



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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SUPPLEMENT PROFESSIONAL PROGRAMME

for

December, 2022 Examination

**SECRETARIAL AUDIT, COMPLIANCE
MANAGEMENT AND DUE DILIGENCE**

MODULE 2

PAPER 4

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Lesson 2- Compliances

- 1. SEBI has issued a circular to clarify the issue pertaining to the Schemes of Arrangement by Listed Entities w.r.t. timing of submission of NOC from the lending scheduled commercial banks / financial institutions / debenture trustee (Circular No.: SEBI/HO/CFD/SSEP/CIR/P/2022/003 dated January 03, 2022)**

In respect of the NOC as required in terms of Circular dated November 16, 2021 and November 18, 2021, it is now clarified that the NOC shall be submitted before the receipt of the No-objection letter from the Stock Exchange in terms of Regulation 37(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

The recognized stock exchanges are directed to bring the provisions of this circular to the notice of the listed companies and also to disseminate the same on their website.

Impact:

SEBI has provided clarification on the timeline of submission of no objection certificate (NOC) from banks and financial institutions in respect of draft schemes pertaining to mergers and demergers filed by listed companies with the stock exchanges. As per regulations, listed entities desirous of undertaking a scheme of arrangement are required to submit certain documents to the stock exchanges.

Listed entities are required to submit the NOC from the lending scheduled commercial banks/ financial institutions/ debenture trustees (DTs). It is clarified by SEBI that NOC from commercial banks/ financial institutions/ DTs shall be submitted before the receipt of the no objection letter from the stock exchange.

For details:

https://www.sebi.gov.in/legal/circulars/jan-2022/schemes-of-arrangement-by-listed-entities-clarification-w-r-t-timing-of-submission-of-noc-from-the-lending-scheduled-commercial-banks-financial-institutions-debenture-trustee_55166.html

- 2. Disclosure obligations of high value debt listed entities in relation to Related Party Transactions (Circular No.: SEBI/HO/DDHS/DDHS_Div1/P/CIR/2022/0000000006 dated January 07, 2022)**
 - i. Vide notification dated September 07, 2021, Regulation 15(1A) of the SEBI (Listing Obligations and Disclosure Requirements), Regulations 2015 ('LODR Regulations') was introduced stipulating that Regulations 15 to 27 of Listing Regulations shall be applicable to high value debt listed entities on a 'comply or explain' basis.
 - ii. Subsequently, vide amendment dated November 09, 2021, Regulation 23 of the LODR Regulations on Related Party Transactions was amended, inter-alia, mandating listed entities that have listed specified securities to submit to the stock exchanges disclosure of Related Party Transactions (RPTs) in the format specified by the Board from time to time.

- iii. SEBI vide circular no. SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021 has specified following disclosure obligations of listed entities in relation to Related Party Transactions with respect to specified securities:
 - a. Information to be reviewed by the Audit Committee for approval of RPTs;
 - b. Information to be provided to shareholders for consideration of RPTs and
 - c. Format for reporting of RPTs to the Stock Exchange
- iv. Since the provisions of Regulation 23 of the LODR Regulations would be applicable to high value debt listed companies also, it has been decided to make provisions of the above referred circular dated November 22, 2021 applicable to high value debt listed entities.
- v. This Circular shall come into force with immediate effect. Stock Exchanges were advised to bring the provisions of this circular to the notice of all listed entities that have issued specified securities and also disseminate on their websites.

For details:

https://www.sebi.gov.in/legal/circulars/jan-2022/disclosure-obligations-of-high-value-debt-listed-entities-in-relation-to-related-party-transactions_55225.html

3. The SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2022 (Notification No.: SEBI/LAD-NRO/GN/2022/63 January 14, 2022)

The SEBI vide its notification dated January 14, 2022, has amended the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, which has come into force on the date of their publication in the Official Gazette. The amendments inter-alia provide that:

- The issuer shall place a copy of the certificate of a Practicing Company Secretary before the general meeting of the shareholders considering the proposed preferential issue, certifying that the issue is being made in accordance with the requirements of the SEBI (ICDR) Regulations, 2018.
- An issuer making an initial public offer shall ensure that the amount for general corporate purposes and such objects where the issuer company has not identified acquisition or investment target, as mentioned in objects of the issue in the draft offer document and the offer document, shall not exceed 35% of the amount being raised by the issuer.
- Regulation (8A) is inserted prescribing the additional conditions for an offer for sale for issues where draft offer document is filed under Regulation 6(2) of the SEBI ICDR Regulations:
 - Existing shareholders with more than 20% of the pre-issue shareholding cannot offer more than 50% of their pre-issue shareholding in an initial public offer ('IPO').
 - Further, those holding less than 20% of pre-issue shareholding cannot offer more than 10% of the share capital of the issuer.
- Credit Rating Agency (CRAs) registered with SEBI, shall henceforth be permitted to act as Monitoring Agency instead of Scheduled Commercial Banks (SCBs) and

Public Financial Institutions (PFI). Such a monitoring shall continue till 100% instead of 95% utilization of issue proceeds as present.

