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Notification on Exemption to Government Companies



The Ministry of Corporate Affairs(MCA) in consultation with the Central Government on 2nd March 2020, keeping in mind the Public Interest hereby amended the following sections:

Section 2 (45) - Government company " means any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company

For the purposes of this clause, the "paidup share capital" shall be construed as "total voting power", where shares with differential voting rights have been issued.

Clarification on prosecutions filed or internal adjudication proceedings initiated against Independent Directors, non- promoters and non-KMP non-executive Directors

The Ministry of Corporate Affairs (MCA) through its circular dated 2nd March 2020 provides a clarification on both the prosecution filed as well as internal adjudication proceedings initiated by the Registrar of Companies against Independent Directors, non-promoter and non-Key Managerial Personnel (KMP) Non Executive Directors. As per the circular:-

- Civil or criminal proceedings should not unnecessarily be initiated against Independent Directors or Non executive Directors(non-promoters and non-KMP) unless sufficient evidence exists against them, and
- Registrars are required to follow a standard operating procedure, as prescribed by MCA while initiating proceedings against 'officers in default. The detailed notification can be found on the link below: http://www.mca.gov.in/Ministry/pdf/Circular_03032020.pdf

Introduction LLP Settlement Scheme 2020



MCA introduced on 4th March 2020 a one time opportunity to the LLPs to make good their default by filing pending documents and to serve as a compliant LLP in future by introducing LLP Settlement Scheme, 2020

which will be applicable from 16th March, 2020 to 13th June, 2020. This Scheme shall **ONLY** apply to the filing of the following documents:

- Form-3 - Information with regard to limited liability partnership agreement and changes, if any, made therein;
- Form-4- Notice of appointment, cessation, change in name/ address/ designation of a designated partner or partner and consent to become a partner/ designated partner;
- Form-8- Statement of Account & Solvency (Annual or Interim);
- Form-11- Annual Return of Limited Liability Partnership (LLP). The defaulting LLPs may avail of the scheme for filing documents which have not been filed or registered in time on payment of additional

fee Rs.10/- per day for delay in addition to any fee as is payable for filing of such document or return, provided that such payment of additional fee shall not exceed Rs. 5,000/- per document.

Extension of the Last Date of Form NFRA- 2



Ministry of Corporate Affairs has issued notification on 5th March 2020 after due examination has decided that the time limit of limit for filing of Form NFRA-2, for the reporting period Financial Year 2018-19 will be 150 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA).

Clarification for statutory compliances in respect of companies under Corporate Insolvency Resolution Process

Following clarification has been issued by the Ministry of corporate Affairs for statutory compliances in respect of companies under Corporate Insolvency Resolution Process:

- The IRP/RP/Liquidator would have to first file the NCLT order approving him as the IRP/RP/ Liquidator in Form INC-28 - (Notice of order of the Court or any other competent authority).
- The Master Data for change in the status of the company from "Active"/ "Inactive" to CIRP/ Liquidation or CIRP/Liquidation to

"Active" shall be effected on the basis of Formal Change Request Form submitted by IBBI to e-governance Cell, MCA(HQ).

- The IRP/ RP/ Liquidator shall be responsible for filing all the eforms in the MCA portal and sign the form in the capacity of CEO in order to meet filing protocol in the existing forms architecture. However, this shall in no way affect his legal status as IRP/ RP/ Liquidator.

MCA further extends the last date of filing MGT-7 annual Return and AOC-4 (Financial Statement UT of J&K and UT of Ladakh

MCA keeping in view the requests received from various stakeholders stating the disturbances in internet services, notified on 12th March 2020 and extended the due date for filing of e-forms AOC-4, AOC-4 (CFS) AOC4 XBRL and e-form MGT-7 upto 30.06.2020, for companies having jurisdiction in the UT of J&K and UT of Ladakh without levy of additional fee.

