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MCA's clarification on passing of Ordinary and Special resolution without holding meetings



The Government of India has made several efforts to provide relief to law abiding companies and other organizations in the wake of COVID 19. In light of the same Ministry of Corporate Affairs on 8th April

2020 through such circular, has encouraged the companies to take all decisions of urgent nature which requires the approval of members requiring physical presence of members at a common venue, through the mechanism of postal ballot or e-voting in accordance with the provisions of the Companies Act, 2013 without holding a general Meeting.

It shall be noted that such procedures as prescribed needs to be adopted by the company for conducting an extra ordinary general meeting (EGM) on or before 30th June, 2020. Major key points of the circular as notified by MCA:

- This relaxation is not applicable for decisions of ordinary course or business where any person has right to be heard.
- Only Unavoidable extraordinary general meetings (EGMs) need to be held through video-conferencing (VCs) on and before 30.06.2020.
- The meeting shall be scheduled by taking into consideration the convenience of different persons positioned in different zones.

- Such VCs would need to have a capacity to allow atleast 500 members (for companies need not to provide facility of e-voting) and 1000 members (for companies need to provide facility of e-voting) to participate on first come first serve basis.
- The participants shall also be allowed to pose questions concurrently or given time to submit questions in advance on the e-mail address of the company.
- The facility for joining the meeting shall be kept open at least 15 minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 minutes after such scheduled time.
- Attendance of members through VC or OAVM shall be counted for the purpose of reckoning the quorum under Section 103 of the Companies Act, 2013.
- At least one independent director (where the company is required to appoint) and the auditor or his authorized representative who is qualified to be the auditor shall attend such meeting through VC or OAVM.
- Notice of the meeting shall comprise clear disclosure with respect to the manner in which meeting shall be conducted, how to access and participate in the meeting, for use by the members.
- The company shall also provide the helpline numbers through the Registrar & Transfer Agent, Technology Provider or such other person as required for those members who need assistance with using the technology before or during the meeting.

- A copy of notice of meeting shall be published on the website of the company and all the required intimation may be made to the stock exchanges in case of listed company.
- All resolutions passed in accordance with this mechanism shall be filed with the Registrar of Companies (ROC) within 60 days of the meeting.

Further, it is important to note that the companies shall ensure that all other compliances associated with the provisions relating to general meetings viz. making disclosures, inspection of related documents by members or authorization for voting by bodies corporate etc. as provided in the Companies Act, 2013 and the Articles of Associations of the company are made through electronic mode. This is a very good initiative taken by Ministry and will definitely ease the difficulties faced by the companies for passing of ordinary and special resolution of urgent nature. The detailed notification can be found in the below link:

http://www.mca.gov.in/Ministry/pdf/Circular14_08042020.pdf

Clarification by MCA on Notice by electronic mode post COVID 19 threat

**" Clarification
on Resolutions
- COVID-19 "**

In furtherance of general circular 14/2020 issued on 08th April 2020, Ministry of Corporate Affairs, Government of India, has issued general circular no.

17/2020 on 13th April 2020 to further clarify on manner and mode of issue of notices to the members before convening the general meeting. It shall be noted that such procedure needs to be adopted by the company for conducting an extra ordinary general meeting (EGM) on or before 30th June, 2020.

The circular gives clarity regarding the issue of notices to members for meetings by using only electronic means, in view of the COVID-19 related lockdown and social distancing requirements, while at the same time ensuring that the relevant companies facilitate registration of email addresses of the members who have not done so and made suitable disclosure in this regard at the time of issue of public notice in the newspapers. The public notice to be issued by relevant companies would also be required to specify the manner in which members who are holding shares in physical form or who have not registered their email addresses with the company can cast their vote through remote e-voting or through the e-voting system during the meeting. A similar framework for smaller companies which are not required to provide e-voting facility to their members has also been specified in the Circular. This procedure is being allowed on account of disruption caused in postal services, whereby it has become difficult to serve or receive notices by post. For detailed information on the said circular, please refer the link below.

http://www.mca.gov.in/Ministry/pdf/Circular17_13042020.pdf

Relaxation in filing u/s 124 and 125 of the Companies Act 2013



MCA has noted that there are difficulties in complying with the procedures relating to transfer of money remaining unpaid or unclaimed for a period of 7 years in terms of provisions of Unpaid Dividend Account under Section 124 (5) of the Companies Act, 2013 and transfer of shares under section 124 (6) of the Companies Act, 2013.

Therefore the Ministry of Corporate Affairs has provided relaxation through notification dated 13th April 2020 in relation to filing of the following mentioned eforms without an additional fees levied till 30th September 2020.

- IEPF-1: Statement of amounts credited to Investor Education and Protection Fund
- IEPF-1A: Statement of Amounts credited to Investor Education and Protection Fund Pursuant to Rule 5(4A)
- IEPF-2: Statement of unclaimed and unpaid amounts
- IEPF-3: Statement of shares and unclaimed or unpaid dividend not transferred to the Investor Education and Protection Fund
- IEPF-4: Statement of shares transferred to the Investor Education and Protection Fund.
- IEPF-5: Application to the Authority for claiming unpaid amounts and shares out of Investor Education and Protection Fund (IEPF).

- IEPF-7: Statement of amounts credited to IEPF on account of shares transferred to the fund.