- The cap of the price band must be at least 105% of the floor price, for all issues opening on or after January 14, 2022.
- All issues opening on or from April 01, 2022, there must be lock-in for anchor investors for a period of 90 days from the date of allotment for 50% of the shares allocated to the anchor investors. For the remaining 50% it must continue to be 30 days from the date of allotment.
- Lock-in Provisions for Preferential Issue:

For Promoters or Promoter Group:	For Persons other than Promoters or Promoter Group:
The lock-in requirement for allotment of up to 20% of the post issue paid-up capital is reduced to 18 months.	The lock-in requirement for allotments are reduced to six months.
The lock-in requirement for allotment exceeding 20% of the post issue paid-up capital is reduced to six months.	

For details:

<https://egazette.nic.in/WriteReadData/2022/232654.pdf>

4. Empowering Investors through Investor Charters (PR No. 2/2022 dated January 17, 2022)

To protect investors’ interests, promote transparency in markets and enhance awareness, trust and confidence among the investors, SEBI, vide a Public Notice dated November 17, 2021, had published the “Investor Charter” for Securities Markets. Since then, various steps have been taken to implement the Charter. As for SEBI’s own charter, efforts have been taken to enhance the effectiveness of investor grievance redressal mechanism. SEBI has been publishing the status of disposal of investor grievances received in SCORES (SEBI Complaints Redress System) on its website on a monthly basis. Details of investor grievances, which are pending for more than three months with different intermediaries, are also being published. In case SEBI receives a large number of repeated complaints on any issue, the root causes are analysed and if required, appropriate policy changes are made to address the issue.

SEBI is also examining the possibility of introducing alternate dispute resolution mechanism in various agreements (wherever possible) between the regulated entities and their clients. This is with a view to providing efficacious mechanism for resolving disputes between the investors and the regulated entities.

For details:

https://www.sebi.gov.in/media/press-releases/jan-2022/empowering-investors-through-investor-charters_55353.html

5. The SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2022 (Notification No. : SEBI/LAD-NRO/GN/2022/66 dated January 24, 2022)

SEBI vide its notification dated January 24, 2022, has amended the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which shall come into force on the date of their publication in the Official Gazette. The amendment inter alia provides that:

- The appointment or a re-appointment of a person, including as a managing director or a whole-time director or a manager, who was earlier rejected by the shareholders at a general meeting, shall be done only with the prior approval of the shareholders. As per Regulation 17(1C).
- Issuance of duplicates or new certificates in cases of loss or old decrepit or worn out certificates in dematerialised form. This will improve ease, convenience and safety of transactions for investors. As per Regulation 39(2).
- The requests for effecting transfer of securities shall not be processed unless the securities are held in the dematerialised form with a depository. Further, transmission or transposition of securities held in physical or dematerialised form shall be effected only in dematerialised form. As per Proviso to 40(1).

For details:

https://www.sebi.gov.in/legal/regulations/jan-2022/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-amendment-regulations-2022_55526.html

6. Change in control of the Asset Management Company involving scheme of arrangement under the Companies Act, 2013 (Circular No.: SEBI/HO/IMD/IMD-I DOF5/P/CIR/2022/10 dated January 31, 2022)

To streamline the process of providing approval to the proposed change in control of an asset management company (“AMC”) involving scheme of arrangement which needs sanction of National Company Law Tribunal.

(“NCLT”) in terms of the provisions of the Companies Act, 2013, SEBI vide this circular has provided that the application seeking approval for the proposed change in control of the AMC under Regulation 22(e) of Mutual Fund Regulations shall be filed with SEBI prior to filing the application with the NCLT. Upon being satisfied with compliance of the applicable regulatory requirements, an in-principle approval will be granted by SEBI. The validity of such in-principle approval shall be 3 months from the date of issuance, within which the relevant application shall be made to NCLT. Within 15 days from the date of order of NCLT, applicant shall submit the application for the final approval along with copy of the NCLT Order approving the scheme, to SEBI for final approval. The provisions of this Circular shall be applicable to all the applications for change in control of AMC for which the schemes of arrangement are filed with NCLT on or after March 01, 2022.

