, governance, or market conditions contributed to challenges or skepticism surrounding the IPOs of these Indian companies. Effective communication, transparency, and engagement with stakeholders, especially investors, are crucial elements for a successful IPO, irrespective of the country or market conditions.

Final Thoughts

An IPO is more than a financial event; it is a transformation that shapes a company's future. Effective stakeholder engagement at right time and with right approach & visibility is the key to navigate this transition successfully. By prioritizing alignment of different stakeholders for different objectives, keeping communication channels transparent and pro-active, and addressing stakeholders' concerns, a promoter can lay a strong foundation for the company's journey into wider spectrum, building trust and support from all stakeholders.

Ultimately, a successful stakeholder engagement during an IPO is not just about the process; it's about fostering long-term relationships and trust that will drive the company's success in the public market.

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[i] https://www.business-standard.com/companies/news/family-dispute-puts-spanner-in-the-works-for-jm-baxi-rs-2500-cr-ipo-123102400665_1.html

Driving ESG and Sustainability: The Collaborative Efforts of Professionals Across Industries

Introduction:

In the contemporary business environment, the emphasis on Environmental, Social, and Governance (ESG) goals and sustainability has transcended from being a mere trend to an imperative for organizations worldwide. This paradigm shift is not merely a reflection of changing market dynamics but a holistic acknowledgment of the interconnectedness between business success and broader societal and environmental well-being. To effectively navigate and excel in this new landscape, organizations must harness the collective expertise and commitment of professionals across diverse disciplines, as each facet contributes indispensably to the realization of sustainable goals. Achieving these objectives requires a concerted effort from various professionals across different disciplines. From finance to human resources, legal to supply chain management, each professional plays a crucial role in steering the organization towards a sustainable future.

1. **Leadership and Strategy:**

Role: CEOs, Chief Sustainability Officers, and Board Members.

At the helm of organizational decision-making, executives such as CEOs, Chief Sustainability Officers (CSOs), and Board Members play a pivotal role in shaping the overarching strategy for sustainability. Their vision and commitment set the organizational tone, influencing the integration of ESG principles into long-term strategic planning. The Chief Sustainability Officers (CSOs) are given the responsibility and expected to lead the development and execution of sustainability strategies, ensuring alignment with the company's overall goals.

2. **Finance and Investment:**

Role: CFOs, Investment Analysts, and Treasury Managers.

Finance professionals, including CFOs, Investment Analysts, and Treasury Managers, are entrusted with aligning financial strategies with sustainability objectives. They evaluate and guide investment decisions, ensuring that financial resources are channelled toward initiatives that not only generate returns but also contribute positively to environmental and social welfare. Finance professionals ensure that sustainable initiatives are financially viable and contribute to long-term profitability. Investment analysts assess ESG risks and opportunities, guiding investment decisions that align with sustainable goals. These professionals also ensure that funds are utilized responsibly and in alignment with ESG principles. Monitoring the ethical and sustainable use of funds is integral to fostering a corporate culture that prioritizes responsible financial practices and contributes to broader ESG goals.

3. **Legal and Compliance:**

Role: General Counsels, Compliance Officers, and Corporate Lawyers.

Legal professionals, including General Counsels, Compliance Officers, and Corporate Lawyers, are instrumental in navigating the complex legal landscape of ESG regulations. They ensure that the organization complies with evolving sustainability standards, mitigates legal risks, and incorporates ethical considerations into business practices. Legal professionals play a key role in navigating the complex landscape of ESG regulations. Compliance officers ensure adherence to evolving sustainability standards and integrate legal and ethical considerations into business practices.

4. **Human Resources and Employee Engagement:**

Role: HR Managers, Chief People Officers, and Employee Engagement Specialists.

HR professionals, such as HR Managers, Chief Human Resource Officer (CHRO) and Chief People Officers, take the lead in embedding sustainability into the organizational culture. They shape policies for talent acquisition, employee training, and performance evaluations, fostering a workforce that is not only aware of but actively engaged in sustainable practices. This fostering culture of sustainability by integrating ESG principles into talent acquisition, employee training, and performance evaluations is done by these professionals. Driving employee engagement initiatives, ensuring that the workforce is aligned with the organization's sustainability goals also falls within the HR umbrella. These professionals bear the responsibility of upholding human Rights, combating child and forced labour, and promoting gender equality across diverse spectrums, including considerations for individuals of all genders and abilities. Their pivotal role extends beyond traditional HR functions, contributing significantly to the achievement of Environmental, Social, and Governance (ESG) goals within the organization.

5. **Supply Chain and Operations:**

Role: Supply Chain Managers, Operations Managers, and Procurement Officers.

Supply Chain Managers, Operations Managers, and Procurement Officers are tasked with optimizing the organization's value chain for sustainability. They collaborate with suppliers, streamline processes, and implement measures to minimize the environmental impact of operations. Professionals in supply chain and operations are responsible for evaluating and improving the sustainability of the entire value chain. They play a key role in advancing ESG goals by actively encouraging and enhancing the sustainability practices of value chain partners. Their strategic involvement is essential for fostering a responsible and ethical value chain that aligns with ESG objectives.

