

## Company Law

### Rules and Amendment Rules

#### **The Companies (Management and Administration) Amendment Rules, 2022**

[Notification dated 6<sup>th</sup> April 2022](#)

The MCA has inserted sub-rule 3 in Rule 14 - *Inspection of Registers, Returns etc.* by amending the Companies (Management and Administration) Rules, 2014. As per the amendment, the following particulars of the register or index or return in respect of the members of a company will not be made available for any inspection or for taking extracts or copies under the Companies Act, 2013-

- address or registered address (in case of a body corporate);
- e-mail ID;
- Unique Identification Number;
- PAN Number.

#### **The Companies (Incorporation) Amendment Rules and 2<sup>nd</sup> Amendment, Rules, 2022**

[Notification dated 8<sup>th</sup> April 2022](#)

[Notification dated 20<sup>th</sup> May 2022](#)

The MCA has amended the Companies

Incorporation) Rules, 2014. As per the amendment, in case of a Company being incorporated as a Nidhi, the declaration by the Central Government should be obtained by the Nidhi before commencing the business and a declaration in this behalf should be submitted at the stage of incorporation by the company. The declaration for commencement of business should be submitted in revised form INC-20A.

Also, Form Inc-9 (Declaration by Subscribers and First Directors) has been substituted. The 2<sup>nd</sup> Amendment Rules have come into force from 1<sup>st</sup> June 2022 .

#### **The Companies (Registration of Charges) Amendment Rules, 2022**

[Notification dated 27<sup>th</sup> April 2022](#)

The MCA has amended Rule 3 - *Registration of creation or modification of charge* of the Companies (Registration of Charges) Rules, 2014. The amendment has exempted the charge created or modified by a banking company for loan received from RBI from the requirement of filing particulars of the charge together with a copy of the instrument, if any, creating or

**July 2022**

modifying the charge in Form No.CHG-1 or Form No.CHG-9.

**The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2022**

Notification dated 5<sup>th</sup> May 2022

The MCA has, *inter alia*, amended Rule 14-Private Placement of the Companies (Prospectus and Allotment of Securities) Rules, 2014. As per the amendment, no offer or invitation of offer for purchase of any securities should be made to a body corporate incorporated in, or a national of, a country which shares a land border with India, unless such body corporate or the national, has obtained Government approval under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 and attached the same with the private placement offer cum application letter.

**The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2022**

Notification dated 30<sup>th</sup> May 2022

The MCA has amended Rule 25A *Merger or amalgamation of a foreign company with a Company and vice versa* of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. As per the amendment, in case of a compromise or an arrangement or merger or demerger between an Indian company and a company or body corporate which has been incorporated in a country which shares land border with India, a declaration in Form No. CAA-16 will be required at the stage of submission of application under Section 230 of the Act.

**The Companies (Accounts) 3<sup>rd</sup> Amendment Rules, 2022**

Notification dated 31<sup>st</sup> May 2022

The MCA has amended Rule 12 *Filing of Financial Statements and Fees to be Paid Thereon* of the Companies (Accounts) Rules, 2014. As per this sub-rule, every company covered under the provisions Section 135 (1) should furnish a report on Corporate Social

Responsibility in Form CSR-2 to the Registrar for the preceding financial year (FY) 2020-2021 and onwards as an addendum to Form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS), as the case may be.

As per the amendment-

- for the preceding FY 2020-2021, Form CSR-2 should be filed separately on or before 30<sup>th</sup> June 2022 (*earlier 31<sup>st</sup> May 2022*), after filing Form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS).
- for the FY 2021-22, Form CSR-2 should be filed separately on or before 31<sup>st</sup> March 2023, after filing Form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS)

**The Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022**

Notification dated 9<sup>th</sup> June 2022

The MCA has amended Rule 4 *Application for removal of name of company* of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016. As per the amendment, where the Registrar on examining the application made in Form STK-2, finds it necessary to call for further information or finds such application or any documents is defective or incomplete , he will inform the applicant to remove the defects and re-submit the complete Form within 15 days from the date of such information. After the re-submission of the Form/document, if the Registrar finds that the form/ document is defective or incomplete in any respect, he shall give further time of 15 days to remove such defects. In both the resubmissions, any failure to resubmit the form within 15 days will make the application invalid. Any re-submission of the application in Form STK-2 made prior to the commencement of these Rules will not be counted for the purposes of reckoning the maximum number of re-submissions.