For details:

https://www.sebi.gov.in/legal/circulars/jan-2022/change-in-control-of-the-asset-management-company-involving-scheme-of-arrangement-under-companies-act-2013_55745.html

7. Notification under section 67 of the LLP Act, 2008 (Notification dated G.S.R-€dated February 11, 2022)

The Central Government directed that, from the date of publication of this notification in the Official Gazette, the provisions of section 90, 164, 165, 167, 206(5), 207(3), 252 and section 439 of the Companies Act, 2013, shall apply to limited liability partnership, except where the context otherwise requires, with the modifications as specified.

Impact:

The primary objective of applicability of these sections is to improve the compliance of the LLPs and to improve and regulate the LLPs.

- Provisions of section 90 (subsection 1 to 11) of the Companies Act, 2013 pertaining to register of significant beneficial owners shall be applicable on the LLPs. The intension of this section is to identify a natural person that is controlling and exercising the beneficial interests of the company/LLP.
- Provisions of section 164 (subsection 1 & 2) of the Companies Act, 2013 pertaining to disqualification for appointment of director shall be applicable to LLPs.
- Provisions of section 165 (except sub-section 2) of the Companies Act, 2013 pertaining to number of directorships shall be applicable on the LLPs.
- Provisions of section 167 of the Companies Act, 2013 pertaining to vacation of office of director shall be applicable on the LLPs.
- Provisions of section 206 (5) of the Companies Act, 2013 pertaining to Power to Call for Information, Inspect Books and Conduct Inquiries by central government by appointing inspector shall be applicable on the LLPs.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=s3NAd1DMJP%252Bb4D3KxSkX1Q%253D%253D&type=open>

8. Notification for delegation of powers under section 17 of the LLP Act 2008 to Regional Directors (MCA Notification No. S.O-(E) dated February 11, 2022)

The Central Government, vide this notification, delegated to the Regional Directors at Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Guwahati, the powers and functions vested in it under section 17 (change of name of limited liability partnership) of the Limited Liability Partnership Act, 2008, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said section, if in its opinion such a course of action is necessary in the public interest. This notification shall come into force with effect from 01st April, 2022.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=vWLykzVPipoKm8Nr17uPCA%253D%253D&type=open>

9. Commencement notification for section 1 to 29 of the LLP (Amendment) Act, 2021 (MCA Notification No. S.O-(E) dated February 11, 2022)

The Central Government, vide this notification, appointed the 01st day of April, 2022 as the date on which the provisions of sections 1 to 29 of the Limited Liability Partnership (Amendment) Act, 2021 shall come into force.

Impact:

The LLP Amendment Act, 2021 is outcome of government's initiative 'ease of doing business', by extending a helping hand for the Start-up India community, as the amendments provide for decriminalizing certain offences, introducing the concept of small LLPs, appointment of adjudicating officers/ special courts, etc.

- Under section 2(t) new clause is inserted: small limited liability partnership” means a limited liability partnership—
 - (i) the contribution of which, does not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees, as may be prescribed; and
 - (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees, as may be prescribed; or
 - (iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed.
- The Amendment Act stipulates that the penalty payable for noncompliance of the LLP Act by a Small LLP or a Start-Up LLP or by its partner or designated partner shall be one-half of the penalty specified, subject to a maximum of rupees 1 lac for limited liability partnership and rupees fifty thousand for every partner or designated partner or any other person, as the case may be.
- According to the LLP Act, every LLP is required to have at least 2 designated partners, out of which at least 1 has to be a resident of India. The LLP Act previously defined the term resident of India as a person who has stayed in India for 182 days during the immediately preceding 1 year. Pursuant to the Amendment Act, a person who has lived in India for not less than 120 days during the financial year is also entitled to become a designated partner of an LLP.
- The Regional Director are authorized to compound the offences that are punishable only with a fine.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=vkSqd8xttaHgc57aBt3FcQ%253D%253D&type=open>

10. The Limited Liability Partnership (Amendment) Rules, 2022 (MCA Notification No. G.S.R. 109(E) dated February 11, 2022)

Central Government notified the Limited Liability Partnership (Amendment) Rules, 2022, which will come into effect from April 01, 2022. The rules inter-alia contains provisions pertaining to following:

S.No.	Particulars	Changed provisions	Remarks
1.	Rule 5: Fees	In Sub-rule 2 omitted/ substituted: (i) the first and second provisos shall be omitted; (ii) in the third proviso, for the words “Provided also” the word “Provided” shall be substituted; Sub-rule Inserted: (3) The National Company Law Appellate Tribunal Rules, 2016 mutatis mutandis shall be applicable for filing an appeal under sub-sections (2) and (3) of section 72.	This amendment is made to remove the modes of payment from the provisions of the LLP which are used to make payments.
2.	Rule 18: Name of LLP	Substituted clause (xi): the proposed name is identical with or too nearly resembles the name of any other limited liability partnership or a company;	The proposed name of LLP which is identical and too nearly resembles with the name of a firm and company incorporated outside India and reserved by such firm are not recognized.
3.	Rule 19: application for change of name of LLP with similar name	Substituted sub-rule: (1) A limited liability partnership or a company or a proprietor of a registered trade mark under the Trade Marks Act, 1999 which already has a name or trade mark which is similar to or which too nearly resembles the name or new name of a limited liability partnership incorporated subsequently, may apply to the Regional Director in Form 23 to give a direction to that limited liability partnership incorporated subsequently to change its name or new name, as the case may be: Provided that an application of the proprietor of the registered trade mark shall be maintainable within a period of three years from the date of incorporation or registration or change of name of limited liability partnership under the Act.	Opportunity for LLP/company/proprietor of registered trade mark which already has name and that is similar or nearly resembles to the name of new/subsequently incorporated LLP, to apply with RD for giving it direction to change name of new/subsequently incorporated LLP.
4.	New rule 19A: Allotment of	Inserted Rule 19A: (1) In case a LLP fails to change its name or new name in accordance with directions of Regional Director within a	The LLP fails to adhere to the directions issued by regional director

	new name to existing LLP	period of 3 months, then the year passing of such direction, the serial number and the existing LLPIN shall become the new name and the Registrar shall make an entry of such new name in the register of LLP and issue a fresh certificate of incorporation in form 16A. (2) The LLP whose name is changed u/s 17(3) shall in addition to compliance with section 21, mention “Order of Regional Director Not Complied” words in bracket below the name of LLP on its invoices, official correspondence, and publications.	pursuant to change in name of LLP, it shall be granted new name as serial number and the existing LLPIN by Registrar and issuance of new COI Form No. 16A. The LLP is also required to mention in statement “Order of Regional Director Not Complied” words in bracket below the name of LLP on its invoices, official correspondence, and publications.
5.	New Rule 37A : Adjudication of penalties	Inserted New rule 37A: Central Government may appoint adjudicating officers (AO) for adjudicating penalty under the provisions of LLP Act. Before adjudging penalty the AO shall give written notice (15 to 30 days) by mentioning nature of non-compliance and penalty details, to LLP/Partner/designated partner/any other person who has non-complied with the provisions to show cause why the action should not be initiated against it/him. Reply of notice shall be made in electronic mode within the specified time. Further 15 days can be granted by AO on satisfaction of the grounds of delay. Physical attendance may be solicited by AO by giving 10 days’ notice. On the date of hearing and after giving reasonable opportunity of being heard, AO may pass written order Every order shall be duly signed and dated by AO along with reasons of requiring physical presence. The AO shall forward the order to LLP, partner/designated of LLP, RD and upload on website. AO has power to summon and enforce attendance; order for evidence or produce any evidence. If any person fails to reply/neglects/refuses to appear before AO, then AO may pass order to impose penalty. Penalty shall be paid on through MCA portal only. All sums realized by way of penalties under the Act shall be credited to the Consolidated Fund of India.	Adjudication of penalties under LLP Act. AO to be appointed not below the rank of registrar.
6.	New rule 37B: Appeal against order	Inserted rule 37B: Appeal against the order of AO shall be filed before jurisdictional RD within 60 days from the date of receiving	Appeal against order of AO to be filed with RD

