FOREWORD

The current moment is an opportune one to critically analyse the legal and regulatory developments surrounding corporate and commercial law in India. At the outset, the current incarnation of corporate legislation in the form of the Companies Act, 2013 is precisely a decade old. The users of corporate law, such as companies and their stakeholders, and the suppliers of the law, such as the legislature, the executive and the judiciary have been dealing with relative novel issues such as corporate social responsibility (CSR) and environmental, social and governance (ESG) considerations that strike at the root of the purpose of a corporation.

A parallel set of developments relate to the strengthening of the regulatory regime governing the securities markets. The Securities and Exchange Board of India (SEBI) has focused on its dual (and sometimes conflicting) objectives of promoting the development of the markets on the one hand and, at the same time, regulating the markets in the interests of investors on the other. The regulator has been at the forefront of introducing various market innovations to expand the pool of fund-raising mechanisms available to companies and also to amplify the investment opportunities available to funders. One area that has attracted a great deal of debates and discussions relates to the enforcement powers and prowess of SEBI in ensuring market integrity. Its actions relating to securities market offences such as insider trading and market manipulation have been under scrutiny not only by appellate authorities and courts, but also by market observers. This milieu calls for a more systematic analysis of the substantive law relating to market abuses and its enforcement as well.

End-game scenarios have acquired prominence as well, whether they relate to financial distress experienced by companies or the souring of relationships between corporate actors such as shareholders. In this regard, the enactment and implementation of the Insolvency and Bankruptcy Code, 2016 (IBC) is noteworthy. After a series of failed legislation dealing with financial distress, the IBC was enacted to bring about a sea change in the corporate insolvency process. While the legislation was the result of a meticulous law reform process, its implementation revealed considerable complexities that required the repeated intervention of the judiciary, including the Supreme Court. The Court was called upon to interpret several ambiguities that emanated in the legislation and answer constitutional questions relating to its provisions. In a few instances, the Court also exhorted Parliament to plug gaps, some of which were subsequently addressed.

When it comes to dispute resolution, the key developments in the law of arbitration have been closely watched by corporate players, both domestic and international. Questions relating to whether emergency arbitration is recognised under Indian arbitration law and the fate of unstamped arbitration agreements have been the subject matter of hard-fought litigation before the Indian judiciary. Finally, other areas such as competition law, taxation, and real estate round off the areas within the scope of financial and mercantile law that have lately received attention.

In such a context, the RGNUL Financial and Mercantile Law Review (RFMLR) has been playing a significant role in engaging in a scholarly discourse across several areas of the law that are important to businesses operating in India and elsewhere around the world. The upcoming Volume X Issue I also contains articles discussing niche issues in areas surrounding securities regulation (particularly insider trading), competition law, corporate

bonds, corporate insolvency, real estate, and dispute resolution. They would be of immense interest to researchers, students, practitioners, and policymakers alike. I am pleased to introduce the volume, and I hope you benefit from its wide array of articles.

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