6. **Marketing and Communications:**

Role: Chief Marketing Officers, Communication Specialists, and Brand Managers.

Marketing and communication professionals, including Chief Marketing Officers and Communication Specialists, play a critical role in shaping the organization's public image. By effectively communicating the company's commitment to sustainability, they build trust with consumers and stakeholders, thereby enhancing the brand's reputation. They play a pivotal role in building trust and helmed with accountability of ensuring that there is responsible message is rolled out through corporate communications department. Marketing professionals are tasked with upholding transparency and championing ethical standards in advertising practices, fostering a commitment to integrity and responsibility in their promotional endeavours.

7. **Technology and Innovation:**

Role: Chief Technology Officers (CTOs), IT Managers, and Innovation Leaders.

Chief Technology Officers, IT Managers, and Innovation Leaders drive sustainable innovation. These professionals develop eco-friendly technologies, integrate sustainable practices into business operations, and contribute to the creation of products and services that align with environmental and social goals. Integrating eco-friendly technologies into business operations also falls within their ambit. They contribute to the development of environmentally conscious products and services and play a significant role in reducing e-waste and disposing them without significantly impacting the environment.

8. **Risk Management and Audit:**

Role: Risk Managers, Internal Auditors, and Environmental Risk Specialists.

Professionals in Risk Management, Internal Auditors, and Environmental Risk Specialists evaluate the impact of ESG factors on the organization's risk profile. They identify potential risks and opportunities associated with sustainability, ensuring that the organization is well-prepared for challenges in an ever-evolving landscape. They assess the impact of ESG factors on the organization's risk profile. They help identify potential risks and opportunities related to sustainability, ensuring that the organization is well-prepared for any challenges that may arise.

Conclusion:

Realizing ESG and sustainability objectives is a nuanced and intricate endeavour that demands a harmonized collaboration among professionals across diverse domains. By discerning and valuing the distinctive contributions of leaders, finance experts, legal advisors, human resources specialists, supply chain managers, marketing professionals, technology innovators, and risk management experts, organizations can craft a comprehensive and integrated approach to sustainability. This cooperative synergy not only fortifies the organization's ability to navigate environmental and social complexities but also establishes it as a conscientious and ethical entity, earning esteem from stakeholders and the global community.

This article is published in Taxguru. The link to the same is as follows: -

https://taxguru.in/corporate-law/driving-esg-sustainability-collaborative-efforts-professionals-across-industries.html

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ESG in Supply Chains: Promoting Sustainability Across Industries in India

Introduction

ESG in supply chain management refers to the integration of Environmental, Social, and Governance principles into the processes and operations of a supply chain. Here is a breakdown of what each component represents within ESG:

1. **Environmental (E)**: This pertains to the ecological impact and sustainability practices integrated into supply chain operations. It involves reducing carbon footprints, conserving resources, minimizing waste generation, adopting renewable energy sources, and promoting environmentally friendly practices throughout the supply chain.

2. **Social (S)**: Social aspects encompass the treatment of people within the supply chain, including employees, communities, and stakeholders. It involves fair labour practices, human rights considerations, health and safety standards, diversity and inclusion initiatives, community engagement, and support for local communities in which the supply chain operates.

3. **Governance (G)**: Governance focuses on the ethical and transparent management and oversight of the supply chain. This includes ethical business practices, compliance with regulations and standards, risk management, transparency in decision-making processes, and accountability at all levels of the supply chain.

Supply chain management refers to the oversight and coordination of all the processes involved in the production and distribution of goods or services. It involves the entire journey of a product, from the raw materials stage to the finished product reaching the consumer.

Integrating ESG principles into supply chain management involves evaluating the environmental, social, and governance risks and opportunities associated with every stage of the supply chain—from sourcing raw materials to manufacturing, distribution, and disposal or recycling. Companies that prioritize ESG in their supply chains aim to mitigate risks, enhance brand reputation, foster innovation, achieve operational efficiency, and create long-term value for stakeholders while contributing positively to society and the environment.

In recent years, the conversation around sustainable business practices has gained momentum globally, urging companies to integrate Environmental, Social, and Governance (ESG) principles into their operations. The impact of these principles within supply chains cannot be overstated, especially in a country like India, where industries across sectors are recognizing the importance of sustainable practices for long-term viability and positive societal impact.

Environmental Sustainability in Supply Chains

Agriculture and Agribusiness

India’s agriculture sector, a vital component of the economy, has witnessed the adoption of ESG practices. In the heart of India's agrarian economy, companies like ITC Limited have been revolutionizing agricultural supply chains through their 'e-Choupal' initiative[i]. By leveraging technology, they connect directly with farmers, providing them with information on best practices, fair market prices, and sustainable farming techniques. This approach not only enhances agricultural productivity but also promotes environmentally friendly practices, contributing to a more sustainable supply chain.

Companies like Jain Irrigation Systems have pioneered sustainable agriculture techniques by implementing irrigation systems[ii]. This innovative approach conserves water, enhances crop yields, and reduces environmental degradation, showcasing the potential for sustainable solutions within agricultural supply chains.