	of adjudicating officer	order to aggrieved party, in Form No 33 LLP-ADJ along with grounds of appeal and certified copy of order. Further 30 days can be granted by RD on satisfaction of the grounds of delay. An appeal in Form No 33 - LLP ADJ shall not seek reliefs therein against more than one order unless the reliefs prayed for are consequential. Every appeal filed under this rule shall be accompanied by a fee of one thousand rupees for Small LLPs and two thousand and five hundred rupees for other than Small LLPs	
7.	New Rule 37C: Registration of appeal	Inserted rule 37C: On receipt of appeal jurisdictional RD shall sign & endorse the appeal. On security of appeal, if the appeal is found in order, then appeal shall be registered by allotting serial number. If the RD found appeal defective then it shall give 14 days' time to applicant for making the defect good, and if the applicant fails to rectify the defect in specified time then RD may refuse the appeal and communicate to applicant within 7 days. Further 14 days can be granted by RD for rectification of defects on satisfaction of the grounds of delay	Registration of appeal by RD on satisfaction of grounds
8.	New rule 37D: Disposal of appeal by Regional Director	Inserted rule 37D: On admission of appeal by RD, it shall serve a copy of appeal to AO along with notice seeking its reply on the ground of appeal, within 21 days. Further 21 days can be granted by RD to AO on showing sufficient cause for not being able to file his reply to the appeal within specified time. A copy of every reply, application or written representation filed by the AO before the RD shall be forthwith served on the appellant by the AO. RD shall notify the parties about date of hearing, which shall after 30 days of notification. On fixed date of hearing the RD may pass a written order. A certified copy of order shall be communicated to AO, appellant and central government.	Disposal of appeal by Regional Director

For details:

<https://egazette.nic.in/WriteReadData/2022/233375.pdf>

11. The Limited Liability Partnership (Second Amendment) Rules, 2022 (MCA Notification No. G.S. R. (E) dated March 04, 2022)

The Ministry of Corporate Affairs (MCA) vide its Notification dated 04th March, 2022 has notified Limited Liability Partnership (Second Amendment) Rules, 2022 which shall come into force on the date of its publication in the Official Gazette. The amendments inter alia provides that-

- If an individual required to be appointed as designated partner does not have a DPIN or DIN, application for allotment of DPIN shall be made in Form FiLLiP. Provided further that the application for allotment of DPIN shall not be made by more than five individuals in Form FiLLiP. **[Substitution: Rule 11(1) Second proviso]**
- The Certificate of Incorporation of limited liability partnership shall be issued by the Registrar in Form 16 and shall mention Permanent Account Number and Tax Deduction Account Number issued by the Income Tax Department. **[Insertion: Rule 11(3)]**
- Statement of Account and Solvency shall be signed on behalf of the limited liability partnership by its designated partners. In cases where Corporate Insolvency Resolution Process has been initiated against an LLP then the Statement of Account and Solvency may be signed by interim resolution professional or resolution professional, or liquidator or limited liability partnership administrator. **[Substitution: Rule 24(6)]**
- Where the Registrar finds it necessary to call further information, he shall direct the person or LLP to furnish such information or to re-submit such application or e- Form or document in Form 32. **[Insertion: Rule 36(6)]**
- Vide this notification, various forms substituted such as :
 - RUN LLP-Reserve Unique Name-LLP
 - FiLLiP-Form for incorporation of LLP
 - Form 3-Information with regard to LLP agreement and changes, if any, made therein
 - Form 4-Notice for appointment, cessation, change in name/address/designation of designated partner and consent to become partner
 - Form 5-Notice for change of Name
 - Form 8-Statement of account & solvency and charge filing
 - Form 9-Consent by designated partners
 - Form 11-Annual Return of LLP
 - Form 12-Form for intimating other address for service of documents
 - Form 15-Notice for change of place of registered office
 - Form 16-Certificate of Incorporation
 - Form 17-Application and statement for the conversion of a firm into LLP
 - Form 18-Application and statement for conversion of private company/unlisted public company into LLP
 - Form 22-Notice of intimation of order of court

- Form 23-Application for direction to LLP to change its name
- Form 24 -Application to ROC for striking off name
- 25 -Application for reservation/ renewal of name of name of foreign LLP/Foreign company Form 27 - Form for registration of particulars of FLLP
- Form 31 - Application for compounding of offence Form 32 - Form for filing addendum for rectification of defects or incompleteness.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mids=iorXjBHYBr94XltGw2NNBA%253D%253D&type=open>

12. Change in UPI limits - Revision to Operational Circular for issue and listing of Non -Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper (SEBI Circular No.: SEBI/HO/DDHS/P/CIR/2022/0028 dated March 08, 2022)

SEBI vide its circular dated August 10, 2021, provided the procedures pertaining to issue and listing of Non - convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper. The said Circular, inter -alia, provides an option to investors to apply in public issues of debt securities with the facility to block funds through Unified Payments Interface (UPI) mechanism for application value upto Rs. 2 lakh. In order to bring about uniformity in the requirements and for ease of investment for investors, it has been decided to increase the limit for investment through UPI mechanism to Rs. 5 lakh. The provisions of this circular shall be applicable to public issues of debt securities which open on or after May 1, 2022.