Amendment to the Companies (Registration Offices and Fees) Second Amendment Rules, 2014



The Ministry of Corporate Affairs vide its notification dated 12th March 2020 has published the Companies (Registration of Offices and Fees) Second Amendment Rules, 2020. The Amendment brings changes in **Form GNL-2**, which is the

Form for submission of documents with the Registrar, in which after item “Form 159 of the Companies (Court) Rules, 1959”, the following item shall be inserted, namely.- “Filing under Insolvency and Bankruptcy Code, 2016”. Further, the particulars of the person signing and submitting the form shall be mentioned.

Amendment to the Companies (Incorporation) Rules, 2014



The Ministry of Corporate Affairs vide its notification dated 12th March 2020 has published the Companies Incorporation (Second Amendment) Rules, 2020 to further amend the Companies Incorporation Rules 2014. The Amendment is made in **Form INC-28** which is the form for filing Notice of the order of the court or any other competent authority. As per the new amendment the company shall state the section of Insolvency and Bankruptcy Code, 2016 under which order passed.

Companies (Amendment) Bill, 2020



Government has introduced The Companies (Amendment) Bill, 2020 as Bill No. 88 of 2020 to further amend Companies Act, 2013 in Lok Sabha on 17th March 2020. CLC Committee submitted its report in November, 2019. There were amendments in 66 Sections of Companies Act, 2013. The Objects of the said bill are:

- To decriminalize some provisions of the Act, based on their gravity.
- To amend various provisions of the Act to decriminalise minor procedural or technical lapses under the provisions of the said Act, into civil wrong.
- To constant Endeavour of the Government to facilitate Greater Ease of Living of Law abiding corporates.
- To provide greater ease of living to corporates through certain other amendments to the Act. The detailed Notification can be found in the link below:

http://www.mca.gov.in/Ministry/pdf/Amendment_18032020.pdf

MCA issues relaxation in Board Meetings due to Corona Virus

As per MCA Advisory, Considering the need to take precautionary steps to overcome the outbreak of the corona virus (Covid-19), the Government has relaxed the provisions of the Board meetings under the Companies Act, 2013. In-principle it has been decided to relax the requirement of holding Board meetings with physical presence of directors under section 173 (2) read with rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 for approval of the annual financial statements, Board’s report, etc. Now, such meetings may till 30th June, 2020 be held through video conferencing or other audio visual means by duly ensuring compliance of rule 3 of the said rules.



Amendment to Nidhi Rules, 2014



In order to make regulatory regime for Nidhi Companies more effective and also to accomplish the objectives of transparency & investor friendliness in corporate environment of the country, the Central Government on 19th March 2020 amended the provisions related to NIDHI under the Companies Act and the Rules (**effective from 15.08.2019**). Nidhi is a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit. The amended provisions of the Companies Act (Section 406) and Nidhi rules (as amended w.e.f. 15.08.2019) require that the Nidhi companies have to apply to the Central government with in a time frame as mentioned in the notification for updation of their status/ declaration as Nidhi Company in Form NDH-4. The detailed notification can be found in the below link:

http://www.mca.gov.in/Ministry/pdf/Nidhi_19032020.pdf

MCA introduces Company Affirmation of Readiness towards COVID-19



Ministry of Corporate Affairs in the light of the COVID -19 outbreak, on 23rd March 2020 has introduced Form CAR 2020 (Company Affirmation of Readiness towards COVID-19) to be filled by all the Companies / foreign companies / LLP's/ Foreign LLP's . The form requires Companies / LLP's to confirm compliance of COVID – 19

guidelines including implementation of Work From Home Policy. The Work from Home policy should cover both the headquarters and the field offices or branches of these companies/LLPs including by conduct of meetings through video conference or other electronic/telephonic/computerized conduct of meetings through video conference or other electronic/telephonic/computerized means. As such no penalty or enforcement related action is applicable. It is purely voluntary as part of our contribution towards joining the movement to fight against the spread of the disease.