Energy and Renewable Resources

India's energy landscape is evolving, with companies like Suzlon Energy[iii] contributing significantly to renewable energy adoption. Through wind energy projects, Suzlon has not only diversified the energy mix but also catalyzed sustainable practices within their supply chain, thereby reducing reliance on fossil fuels and mitigating environmental impact.

Automobile Industry

Moreover, the automobile industry, represented by companies like Mahindra & Mahindra[iv], has been proactive in embracing eco-friendly practices. They have introduced electric vehicles and invested in research for alternative fuels, significantly reducing carbon emissions across their supply chain.

Social Responsibility and Ethical Supply Chains

The Indian textile industry, while contributing significantly to the economy, has faced scrutiny for labour practices. However, companies like Fabindia[v] have set a benchmark by promoting ethical sourcing and fair-trade practices. By empowering local artisans and ensuring fair wages, they foster a socially responsible supply chain that uplifts communities and supports traditional craftsmanship.

Additionally, in the technology sector, companies are standing out for their commitment to diversity and inclusion. Their supply chain practices prioritize partnering with vendors who share similar values, thereby ensuring a diverse and inclusive network that supports equality and empowers marginalized groups.

Healthcare and Pharmaceuticals

The pharmaceutical sector in India, represented by companies like Dr. Reddy's Laboratories[vi], has been emphasizing ethical supply chain practices. By ensuring stringent quality control measures, responsible sourcing of raw materials, and adherence to ethical standards, they uphold their commitment to ESG principles, fostering trust and reliability throughout the healthcare supply chain.

Governance and Ethical Standards

Cultivating robust governance and ethical standards within the supply chain ensures transparent practices, accountability, and adherence to stringent ethical guidelines throughout all operational facets. One of many such examples is Tata Group[vii], a conglomerate spanning multiple industries, exemplifies strong governance practices in its supply chain. By enforcing strict ethical standards and conducting regular audits, they ensure compliance and accountability among their suppliers. This commitment to governance not only safeguards against unethical practices but also promotes a culture of transparency and responsibility.

Consumer Goods and Retail

In the consumer goods sector, Hindustan Unilever Limited[viii] (HUL) stands out for its sustainable sourcing initiatives. HUL's commitment to sourcing raw materials ethically, such as palm oil from certified sustainable sources, not only reduces environmental harm but also ensures fair trade practices and social responsibility across their supply chain.

To effectively incorporate suppliers into ESG initiatives, a sophisticated supply chain network that encompasses all trading partners within the ecosystem is imperative. This network should feature a real-time, unified database built on a ledger-based platform, enabling comprehensive tracking of state changes, and facilitating environmental reporting and assessment of impacts throughout the entire end-to-end network.

Studies suggest that nearly 90 percent of a company's sustainability impacts originate in a firm's supply chain.

Companies such as Nike, Marks & Spencer, and Hershey's have all recently experienced reputational and financial fallout caused by ESG-related scandals in their supply chains[ix].

Actionables

Some actionable steps that companies can take to integrate ESG principles into their supply chain management:

1. **Supplier Engagement and Assessment:** Implementing a thorough evaluation process to assess suppliers based on their adherence to environmental, social, and governance criteria. Prioritizing partnerships with suppliers who demonstrate a commitment to sustainability and ethical practices.

2. **Transparency and Reporting:** Fostering transparency by openly communicating ESG-related goals, initiatives, and performance metrics to stakeholders. Regularly reporting on progress made toward achieving sustainability targets and share the impact of ESG practices within the supply chain.

3. **Risk Assessment and Mitigation:** Conducting comprehensive risk assessments to identify potential ESG-related risks within the supply chain. Developing mitigation strategies to address these risks, ensuring continuity of operations while upholding ESG principles.

4. **Collaboration and Partnerships:** Collaborating with industry peers, NGOs, and local communities to exchange best practices, innovate sustainable solutions, and support initiatives that contribute positively to social and environmental causes.

5. **Investment in Technology and Innovation:** Embracing technology and innovation to optimize supply chain processes for sustainability. Companies can explore the use of eco-friendly materials, energy-efficient logistics, and technologies that reduce environmental impact while maintaining operational efficiency.

6. **Training and Education:** Providing ongoing training and education to employees and stakeholders about the importance of ESG principles within the supply chain. Parallelly, empowering them to champion sustainable practices and drive positive change.

7. **Continuous Improvement and Measurement:** Implementing a system for continuous improvement by regularly measuring, monitoring, and reassessing the effectiveness of ESG initiatives. Also using key performance indicators (KPIs) to track progress and identify areas for enhancement.

By implementing these actionable, companies can significantly contribute to promoting sustainability, ethical standards, and responsible practices within their supply chains, thereby creating value for both their businesses and society at large.

Conclusion: Embracing and shaping a Sustainable Future

The integration of ESG principles within supply chains in India signifies a significant shift and has emerged as a catalyst for sustainability across various industries in India. From agriculture to technology, several sectors have embarked on transformative journeys, prioritizing ethical, environmentally conscious, and socially responsible practices. Companies across are recognizing that prioritizing ESG factors isn't just an ethical choice but also a strategic one that leads to resilience and long-term success. These examples underscore the transformative potential of ESG in fostering sustainability, driving innovation, and creating a positive societal impact.