Form STK-1, STK-5 & STK-5A has also been revised.

## The Companies (Appointment and Qualification of Directors) 2<sup>nd</sup> Amendment, Rules, 2022.

### [Notification dated 10<sup>th</sup> June 2022](#)

The MCA has amended Rule 6 *Compliances required by a person eligible and willing to be appointed as an independent director* of the Companies (Appointment and Qualification of Directors) Rules, 2014. As per the amendment, any individual whose name has been removed from the databank may apply for restoration of his name on payment of fees of Rs. 1,000 and the Indian Institute of Corporate Affairs (IICA) will allow such restoration subject to the following conditions-

- his name will be shown in a separate restored category for 1 year from the date of restoration
- Within this 1 year, he will be required to pass the online proficiency self-assessment test and thereafter his name will be included in the databank, only, if he passes the said online proficiency self-assessment test. In such case, the fees paid by him at the time of initial registration will continue to be valid for the period for which the same was initially paid; and
- in case he fails to pass the online proficiency self-assessment test within 1 year from the date of restoration, his name will be removed from the data bank, and he will be required to apply afresh for inclusion of his name in the databank.

## The National Financial Reporting Authority Amendment Rules, 2022

### [Notification dated 17<sup>th</sup> June 2022](#)

The National Financial Reporting Authority (NFRA) Rules, 2018 has been amended by substituting Rule 13 *Punishment in case of non-compliance*. As per the amendment, whoever contravenes any of the provisions of these Rules, will be punishable with fine not exceeding Rs. 5,000, and where the contravention is a continuing one, with a further fine not exceeding Rs. 500 for every day after the first during which the contravention continues.

## Circulars

### Clarification of holding Annual General Meeting (AGM) through Video Conferencing (VC) or Other Audio Video Means (OAVM)

#### [GC No.2 dated 5<sup>th</sup> May 2022](#)

The MCA has decided to allow companies whose AGMs are due in year 2022 to conduct AGM on or before 31<sup>st</sup> December 2022 through VC or OAVM in accordance with the requirements laid down in [Circular No. 20/2020 dated 5<sup>th</sup> May 2020](#).

It has also been clarified that this Circular should not be construed as conferring any extension of time for holding of AGMs by the companies under the Act and the companies which have not adhered to the relevant timelines will be liable to legal action under the appropriate provisions of the Act.

### Clarification on passing of Ordinary and Special Resolution by the Companies under the Act

#### [GC No. 3 dated 5<sup>th</sup> May 2022](#)

The MCA has decided to allow companies to conduct their EGMs through VC or OAVM or transact items through postal ballot in accordance with the framework provided in the [Circular No. 14/2020 dated 8<sup>th</sup> April 2020](#) up to 31<sup>st</sup> December 2022 (*earlier 30<sup>th</sup> June 2022*).

### Relaxation in paying additional fees in case of delay in filing e-Form 11 (Annual Return) by Limited Liability Partnership (LLP) up to 15<sup>th</sup> July 2022

#### [GC No. 7/2022 dated 29<sup>th</sup> June 2022](#)

In view of transition from version-2 of MCA-21 to version-3 and to promote compliance on part of LLPs, it has been decided to allow LLPs to file e-Form 11 for the FY 2021-22 without paying additional fees up to 15<sup>th</sup> July 2022.