For details:

<https://www.sebi.gov.in/legal/circulars/mar-2022/change-in-upi-limits-revision-to-operational-circular-for-issue-and-listing-of-non-convertible-securities-securitised-debt-instruments-security-receipts-municipal-debt-securities-and-commercial-p-56665.html>

13. The SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2022 (SEBI Notification No.: No. SEBI/ LAD-NRO/GN/2022/76 dated March 22, 2022)

SEBI vide its notification dated March 22, 2022, has amended the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which shall come into force on the date of their publication in the Official Gazette. SEBI vide this notification has omitted the regulation 17(1B) related to separation of role of Chairperson and MD/CEO. It is provided that this provision may not be retained as a mandatory requirement and instead be made applicable to the listed entities on a voluntary basis.

For details:

<https://egazette.nic.in/WriteReadData/2022/234379.pdf>

14. The Companies (Accounts) Second Amendment Rules, 2022 (MCA Notification No. : G.S.R (E) dated March 31, 2022)

MCA has notified the Companies (Accounts) Second Amendment Rules, 2022 which came into force on the date of their publication in the Official Gazette. Vide this notification, the date of applicability for the requirement relating to feature of recording audit trail in the Accounting Software has been extended from 01st April 2022 to 01st April, 2023. Further, MCA has extended the timeline for filing of Form CSR-2 for FY 2020-21 from 31st March, 2022 to 31st May, 2022.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mids=3kjEo3H12bPQqpt2k18OTw%253D%253D&type=open>

15. Revision of UPI limits in Public Issue of Equity Shares and convertibles (SEBI Circular No.: SEBI/HO/CFD/DIL2/CIR/P/2022/45 dated Aril 05, 2022)

SEBI vide this circular has provided that all Individual Investors applying in Public Issues where the application amount is upto Rs. 5 Lakhs shall use Unified Payment Interface (UPI) and shall also provide their UPI ID in the bid-cum application form submitted with a syndicate member, stock broker, depository participant ('DP') and registrar to an issue and share transfer agent. The provisions of this circular shall come into force for Public Issues opening on or after May 01, 2022.

For details:

https://www.sebi.gov.in/legal/circulars/apr-2022/revision-of-upi-limits-in-public-issue-of-equity-shares-and-convertibles_57589.html

16. The Companies (Management and Administration) Amendment Rules, 2022 (MCA Notification No. G.S.R. 279(E) dated April 06, 2022)

The Central Government notified the Companies (Management and Administration) Amendment Rules, 2022, the said amendment rules inter-alia consist provisions pertaining to inspection of registers and returns as mentioned under rule 14 of the Companies (Management and Administration) Rules, 2014 by inserting sub rule 3; "Notwithstanding anything contained in sub-rules (1) and (2), the following particulars of the register or index or return in respect of the members of a company shall not be made available for any inspection under sub-section (2) or for taking extracts or copies under sub-section (3) of section 94, namely-address or registered address (in case of a body corporate); e-mail ID; Unique Identification Number; PAN Number."

Impact:

Through this amendment, MCA has inserted a new Rule 14(3) to restrict the inspection of register or index or return in respect of the members of a Company. According to the Amendment, particulars of the register or index or return in respect of the members of a Company related to Address or Registered Address (in case of a body corporate); e-mail ID; Unique Identification Number; PAN Number, shall not be made available for any inspection under sub-section (2) or for taking extracts or copies under subsection (3) of Section 94 of the Companies Act.

For details:

<https://egazette.nic.in/WriteReadData/2022/234911.pdf>

Lesson 4- Search and Status Report

1. Framework for conversion of Private Listed InvIT into Public InvIT (SEBI Circular No.: SEBI/HO/DDHS/DDHS_Div3/P/CIR/2022/15 dated February 09, 2022)

SEBI, vide this circular, has provided the manner in which a Private Listed InvIT may convert into a Public InvIT on making a public issue of units through a fresh issue and/or an offer for sale in terms of the SEBI (Infrastructure Investment Trusts) Regulations. Post issuance and listing of such units through public issue in accordance with this circular, the Private Listed InvIT shall stand transformed and shall be considered a Public InvIT and it shall be required to comply with all provisions of the InvIT Regulations prescribed for Public InvITs.