As businesses continue to evolve, the adoption of ESG principles in supply chains is not just an option but a necessity for a sustainable future. The Indian context provides a rich tapestry of examples where companies are championing these principles, demonstrating that profitability and sustainability can go hand in hand. Moving forward, the commitment to ESG within supply chains will be pivotal in steering industries towards a more sustainable, equitable, and prosperous future.

The evolution of these practices within Indian supply chains exemplifies a paradigm shift in business outlook. Companies across diverse sectors are redefining success by considering not just profitability but also their impact on the planet and society. The stories of innovation, ethical sourcing, and environmental stewardship within these industries highlight the transformative power of ESG in fostering sustainability.

This article aims to provide a more comprehensive view of how ESG principles are influencing and transforming various industries within India's supply chains towards a more sustainable future.

This article is published in Taxmann. The link to the same is as follows: -

https://www.taxmann.com/research/company-and-sebi/top-story/105010000000023549/esg-in-supply-chains-promoting-sustainability-across-industries-in-india-experts-opinion

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[ii] http://jainpipe.com/PDF/Sustainable%20Report%20Final.pdf

[iii] https://www.suzlon.com/in-en/about-suzlon/sustainability

[iv] https://www.mahindra.com/sustainability

[v] https://www.linkedin.com/pulse/fabindia-model-sustainable-business-prestige-corpx

[vi] https://www.drreddys.com/cms/cms/sites/default/files/2022-04/sustainability-report-fy-2020-21.pdf

[vii] https://www.tatasustainability.com/SocialAndHumanCapital/SupplyChainSustainability

[viii] https://hul-performance-highlights.hul.co.in/performance-highlights-fy-2021-2022/environmental.html

[ix] https://www.onenetwork.com/supply-chain-management-resources/papers/esg-in-the-supply-chain/#:~:text=Studies%20have%20estimated%20that%20up,scandals%20in%20their%20supply%20chains

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The Tail of Restructuring

Introduction

Mergers, Demergers, Slump Sale, Capital Reductions (hereinafter "Restructuring") involves various stages viz. Preparatory Stage, Validation Stage, Process Execution Stage, Post Transaction activities. Each stage is a project in itself and need to be addressed with specialisation and requires through knowledge and planning. The Success and timelines of any restructuring depends on how diligently each stage is followed and it has been executed with due cautious of backups and forecasting of challenges.

In **Preparatory Stage** the transactions is designed in multiple ways to achieve the desired objective in most cost-efficient manner considering the taxation and Stamp duty impact.

In **Validation stage** the designed transaction is cross checked with compliances of various applicable laws and backed up with Judgements of various courts.

In **Process execution Stage** it involves documentations, filings with Hon'ble Courts, clearances from Regulators, multiple hearings in NCLT and finally Statutory Clearance**s**.

In **Post transaction** it involves various activities that are to be carried out to successfully give a closure to a transaction, generally the assumption is that Court Clerance is the ultimate success of any transaction however it is to be understood that the implementation of the court order and doing all the necessary formalities to actually achieve the desired objective is the real success of the transaction and therefore Post transaction activities should be taken into account with due cautious else the overall transaction may come to halt.

Let us understand what all can be the Post transaction activities that needs to be adhered to give successful closure to the transaction.

1. Effectiveness of the transaction

The date of effectiveness plays a crucial role and is to be decided very carefully from accounting point of view /from invoicing point of view. In merger the transferor Company comes to end from this date and therefore any activity to be ensured in the transferor company shall be considered before the effective date.

Ideally schemes defines effective dates, as the date on which the Order of NCLT is lodged with the Registrar and on meeting up all the conditions mentioned in the conditionality clause. One should ensure that the conditions mentioned in the clause are achievable and specific and not open ended.

The date of Effectiveness of the scheme is important form the context of vendors of the company who shall be raising the invoices on the transferor Company name, further transferee company should get its vendor registration done for clients of transferor company.

2. Consideration Clause - Allotment of Securities

Ensuring the compliance of consideration clause in spirit is the essence of the closure of the transaction, many a times it happens that the swap ratio mentioned in the scheme and actual allotment differs in fractional shares and therefore having right clause of dealing with fractional entitlements in the scheme shall be ensured. Further, allotment of securities shall not be delayed, and it shall happen immediately on effectiveness of the scheme.

In case of Capital Reduction there is no timelines particularly specified for actual payouts against cancellation of capital, however it should clearly be set out in the explanatory statement of the resolution passed for reduction as some shareholder may raise a concern over this and the transaction may come to halt.

3. Stamp Duty Adjudication

The order passed by the NCLT /High Courts is considered as Instrument under Indian stamp Act and stamp act of many states in India and has particular entries giving the rate of stamp duty on the Merger /Demerger Order passed by NCLT/High court.

Getting Adjudicated Copy of the Merger/demerger order is very important form the context of getting the immovable properties transferred from the name of transferor company to the transferee company.