## Reports

### Report of the Company Law Committee [Dated March 2022](#)

The objective of this Report is to promote greater ease of doing business for law-abiding

**July 2022**

corporates in the country. The Report proposes amendments to bring Indian company law in tune with globally recognised best practices and improve ease of living for corporates and stakeholders. The main recommendations of the Committee regarding the Companies Act, 2013 are as follows-

- Allowing certain companies to revert to the financial year followed in India;
- Facilitating certain companies to communicate with their members in only electronic form;
- Recognising issuance and holding of fractional shares, Restricted Stock Units and Stock Appreciation Rights;
- Easing the requirement of raising capital in distressed companies;
- Replacing the requirement of furnishing affidavits with the filing of self-certification/declaration;
- Clarifying the inclusion of 'free reserves' while determining the limit for buying back of a company's equity shares;
- Prohibiting companies from recording trusts on their register of members;
- Allowing companies to hold general meetings in virtual, physical or hybrid modes;
- Creating an electronic platform for maintenance of statutory registers by companies;
- Clarifying provisions relating to Investor Education and Protection Fund;
- Strengthening the NFRA;
- Reviewing and strengthening the audit framework and introducing mechanisms to ensure the independence of auditors;
- Standardising the manner for auditors to provide qualifications;
- Recognising and providing an enabling framework for the constitution of Risk Management Committees;
- Clarifying the tenure of independent directors;
- Revising provisions relating to the disqualification and vacation of the office of directors;
- Clarifying the procedure for the resignation of key managerial personnel;
- Strengthening the provisions relating to mergers and amalgamations;

- Easing the restoration of struck off companies by enabling the Regional Director to allow restoration of names of companies in certain instances;
- Recognising Special Purpose Acquisition Companies and allowing such companies, which are incorporated in India, to list on permitted exchanges;
- Prohibiting the conversion of co-operative societies into a company;
- Modernising enforcement and adjudication activities through electronic mode;
- Strengthening the incorporation and governance framework for Nidhis;
- Removing ambiguities from present provisions under the Companies Act, 2013 through changes of drafting & consequential nature.

## Securities and Exchange Board of India (SEBI)

### SEBI (Listing Obligations and Disclosure Requirements) (LODR) Regulations, 2015 amendments

- SEBI LODR (3<sup>rd</sup> Amendment) Regulations, 2022

[Notification dated 11<sup>th</sup> April 2022](#)

The amendments include the following-

- The term 'Asset Cover' has been replaced with the term 'Security Cover' in Regulation 54 -Asset Cover and Regulation 56-Documents and Intimation to Debenture Trustees
- Regulation 54 states that in respect of secured listed non-convertible debt securities (*earlier only listed non-convertible debt securities*), the listed entity should maintain 100% security cover which is sufficient to discharge the principal amount and interest (*earlier only principal amount*).
- SEBI LODR (4<sup>th</sup> Amendment) Regulations, 2022

[Notification dated 25<sup>th</sup> April 2022](#)

As per the amendment, the listed entities are required to comply with the procedural requirements as specified in Schedule VII with respect to the transfer and transmission of securities (*earlier only transfer of shares*).

**July 2022**

## **SEBI (Issue of Capital and Disclosure Requirements) (ICDR) (2<sup>nd</sup> Amendment) Regulations, 2022**

### [Notification dated 27<sup>th</sup> April 2022](#)

The amendment provides the following timelines for commencement of amendment to ICDR Regulations vide [SEBI ICDR Amendment Regulations, 2022](#)

- For public issues of a size less than Rs.10,000 crore and opening on or after 1<sup>st</sup> April 2022- with effect from 1<sup>st</sup> April 2022;
- For public issues of a size equal to or more than Rs.10,000 crore and opening on or after 1<sup>st</sup> April 2022- with effect from 1<sup>st</sup> July 2022.