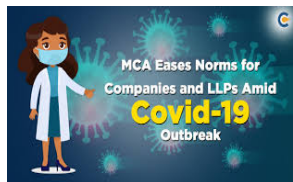
MCA clarifies spending funds for COVID – 19 as eligible CSR activity



Ministry of Corporate Affairs clarified on 23rd March 2020 that under the present circumstances when the World Health Organization (WHO), has declared Corona Virus (COVID-19) as a pandemic, the Government of India has taken a decision to treat this pandemic as a notified disaster. By declaring so any expenditure made on account of COVID-19 will be treated as an eligible expense under Corporate Social Responsibility activities. The MCA said that funds spent on promotion of healthcare, including preventive healthcare and sanitation and on disaster management would be within the definition of a company's CSR obligations. The Government of India has set up the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund' (PM CARES Fund) with the primary objective of dealing with any kind of emergency or distress situation such as that posed by

COVID 19 pandemic. Accordingly, it is clarified that any contribution made to the PM CARES Fund shall qualify as CSR expenditure under the Companies Act 2013.

Several relief measures relating to Corporate and Insolvency laws amid coronavirus scares

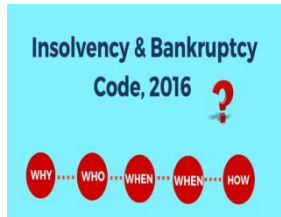


In order to support and enable Companies and Limited Liability Partnerships (LLPs) in India to focus on taking necessary measures to address the COVID-19 threat, including the economic disruptions caused by it, the following measures have been implemented by the Ministry of Corporate Affairs to reduce their compliance burden and other risks:

- No additional fees shall be charged for late filing during a moratorium period from 01st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date, which will not only reduce the compliance burden, including financial burden of companies/ LLPs at large, but also enable long-standing non-compliant companies/ LLPs to make a fresh start.
- The mandatory requirement of holding meetings of the Board of the companies within prescribed interval provided under Section 173 of Companies Act, 2013 (120 days), shall be extended by a period of 60 days till next two quarters i.e., till 30th September. Accordingly, as a one time relaxation the gap between two consecutive meetings of the Board may extend to 180 days till the next two quarters, instead of 120 days as required.

- Applicability of Companies (Auditor's Report) Order, 2020 shall be made applicable from the financial year 2020- 2021 instead of from 2019-2020 notified earlier. This will significantly ease the burden on companies & their auditors for the year 2019-20.
- As per Schedule 4 to the Companies Act, 2013, Independent Directors are required to hold at least one meeting without the attendance of Non-independent directors and members of management. For the year 2019-20, if the IDs of a company have not been able to hold even one meeting, the same shall not be viewed as a violation.
- Requirement to create a Deposit reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 shall be allowed to be complied with till 30th June 2020.
- Requirement to invest 15% of debentures maturing during a particular year in specified instruments before 30th April 2020, may be done so before 30th June 2020.
- Newly incorporated companies are required to file a declaration for Commencement of Business within 6 months of incorporation. An additional time of 6 more months shall be allowed.
- Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the Companies Act, shall not be treated as a violation.

Notification for increasing threshold of default of Insolvency and Bankruptcy Code 2016



Due to the emerging financial distress faced by most companies on account of the large-scale economic distress caused by COVID 19, it has been decided to raise the threshold of default under section 4 (Insolvency and liquidation of corporate debtors) of the IBC 2016 to Rs 1 crore (from the existing threshold of Rs 1 lakh). This will by and large prevent triggering of insolvency proceedings against MSMEs. If the current situation continues beyond 30th of April 2020, we may consider suspending section 7, 9 and 10 of the IBC 2016 for a period of 6 months so as to stop companies at large from being forced into insolvency proceedings in such force majeure causes of default.

Amendment in the LLP Settlement Scheme 2020



Ministry of Corporate Affairs on 30th March, 2020, modified the provisions related to LLP SETTLEMENT SCHEME, 2020. The amendments are as follows:

- The timelines of the scheme has been **revised** and shall be applicable w.e.f 01.04.2020 and shall remain in force upto 30.09.2020, *which was originally effective from 16.03.2020 upto 13.06.2020.*
- Any Defaulting LLP is permitted to file belated documents, which were due for filing till **31.08.2020** (prior to amendment 31.10.2019) in accordance with the provisions of this Scheme.