The challenge in stamp duty adjudication starts where the transferor and transferee company are from two different states and immovable properties are located across various states. In such cases having proper execution plan and in depth study of stamp acts of relevant states for stamp duty adjudication is very important.

4. Transfer of Licences

Ideally a Company holds various licenses for conducting any business, these licenses are subject to various conditionalities. Whenever any company merges with other company or demerges, the entire business is transferred and hence the transferee company shall get this license in its name to continue the business. However, the transfer of licences from the name of transferor to transferee comes with lot of challenges. Since the application for transfer of licenses is mainly with Regulatory bodies it may sometimes be time consuming and have direct impact on the business and therefore it is very crucial to have adequate planning and cautious execution with taking it up as a particular project.

5. Transfer of Employees

Any running entity merging into other, or any demerger of any business will often involve transfer of employees and their pay role from transferor to transferee. It is very important to ensure that employees are informed well in advance of the transition phase and impact if any on their perks and benefits. Transfer of Provident funds, Gratuity, Health Insurance etc shall happen with advance planning and no impact on employees else it may have adverse effect on business of the company.

6. Accounting Effect

The Merging /Demerging of accounts happens from Appointed date, however effect of this is given from the effectiveness of the scheme. It may happen that the appointed date is of past year and relevant fillings of Income tax return for that financial year are already filled since the scheme was not effective, In all such cases, transferee company shall ensure the revision of returns as applicable.

7. Updating Regulatory Records

This is the most important part of the post transaction compliances, updating regulatory records viz, name of the transferee company regarding immovable properties in the records of Registrar for immovable properties, updating master data on MCA Website, updating details on Income tax and GST Portals, etc.

8. Intimation to Stakeholders

After effectiveness of the scheme, it is very important to give Intimation to all bankers, suppliers, creditors, debtors, societies where properties are held, and all other relevant stakeholders about the merger.

9. Subsidy / Bounties /Incentives Transfer

The allowability of transfer of subsidy/bounties/ incentive granted at states and central level should ideally be checked and confirmed at preparatory stage itself. Further at the post transaction stage lodging the application within due timelines and updating the records for the purpose of getting benefits of subsidy/ bounties/incentives shall be duly taken care.

Conclusion

Restructuring can be compared to as a film story which is directed by the Consultants, acted by Clients and critic by Regulators and Hon'ble Courts. The Climax of the restructuring should ideally be considered as the post Restructuring activities which results in achieving the desired objectives of the restructuring. Sometimes it is seen that the post transaction activities are loosely handled resulting into various hurdles for successful implementation of restructuring objective. One such example can be of Stamp Duty adjudication process which is not followed and later the Companies faces interest and penalties of twice or thrice the amount of stamp duty, which collapses the overall financial planning of any restructuring. Project management of the Post Restructuring activities is the key area that needs to be looked into by the management of the Companies at the Preparatory Stage.

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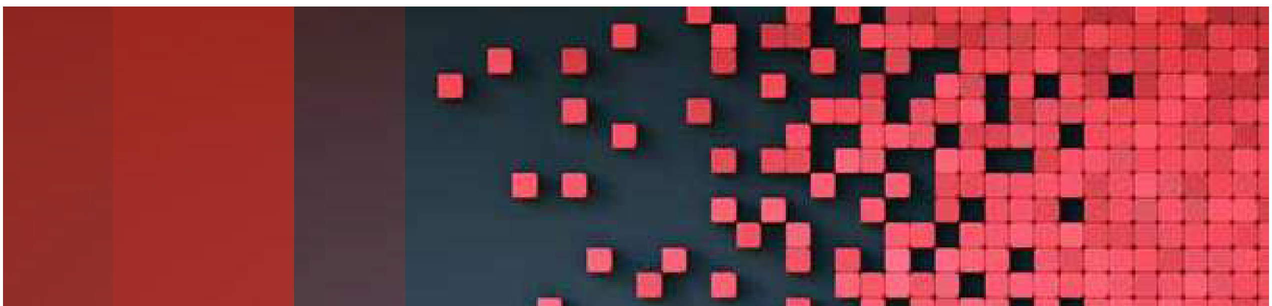

Re-visiting Consent: The Evolution of 'I Accept' and 'I Agree' in light of the DPDP Act, 2023

In our everyday digital lives, we often encounter electronic contracts without even realizing it. These contracts quietly play a role in shaping our online experiences, acting as the architects of our virtual engagements. When we click through applications, software, or websites, we are not just scrolling and clicking; we are entering into legitimate, binding and enforceable agreements, although in a digital form. These agreements, made in pixels rather than with a pen, silently influence the way our online transactions unfold.

Given our tendency to skim through the fine print of those cookie agreements, our consent often unfolds unwittingly. Yet, behind the scenes, cookies wield the power to delve into your online pursuits, acquiring sensitive data that may find its way into the hands of advertisers and third parties. While this practice is the origin of the realm of targeted advertising, it simultaneously unfurls the daunting threat of sensitive information slipping into disreputable hands. Beyond mere data collection, cookies harbor the capability to shadow your virtual movements, meticulously crafting a mosaic of your interests and, in some instances, deducing your whereabouts. This intricate design of digital surveillance, weaves a narrative of privacy concerns and the potential pitfalls of our somewhat unconscious online agreements.