For details:

https://www.sebi.gov.in/legal/circulars/feb-2022/framework-for-conversion-of-private-listed-inv-it-into-public-inv-it_55971.html

Lesson 5- Know Your Customer (KYC)

- 1. Rule 9 of the Prevention of Money laundering (Maintenance of Records) Rules, 2005 shall not apply to the Foreign Portfolio Investor (MoF Notification No.G.S.R. 5(E) dated January 04, 2022)**

In exercise of the powers conferred by sub-clause (i) of clause (h) of sub-rule (2) of rule 9A of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005, the Central Government in consultation with the regulatory authority, namely the Securities and Exchange Board of India, in the public interest and in the interest of the regulated entity, namely the Foreign Portfolio Investor, hereby directs that the provisions of sub-rule (1A) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 shall not apply to the Foreign Portfolio Investor.

Impact:

Government has given exemption to FPIs from reporting of client's KYC records with Central KYC registry under money laundering norms. Rule 9 deals with verification of the records of the identity of clients in which sub rule (1A) which states the following, shall not be applicable to the foreign portfolio investor. As per Rule 9(1A), every reporting entity is required to file within 10 days after the commencement of an account-based relationship with a client, an electronic copy of the client's KYC records with the Central KYC Records Registry.

For details:

<https://egazette.nic.in/WriteReadData/2022/232403.pdf>

- 2. The Aadhaar (Authentication and Offline Verification) (First Amendment) Regulations, 2022 (UIDAI Notification No.: No. K-11020/240/2021/Auth/UIDAI dated February 04, 2022)**

The Unique Identification Authority of India has notified the Aadhaar (Authentication and Offline Verification) (First Amendment) Regulations, 2022. Regulations 16B and 16C are newly inserted regulations which inter-alia contains provisions pertaining to manner of voluntary use of Aadhaar number viz; Acceptance of Aadhaar (in form of-physical/Aadhaar Letter/printed e-Aadhaar/ Aadhaar PVC card/m-Aadhaar) as proof of Identity; Offline Verification Seeking Entity shall verify the details with digitally signed Aadhaar Secure QR code; Aadhaar number in electronic form may be used by aadhaar holder for establishing his identity by way of offline verification and the Offline Verification Seeking Entity shall verify the digital signature; Yes/No or eKYC authentication facility for electronic Aadhaar to be provided by an authorized requesting entity.

Further, as per new regulation 16C, for acceptance for Aadhaar - Offline Verification Seeking Entity shall verify the digital signatures through Aadhaar secure QR Code and every requesting entity shall ensure informed consent of Aadhaar number holder beforehand of acceptance as proof of identity.

New definitions such as Aadhaar letter, Aadhaar Polyvinyl Chloride Card (PVC), e-Aadhaar, m-Aadhaar are introduced.

For details:

<https://egazette.nic.in/WriteReadData/2022/233160.pdf>

3. **Use of Aadhaar Authentication services for “DigiLocker” (MeitY Notification No.: S.O. 1272(E) dated March 07, 2022)**

In pursuance of rule 5 of the Aadhaar Authentication for Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2020, the Ministry of Electronics and Information Technology notified that the National e-Governance Division (NeGD) under Digital India Corporation is hereby allowed to perform Aadhaar authentication, on voluntary basis, for identification of residents in “DigiLocker”. The National e-Governance Division (NeGD) shall follow the guidelines issued by the Central Government with respect to use of the Aadhaar authentication on voluntary basis.

For details:

<https://egazette.nic.in/WriteReadData/2022/234401.pdf>

Lesson 6- Signing and Certification

1. The Consumer Protection (Direct Selling) Rules, 2021 (Department of Consumer Affairs Notification No.; G.S.R. 889(E) dated December 28, 2021)

Ministry of Consumer Affairs, Food and Public Distribution published the Consumer Protection (Direct Selling) Rules, 2021 on December 28, 2021.

The rules inter-alia provides for Mandatory maintenance of records, Obligations of direct selling entity, Duties of direct selling entity and direct seller, Prohibition of Pyramid Scheme and money circulation scheme etc.

According to rule 5(g) of the said rules, the obligation of direct selling entity include that every direct selling entity shall get all information provided by it on its website duly certified by a Company Secretary.

For details:

<https://egazette.nic.in/WriteReadData/2021/232214.pdf>

2. The International Financial Services Centres Authority (Insurance Intermediary) (Amendment) Regulations, 2021 (IFSCA Notification No.: IFSCA/2021-22/GN/REG020 dated January 04, 2022)

The International Financial Services Centres Authority made amendment to International Financial Services Centres Authority (Insurance Intermediary) Regulations, 2021 which inter-alia carrying provisions pertaining to: “Certificate” from CA/CS/CMA, etc.:

Provide a certificate from a practicing Chartered Accountant in India, a practicing Company Secretary in India, a practicing Cost Accountant in India or any other person with appropriate qualification, as specified by the Authority, confirming that all applicable regulatory requirements have been complied with by the Applicant.”