## **Relaxation from compliance with certain provisions of the SEBI LODR Regulations, 2015**

### **Regulation 36(1)(b)**

#### [Circular No. SEBI/HO/CFD/CMD2/CIR/P/2022/62 dated 13<sup>th</sup> May 2022](#)

SEBI has decided to provide relaxation up to 31<sup>st</sup> December 2022, from Regulation 36 (1) (b) of SEBI LODR Regulations, 2015 which requires sending hard copy of annual report containing salient features of all the documents prescribed in Section 136 of the Companies Act, 2013 to the shareholders who have not registered their email addresses. The notice of Annual General Meeting published by advertisement in terms of Regulation 47 of LODR Regulations, should contain a link to the annual report, so as to enable shareholders to have access to the full annual report. It should be noted that in terms of Regulation 36 (1) (c) of LODR Regulations, listed entities are required to send hard copy of full annual report to those shareholders who request for the same.

### **Regulation 58(1)(b)**

#### [Circular No.: SEBI/HO/DDHS/P/CIR/2022/0063 dated 13<sup>th</sup> May 2022](#)

SEBI has decided to provide relaxation up to 31<sup>st</sup> December 2022, from the requirements of Regulation 58 (1)(b) of the Listing Regulations which prescribes that an entity with listed non-convertible securities should send a hard copy of statement containing the salient features

of all the documents, as specified in Section 136 of Companies Act, 2013 and Rules made thereunder to those holders of non-convertible securities who have not registered their email address(es) either with the listed entity or with any depository.

These Circulars have come into force with immediate effect.

## **Consultation Paper on Introducing framework for Schemes of Arrangement for entities that have listed only debt securities/ NCRPS**

### [Report dated 20<sup>th</sup> May 2022](#)

Presently, for schemes of arrangement involving merger, amalgamation etc., certain safeguards are available in SEBI LODR Regulations, 2015 to protect the interest of investors of the entities with listed specified securities. There is no separate framework prescribed for entities that have only listed debt securities or Non-convertible redeemable preference shares (NCRPS) under SEBI (Issue and listing of Non-Convertible securities) Regulations, 2021.

To protect the interest of holders of debt securities/ NCRPS and to guide the listed entities through a procedural framework, there is a need for a specific provision in the SEBI LODR Regulations, to provide for schemes of arrangement under Chapter XV of the Companies Act, 2013 for entities that have listed only debt securities/ NCRPS.

In this Discussion Paper, SEBI has proposed to bring about a regulatory framework providing for schemes of arrangement for only debt listed entities in the SEBI LODR Regulations. The regulatory framework for filing and processing would be on the same lines as for entities that have listed specified securities, where SEBI offers comments on the schemes of arrangement. Further, these stipulations would not be applicable to a restructuring proposal approved as part of a resolution plan by the Tribunal under Section 31 of the Insolvency Code.

## Extension of facility for conducting annual meeting and other meetings of unitholders of REITs and InvITs through Video Conferencing (VC) or through Other Audio-Visual means (OAVM)

[Circular No.: SEBI/HO/DDHS/DDHS Div2/P/CIR/2022/079 dated 3<sup>rd</sup> June 2022](#)

SEBI has been decided to extend the facility to conduct annual meetings of unitholders in terms of Regulation 22(3) of SEBI (REIT) Regulations, 2014 and Regulation 22(3)(a) of SEBI (InvIT) Regulations, 2014 and meetings other than annual meeting, through VC or OAVM till 31<sup>st</sup> December 2022 (*earlier 30<sup>th</sup> June 2022*)

## Accountancy and Audit

### Announcement summarising interplay of some of the clauses in CARO 2020 and consequential amendments to Schedule III to the Companies Act, 2013.

[Dated 2<sup>nd</sup> April 2022](#)

The Ministry of Corporate Affairs (MCA) issued the Companies (Auditor's Report) Order, 2020 (CARO 2020) in February 2020. CARO 2020 contains many new reporting requirements for auditors such as revaluation of property, plant and equipment (including right of use assets) or intangible assets, benami property, working capital limits on basis of security of current assets, granting loans or advances in the nature of loans which are either repayable on demand or without specifying any terms or period of repayment, undisclosed income, company declared as wilful defaulter, material uncertainty in meeting liabilities, CSR activities. The Auditing and Assurance Standards Board (AASB) of the ICAI has issued the "Guidance Note (GN) on the CARO 2020" in July 2020 to provide detailed guidance on various clauses of CARO 2020 and reporting requirements for auditors.