END USER LICENSE AGREEMENTS

Like any online agreements, End User License Agreements, commonly found in nearly every one-sided e-contract, fall under the expansive category known as "Click Wrap Agreements." Functioning through user-friendly clicks, these agreements offer options like "I accept," "I agree," "Ok," or "I consent." In this digital ballet of interactions, users engage with these prompts, often unaware that they are actively shaping legal agreements with a simple click. The seemingly straightforward nature of these options masks the legal weight they carry, illustrating the subtle power dynamics embedded within the user's virtual journey. However, we must determine the implications of such contracts.

In ***Rudder vs. Microsoft Corporation (1992), 2 CRR (4th) 474***, the plaintiffs contended that they should not be beholden to specific terms outlined in Microsoft's "Member Agreement" due to their failure to peruse the entire agreement before electronically endorsing it. However, the Ontario Superior Court of Justice, led by Justice Winkler, rendered a different verdict. Justice Winkler asserted that the obligation to scroll through the "Member Agreement" was essentially tantamount to the traditional act of flipping through pages in a multi-page document. Consequently, as a general principle, the court affirmed that when we click to agree, we are, in fact, legally bound by the online terms and conditions, irrespective of whether we meticulously read through them or not.

Furthermore, the legal precedent set forth by the Supreme Court in the case of ***Trimex International FZE v. Vedanta Aluminum Limited, 2010 (1) SCALE 574***, unequivocally affirms that digital forms of approval carry equal weight and validity as their traditional written counterparts. The Court's ruling extends this recognition to encompass even the realm of email correspondence, solidifying the standing of electronic approvals within the legal framework. This landmark decision serves as a cornerstone, establishing that the mode of approval, whether digital or written, does not undermine the legitimacy of the consent provided.

LEGAL FRAMEWORK

These contracts not only find binding force under the Indian Contract Act, 1872 but are also formally recognized and validated by the Information Technology Act, 2008. Additionally, their admissibility as evidence is firmly established under the Indian Evidence Act, 1872. Importantly, remedies for breaches of these contracts are duly available within the legal framework. Nevertheless, these legislations fall short in fully encapsulating the gravity of the profound seriousness associated with the sharing of sensitive data.

Digital Personal Data Protection Act, 2023 (the "Act"): The recent enactment of the Digital Personal Data Protection Act, 2023 introduces a pivotal dimension for contracts conducted in digital formats. Specifically, this legislation mandates the inclusion of a consent mechanism for the processing of personal data acquired during transactions. The term "processing" of data, mentioned in the Act, needs to be comprehensively yet in a manner easily understood, explained and conveyed to the users sharing data (Data Principal). This will reshape how we agree to terms during payment transactions via RazorPay or provide our addresses on delivery-oriented applications such as Amazon. In light of this, E-contracts need to be meticulously crafted to align with the requirements of the Digital Personal Data Protection Act, 2023.

Furthermore, the Act ensures that the withdrawal of consent should be a seamless process for the Data Principal. It emphasizes the need for clarity in communication and the provision of an uncomplicated mechanism to facilitate the easy withdrawal of consent, minimizing any inconvenience for the individual concerned.

HOW CAN INDIVIDUALS BE MORE CAUTIOUS?

The initial step should involve a thorough review of the privacy notice to gain a comprehensive understanding of the following key aspects:

1. **Nature of Data Collection:** Ascertain the specifics of the data being collected about you.
2. **Methods and Frequency of Collection:** Understand the mechanisms employed for data collection and the frequency at which this occurs.
3. **Data Sharing Partners:** Identify parties with whom your data is shared, establishing transparency in the sharing ecosystem.
4. **Opt-Out Rights:** Clearly discern your rights and options for opting out of certain data collection activities.
5. **Opt-Out Procedures:** Familiarize yourself with the procedures detailing how you can effectively opt out of information sharing, ensuring a straightforward and accessible process.

By navigating the intricacies outlined in the privacy notice, individuals can make informed decisions about their data and exercise their rights to control its usage.

CONCLUSION

The enactment of this legislation not only imposes a crucial obligation on persons processing personal data (Data Fiduciaries) to ensure the secure processing of personal data in accordance with the Act but also places a significant responsibility on individuals engaging in digital personal or commercial transactions. Now, more than ever, there exists a recourse for individuals to safeguard their data, underscoring the importance of being conscious and discerning about the consents we grant. In this digital landscape, as awareness and responsibility intertwine, shaping a new paradigm where both Data Fiduciaries and individuals hold pivotal roles in fostering a secure and privacy-centric environment.