- The defaulting LLPs may themselves avail of the scheme for filing documents which have not been filed or registered in time on payment of fee as payable for filing of such document / return. Provided that **no additional fees** (prior to this amendment which was Rs. 10/- per day per document, which shall not exceed Rs. 5,000/-) shall be payable for filing and belated documents under this scheme.
- The defaulting LLP, which have filed their belated documents till **30.09.2020** (prior to amendment date was 13.06.2020) and made good the default shall not be subjected to prosecution by the Registrar of such defaults.

Companies Fresh Start Scheme 2020



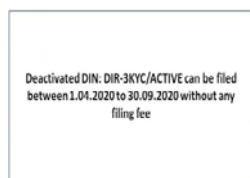
Ministry of Corporate Affairs has issued notification named as Company Law Fresh Start Scheme (CFSS), 2020 which is for the benefit of all Companies who have defaulted in filing of Statutory forms on MCA. The USP of both the schemes is a one-time waiver of additional filing fees for delayed filings by the companies or LLPs with the Registrar of Companies during the currency of the Schemes, i.e. during the period starting from 1st April, 2020 and ending on 30th September, 2020. This Scheme will come into operation from **01st April, 2020 and will end on 30th September, 2020.** The key highlights of the scheme are as follows:

- Companies have to pay **only normal fees** of the forms **without any additional fees.**

- This scheme is applicable on Eforms including Annual Return (MGT 7), Filing of Financial Statements(AOC- 4) and other forms required to be filed with the registrar like PAS 3, MGT -14, ADT -1 or any other forms.
- This scheme shall not be applicable on the Eforms including SH-7-Increase in Authorized Capital, Charge related form (CHG-1, CHG-4, CHG-8 or CHG-9). The detailed notification can be found in the link below:

http://www.mca.gov.in/Ministry/pdf/Circular12_30032020.pdf

Notification for DIN holders marked as Deactivated and Companies marked as “ACTIVE non-compliant



Ministry of Corporate Affairs notified on 31st March, 2020 upon some of the enormous steps taken to Uphill Battle against COVID-19 and including the economic disruptions caused by it, the following measures have been implemented for:

- **Disqualified/ Deactivated DIN:** DIN holders of DINs marked as ‘Deactivated’ due to non-filing of DIR-3KYC/DIR-3 KYC-Web are encouraged to become compliant once again **without** any filing fee of INR 5000/- but by Filling Form DIR-3KYC/DIR-3 KYC-Web before 30th September,2020.
- **Active Non-Compliant Companies:** Those Companies whose compliance status has been marked as “ACTIVE non-compliant” due to non-filing of Active Company Tagging Identities and Verification (ACTIVE) eform are encouraged to become compliant once again

without any filing fee of INR 10,000/- but by only Filling Form INC-22A before 30th September,2020.

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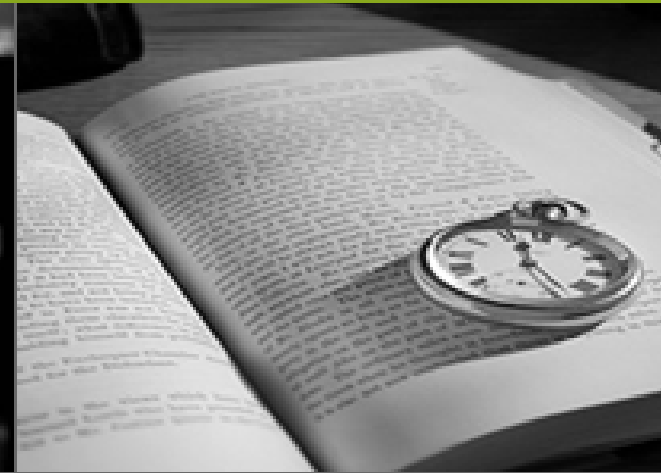
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