To ensure that the management of companies provide various disclosures which pertain to clauses of CARO 2020 especially the aforesaid new reporting requirements, the MCA has brought out corresponding amendments in

Schedule III (Division I, Division II and Division III) to the Companies Act, 2013 vide its notification dated 24<sup>th</sup> March 2021 for preparation of the financial statements (FSs). In addition to the said amendments, various other disclosure requirements have also been added in Schedule III to the Companies Act, 2013.

In light of the aforementioned amendments, a comprehensive revision of the GN on CARO 2020 has been initiated by AASB. In connection with this initiative, an announcement has been made by AASB dated 2<sup>nd</sup> April 2022 which summarises interplay of some of the clauses in CARO 2020 and consequential amendments to Schedule III to the Companies Act, 2013.

### Revised Peer Review Mandate-Roll Out

[Dated 11<sup>th</sup> April 2022](#)

The ICAI had decided to mandate the Peer Review process for coverage of more firms under Peer Review process at its meeting held in January 2022. (Announcement [dated 12<sup>th</sup> February 2022](#)). Certain aspects required revision to bring in more clarity e.g., the time limit for compliance of the mandate, qualifications of reviewer of listed entity auditors, etc.

Accordingly, the revised Peer Review Mandate **operative from 1<sup>st</sup> April 2022** has been made in following 4 stages-

The roll out will be made in 4 stages which include the following –

- **Phase I- Mandatory from 1<sup>st</sup> April 2022**  
Practice Units (referred to as 'firms' in the earlier Announcement) which propose to undertake Statutory Audit of enterprises whose equity or debt securities are listed in India or abroad as defined under SEBI (LODR) Regulations, 2015. (For auditors from this category, Peer Review is already mandatory by SEBI, this mandate is further requirement stipulated by the ICAI)
- **Phase II- Mandatory from 1<sup>st</sup> April 2023**  
Practice Units which propose to undertake Statutory Audit of unlisted public companies having paid-up capital of not less than Rs. 500

July 2022

crores or having annual turnover of not less than Rs. 1,000 crores or having, in aggregate, outstanding loans, debentures and deposits of not less than Rs. 500 crores as on the 31<sup>st</sup> March of immediately preceding financial year.

OR

Practice Units rendering attestation services and having 5 or more partners.

▪ **Phase III-Mandatory from 1<sup>st</sup> April 2024**

Practice Units which propose to undertake the Statutory Audit of entities which have raised funds from public or banks or financial institutions of over Rs. 50 crores rupees during the period under review or of anybody corporate including trusts which are covered under public interest entities

OR

Practice Units rendering attestation services and having 4 or more partners.

▪ **Phase IV- Mandatory from 1<sup>st</sup> April 2025**

Practice Units which propose to undertake audits of branches of Public Sector banks

OR

Practice Units rendering attestation services and having 3 or more partners

**Implementation Guide on Reporting under Rule 11(e) and Rule 11(f) of the Companies (Audit and Auditors) Rules, 2014**

[Dated April 2022](#)

This Implementation Guide (IG) provides guidance to auditors on Rule 11(e) which deals with reporting on lending or receiving funds through pass-through entities marked for ultimate beneficiary and Rule 11(f) which deals with reporting on the payment/declaration of dividend.

It provides detailed guidance on these Rules including various audit procedures to be performed. It further specifies various scenarios for better understanding of the members and enables them to deal with the practical situations which may be faced by them while reporting under these Rules. It contains detailed guidance on various aspects of reporting under Rule 11(e) like analysis of Rules, management's responsibilities in respect of disclosures in FSs

under Schedule III to the Companies Act, 2013, various audit procedures to be performed, reporting considerations, illustrative formats of confirmation letters, illustrative formats of management representations. It will enable auditors of companies to comply with the reporting requirements under these Rules effectively.