References:-

1. *Rudder vs. Microsoft Corporation (1992), 2 CRR (4th) 474*
2. *Trimex International FZE v. Vedanta Aluminum Limited, 2010 (1) SCALE 574*
3. Indian Contract Act, 1872
4. Information Technology Act, 2008
5. Indian Evidence Act, 1872
6. Digital Personal Data Protection Act, 2023

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https://www.taxmann.com/research/company-and-sebi/top-story/105010000000023494/re-visiting-consent-the-evolution-of-i-accept-and-i-agree-in-light-of-the-dpdp-act-2023-experts-opinion

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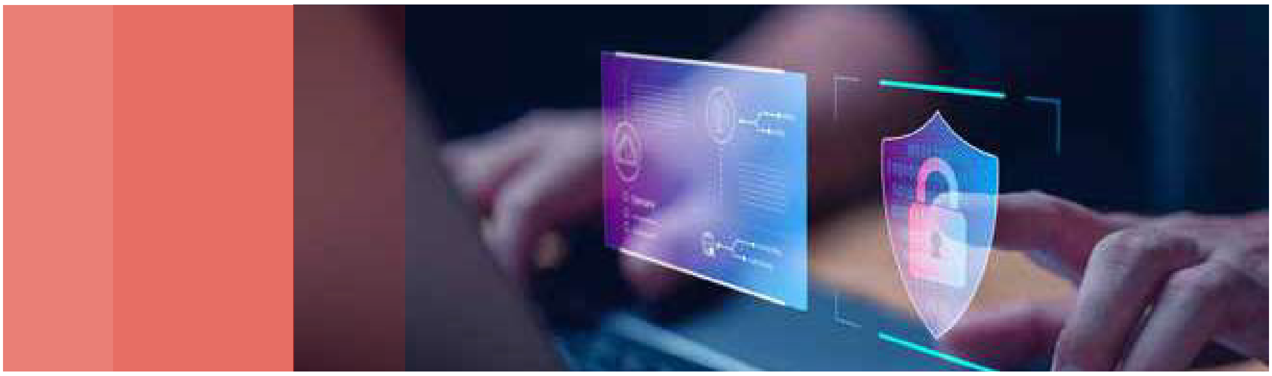

NEWS UPDATES/AMENDMENTS FOR THE MONTH OF MARCH & APRIL 2024:

Sr. No.	News Updates	Link & Brief Summary
		NEWS
1	Govt proposes exempting certain M&A deals from CCI approval requirement	https://etcfo.com/s/r9n57kn The government has proposed exempting intra-group transactions and certain other mergers and acquisition requirement of competition commission approval, to help reduce regulatory burden on watchdog.
2	View: Sebi & RBI's hyperactivity catches market by surprise; but it's for restoring credibility	https://economictimes.indiatimes.com/news/company/corporate-trends/view-sebi-rbis-hyperactivity-catches-market-by-surprise-but-its-for-restoring-credibility/articleshow/108635600.cms Recent hyperactivity at India's banking regulator and securities watchdog surprises the market. Commercial lenders are accused of concealing bad loans, while investment banks under scrutiny for pushing IPOs past the line using mule accounts. Fintech firms in Bengaluru and traditional finance industry in Mumbai are feeling the regulatory pressure.
3	GIFT City may see India's first regulated global realty, infra-asset tokenization platform	https://cfo.economictimes.indiatimes.com/news/economy/gift-city-may-see-indias-first-regulated-global-realty-infra-asset-tokenisation-platform/108645396?action=profile_completion&utm_source=Mailer&utm_medium=newsletter&utm_campaign=etcfo_news_2024-03-21&dt=2024-03-21&em=aGFzdGl2b3JhQG1tamMuaW4= India's first regulated real estate and infrastructure asset tokenisation platform is likely to be set up at Gujarat International Finance tec-City (GIFT city)
4	Financial regulation in India is far better than it gets credit for	https://www.livemint.com/opinion/online-views/financial-regulation-in-india-is-far-better-than-it-gets-credit-for/amp-11711465028380.html India is at par with the world's best: financial services. Our financial market infrastructure has consistently set global benchmarks.
5	RBI's now become an enabler of the market economy: Governor Shaktikanta Das	

		https://legal.economictimes.indiatimes.com/news/regulators/rbis-now-become-an-enabler-of-the-market-economy-governor-shaktikanta-das/108984511?action=profile_completion&utm_source=Mailer&utm_medium=newsletter&utm_campaign=etlegal_news_2024-04-03&dt=2024-04-03&em=aGFzdGl2b3JhQG1tamMuaW4= Given the rapid changes taking place in today's world, especially in the areas of technology, innovation, business practices and growing complexities in the financial sector, RBI is constantly evaluating the emerging trends and taking necessary policy measures to remain in sync.
6	Digital Competition Bill to further empower CCI	https://legal.economictimes.indiatimes.com/news/law-policy/digital-competition-bill-to-further-empower-cci/108976284?action=profile_completion&utm_source=Mailer&utm_medium=newsletter&utm_campaign=etlegal_news_2024-04-03&dt=2024-04-03&em=aGFzdGl2b3JhQG1tamMuaW4= Deemed as a watershed moment for Digital Competition regulation in India, the draft bill is a much needed step by the government in firming up of the draft digital competition bill to regulate the big tech firms. This proposed legislation will further sharpen the teeth of its regulator
7	Sebi launches SCORES 2.0 to strengthen investors' complaint redressal system	https://cfo.economictimes.indiatimes.com/news/governance-risk-compliance/sebi-launches-scores-2-0-to-strengthen-investors-complaint-redressal-system/108960833?action=profile_completion&utm_source=Mailer&utm_medium=newsletter&utm_campaign=etcfo_news_2024-04-02&dt=2024-04-02&em=aGFzdGl2b3JhQG1tamMuaW4= Markets Regulator SEBI launched the new version of SCORES in a bid to strengthen investor complaint redressal mechanism by introducing auto-routing complaints and monitoring such grievances by designated bodies.
8	RBI directs banks and finance companies to prioritise governance, adhere to rule	https://cfo.economictimes.indiatimes.com/news/governance-risk-compliance/rbi-directs-banks-and-finance-companies-to-prioritise-governance-adhere-to-rules/109080164?action=profile_completion&utm_source=Mailer&utm_medium=newsletter&utm_campaign=etcfo_news_2024-04-06&dt=2024-04-06&em=aGFzdGl2b3JhQG1tamMuaW4= The financial stability is a joint responsibility of the regulator and regulated entity. RBI directed banks and other players in the Financial Sector to prioritize governance and adhere to rules