Ease on Holding Annual General Meeting for the financial year ending on 31st December 2019



Government received several representations from stakeholders with regard to difficulty in holding Annual General Meetings (AGM) for companies whose **financial year ended on December 31, 2019**, due to COVID-19 related social distancing norms and consequential restrictions. Therefore MCA vide circular dated 21st April 2020 clarified that the Companies whose financial year (other than the first financial year) has ended on 31st December 2019 can hold their AGM for such financial year within a period of **Nine months(which was six months)** from the closure of the financial year i.e by 30th September 2020 and the same shall not be viewed as violation.

The detailed notification can be found in the link below:
http://www.mca.gov.in/Ministry/pdf/Circular18_21042020.pdf

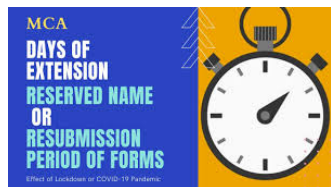
Companies (Appointment and Qualification of Directors) Rules, 2014.



Ministry of Corporate Affairs has issued Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2020 applicable from 29th April 2020 and through this amendment Registration of details of Independent Directors in Independent Directors Data Bank who were director on 1st December 2019 is been allowed till 30th June 2020 which was earlier 30th April 2020. The amended Rule stands as follows:

Rule 6: Every Individual who has been appointed as an Independent Director in a company, on the date of commencement of the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019, shall within a period of seven months (which was earlier five months) from such commencement apply online to the institute for inclusion of his name in the data bank.

Extended timeline for Name Reservation / Re-submission for Companies & LLP's



In view of the situation arising due to COVID-19 pandemic and extended lockdown period, Ministry of Corporate

Affairs has hosted details of **PERIOD/DAYS OF EXTENSION FOR NAMES RESERVED AND RE-SUBMISSION OF FORMS** on its website.

Details are as follows:-

S. No.	Issue Description	Period/ days of extension
1	Names reserved for 20 days for new Company incorporation. SPICe+ Part B needs to be filed within 20 days of name reservation	Names expiring any day between 15 th March 2020 to 3 rd May would be extended by 20 days beyond 3 rd May 2020
2	Names reserved for 60 days for change of name of company. INC-24 needs to be filed within 60 days of name reservation.	Names expiring any day between 15 th March 2020 to 3 rd May would be extended by 20 days beyond 3 rd May 2020.
3	Extension of RSUB validity for companies.	SRNs where last date of Resubmission (RSUB) falls between 15 th March 2020 to 3 rd May 2020, additional 15 days beyond 3 rd May 2020 would be allowed. However, for SRNs already marked under NTBR, extension would be provided on

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		case to case basis. <i>Note: Forms will not get marked to (Not to be taken on Record)'NTBR' due to non resubmission during this extended period as detailed above.</i>
4	Names reserved for 90 days for new LLP incorporation/change of name. FiLLiP/Form 5 needs to be filed within 90 days of name reservation	Names expiring any day between 15th March 2020 to 3 rd May would be extended by 20 days beyond 3 rd May 2020
5	RSUB validity extension for LLPs.	SRNs where last date of resubmission (RSUB) falls between 15th March 2020 to 3 rd May 2020, additional 15 days would be allowed from 3 rd May 2020 for resubmission. However, for SRNs already marked under NTBR, extension would be provided on case to case basis. <i>Note: Forms will not get marked to (Not to be taken on Record)'NTBR' due to nonresubmission during this extended period as detailed above.</i>

Discontinuation of the Company Affirmation of Readiness towards COVID-19 Form

Notification
MCA discontinues (CAR) – 2020
 "Company Affirmation of Readiness towards COVID-19"
 w.e.f. 14th April, 2020

A SARASWAT & ASSOCIATES
 Practising Company Secretaries
 Ph. - 914222220
 email - ts.saraj@gmail.com

Ministry of Corporate Affairs on April 14, 2020, notifies that the Company Affirmation of Readiness towards COVID-19 Form shall be discontinued with effect from April 14, 2020. MCA had deployed the web form for companies and LLPs to confirm their readiness to deal with COVID-19 threat, filed by the authorized signatory of Companies from anywhere. Now, MCA has decided to discontinue the web form from April 14, 2020 onwards.

VERENDRA KALRA & CO

CHARTERED ACCOUNTANTS

CONTACT DETAILS:

Head Office

75/7 Rajpur Road, Dehradun

T +91.135.2743283, 2747084, 2742026

F +91.135.2740186

E info@vkalra.com

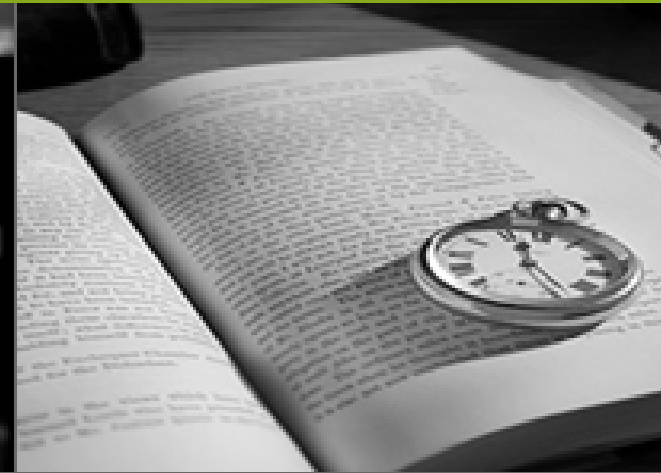
W www.vkalra.com

Branch Office

80/28 Malviya Nagar, New Delhi

E info@vkalra.com

W www.vkalra.com



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