**Effective Date of applicability of Standard on Assurance Engagements (SAE) 3410 Assurance Engagements on Greenhouse Gas Statements**

[Announcement Dated 2<sup>nd</sup> May 2022](#)

The ICAI has decided that the effective date of application of [SAE 3410](#) will be as follows-

- Voluntary basis for assurance reports covering periods ending on 31<sup>st</sup> March 2023
- Mandatory basis for assurance reports covering periods ending on or after 31<sup>st</sup> March 2024

SAE 3410 was issued in February 2021, to strengthen assurance frameworks for Non-Financial Information, equivalent to ISAE 3410 *Assurance Engagements on Greenhouse Gas Statements* issued by the IAASB of IFAC. SAE 3410 deals with assurance engagements to report on an entity's Greenhouse Gas (GHG) statement. The objective of an engagement under SAE 3410 is to obtain either limited or reasonable assurance, as applicable, about whether the GHG statement is free from material misstatement, whether due to fraud or error. GHG statements are assured to enhance the reliability of the emissions information being reported on. The approach adopted in SAE 3410 requires the practitioner to select procedures appropriate to the circumstances of the engagement based on an assessment of risks of material misstatement.

**Technical Guide on Financial Statements of Non-Corporate Entities**

[Dated June 2022](#)

The ICAI has issued this Technical Guide (TG) to standardise the formats of the FSs to be prepared by the non-corporate entities. Entities other than Companies incorporated under the Companies Act, 2013, are considered to be non-company

**July 2022**

entities. Non-company entities include sole proprietorship firms, partnership firms, limited liability partnerships, trusts, Hindu Undivided Families, association of persons and co-operative societies, etc.

This TG would enable these entities to communicate their financial performance and financial position in standardised formats thereby enhancing their comparability. The TG has been developed in a simple manner to assist and enable preparers and other stakeholders to discharge their functions effectively and efficiently. Since LLPs incorporated under LLPs Act, 2008, are corporate form of entity, these entities are scoped out of the applicability of the TG.

The objective of this TG is to deal with applicability of Accounting Standards to the non-corporate entities and to prescribe format of the FSs for the Non-Corporate entities.

### **Ind AS**

For development in Ind AS refer [CNK IFRS/ISSB and Ind AS Update, July 2022.](#)



## Disclaimer and Statutory Notice

This e-publication is published by C N K & Associates, LLP Chartered Accountants, India, solely for the purposes of providing necessary information to employees, clients and other business associates. This publication summarizes the important statutory and regulatory developments. Whilst every care has been taken in the preparation of this publication, it may contain inadvertent errors for which we shall not be held responsible. The information given in this publication provides a bird's eye view on the recent important select developments and should not be relied solely for the purpose of economic or financial decision. Each such decision would call for specific reference of the relevant statutes and consultation of an expert. This document is a proprietary material created and compiled by C N K & Associates LLP. All rights reserved. This newsletter or any portion thereof may not be reproduced or sold in any manner whatsoever without the consent of the publisher.

This publication is not intended for advertisement and/or for solicitation of work.

[www.cnkindia.com](http://www.cnkindia.com)

**CNK**  
& ASSOCIATES LLP

### MUMBAI

3rd Floor, Mistry Bhavan, Dinshaw Vachha Road,  
Churchgate, Mumbai. 400 020, India.  
Tel: +91 22 6623 0600

501/502, Narain Chambers, M.G. Road,  
Vile Parle (East), Mumbai 400 057, India.  
Tel: +91 22 6250 7600

**Bengaluru:** +91 80 2535 1353

**Ahmedabad:** +91 79 2630 6530

**Dubai:** +971 4 3559533

**Chennai:** +91 44 3500 3458

**Gandhinagar:** +91 79 2630 6530

**Sharjah:** +971 4 3559544

**Vadodara:** +91 265 234 3483

**Delhi:** +91 11 2735 7350