Sr. No	Amendments/Circular	Link & Brief Summary
1	SEBI circular	https://www.sebi.gov.in/legal/circulars/mar-2024/repeal-of-circular-s-outlining-procedure-to-deal-with-cases-where-securities-are-issued-prior-to-april-01-2014-involving-offer-allotment-of-securities-to-more-than-49-but-up-to-200-investors-in-a-_82230.html Repeal of circular(s) outlining procedure to deal with cases where securities are issued prior to April 01, 2014, involving offer / allotment of securities to more than 49 but up to 200 investors in a financial year
2	Consultation paper	https://www.sebi.gov.in/reports-and-statistics/reports/mar-2024/consultation-on-draft-circular-audiovisual-av-representation-of-disclosures-made-in-the-public-issue-offer-documents_82385.html Consultation on draft circular-audiovisual representation of disclosures made in the public issue offer documents. Last date for public comments: April 9 ,2024
3	SEBI circular	https://www.sebi.gov.in/legal/circulars/mar-2024/entities-allowed-to-use-e-kyc-aadhaar-authentication-services-of-uidai-in-securities-market-as-sub-kua_82364.html Entities allowed to use e-KYC aadhaar authentication services of UIDAI in securities market as sub-KUA
4	SEBI circular	https://www.sebi.gov.in/legal/circulars/mar-2024/amendment-to-circular-for-mandating-additional-disclosures-by-fpis-that-fulfil-certain-objective-criteria_82418.html Amendment to Circular for mandating additional disclosures by FPIs that fulfil certain objective criteria
5	NSE circular	https://nsearchives.nseindia.com/web/sites/default/files/inline-files/NSE_Circular_27032024.pdf NSE circular on corporate grouping of listed companies.
6	BSE circular	https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20240328-52 BSE Circular on SEBI PIT Regulations – Framework for restricting trading by DPs by freezing PAN at security level

7	NSE circular	https://nsearchives.nseindia.com/web/sites/default/files/inline-files/NSE_Circular_28032024_5.pdf NSE Circular on (FAQs) – Trading Window closure period under Clause 4 of Schedule B read with Regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations") – Extending framework for restricting trading by Designated Persons ("DPs") by freezing PAN at security level to all listed companies in a phased manner
8	BSE/NSE Circular	https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20240408-5 https://nsearchives.nseindia.com/web/sites/default/files/inline-files/NSE%20Circular.pdf Circular on SCORES 2.0 new technology to strengthen SEBI complaint redressal system for investors

Compliance due dates for the month of April 2024

Serial No.	Particulars	Form name	Due date
1	Declaration with respect to disclosure of interest as per section 184	Form MBP-1	First board meeting of the financial year 2024-25.
2	Declaration with respect to disqualification under section 164	Form DIR-8	First board meeting of the financial year 2024-25.
3	Transfer of unspent CSR amount relating to ongoing CSR project to separate bank account	NA	30 days from end of financial year (30^{th} April 2024)
	If in case, any amount relating to ongoing project is transferred to separate account and the same is not spent till the end of 3 years, that is by 31^{st} March 2024, then it has to be transferred to schedule VII fund.	NA	30 days from end of third financial year
4	Declaration regarding payment outstanding to MSMEs beyond 45 days for half year from 1^{st} October 2023 to 31^{st} March 2024	Form MSME-1	Within 30 days from end of half year. (30^{th} April 2024)
5	Filing with stock exchange details regarding demat and remat request of shares received by listed company during quarter under regulation 74(5) of DP regulations	NA	No specific due date in law but advisable to file within 30 days from end of quarter
	Share capital audit of listed company under regulation 76 of DP regulations	NA	Within 30 days from end of quarter. (30^{th} April 2024)
6	Summary of shareholder complaints received and solved during the quarter under regulation 13(3) of LODR regulations	NA	21 days from end of quarter (21^{st} April 2024)
7	Corporate governance report by listed companies for January to March quarter under regulation 27 of LODR regulations	NA	21 days from end of quarter (21^{st} April 2024)
8	Filing of shareholding pattern by listed companies under regulation 31 of LODR regulations.	NA	21 days from end of quarter (21^{st} April 2024)