For details:

<https://egazette.nic.in/WriteReadData/2022/232425.pdf>

3. International Financial Services Centers Authority (Registration of Insurance Business) (Amendment) Regulations, 2021 (IFSCA Notification No.: IFSCA/2021-22/GN/REG019 dated January 04, 2022)

The International Financial Services Centers Authority made amendment to the International Financial Services Centers Authority (Registration of Insurance Business) Regulations, 2021 which inter-alia carrying provisions pertaining to: “Certificate” from CA/CS/CMA, etc.:

Provide a certificate from a practicing Chartered Accountant in India, a practicing Company Secretary in India, a practicing Cost Accountant in India or any other person with appropriate qualification, as specified by the Authority, certifying that all the requirements of the Act read with IFSCA (Registration of Insurance Business) Regulations, 2021 and notifications issued under section 2CA of the Act have been complied with by the Applicant.”

For details:

<https://egazette.nic.in/WriteReadData/2022/232424.pdf>

4. SEBI Notification No. SEBI/LAD-NRO/GN/2022/63 dated January 14, 2022

Practicing Company Secretaries have been authorized under the SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2022 issued vide Gazette Notification dated 14th January, 2022, to issue a Certificate of Compliance to the issuer certifying that the proposed preferential issue is being made in accordance with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

For details:

https://www.sebi.gov.in/legal/regulations/jan-2022/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-amendment-regulations-2022_55351.html

5. IFSCA Circular No.: 29/IFSCA/DPM/TS/QJ/2021-2 dated January 19, 2022

The International Financial Services Centres Authority (IFSCA) in its Circular 329/IFSCA/DPM/TS/QJ/2021-22/1 dated 19th January, 2022 pertaining to Qualified Jewellers importing gold through India International Bullion Exchange has authorized Practicing Company Secretaries to certify the average annual turnover in the last 3 financial years and net worth of the entity so as to be permitted to act as a “Qualified Jeweller”.

For details:

<https://ifsca.gov.in/Viewer/Index/267>

Lesson 7- Segment-wise Role of Company Secretaries

1. SEBI launched “Saa□thi” – SEBI’s Mobile App on Investor Education (SEBI PR No. 3/2022 dated January 19, 2022)

Chairman, SEBI launched “Saa□thi” – SEBI’s Mobile App on Investor Education at a function held in Mumbai. Launching the SEBI App, Chairman said, “This Mobile App is yet another initiative of SEBI with a view to empowering investors with knowledge about securities market. With the recent surge in individual investors entering the market, and more importantly a large proportion of trading being mobile phone based, this App will be helpful in easily accessing the relevant information.

The SEBI Mobile App aims to create awareness among the investors about the basic concepts of Securities Market, KYC Process, trading and settlement, mutual funds, recent market developments, investor grievances redressal mechanism, etc. The App is available in Hindi and English. The Android and iOS versions of the App can be downloaded from Play Store and App Store respectively.

For details:

https://www.sebi.gov.in/media/press-releases/jan-2022/sebi-chairman-launches-saa-thi-sebi-s-mobile-app-on-investor-education_55384.html

2. Guidelines on Accounting with respect to Indian Accounting Standards (IND AS) (SEBI Circular No.: SEBI/HO/IMD-II/DOF8/P/CIR/2022/12 dated February 04, 2022)

SEBI vide notification dated January 25, 2022 amended SEBI (Mutual Funds) Regulations, 1996, which, inter-alia, mandated that the AMCs shall prepare the Financial Statements and Accounts of the Mutual Fund Schemes in accordance with IND AS with effect from April 01, 2023. In this regard, SEBI has specified that the Mutual Fund Schemes shall prepare the opening balance sheet as on date of transition and the comparatives as per the requirements of IND AS. Mutual Fund schemes may not be mandatorily required to restate the previous years published perspective historical per unit statistics as per requirement of IND AS for the first two years from first time adoption of IND AS. The provisions of this Circular shall be effective from April 01, 2023.

For details:

https://www.sebi.gov.in/legal/circulars/feb2022/circular-onguidelines-onaccounting-withrespect-to-indianaccounting-standardsind-as_55919.html

3. Audit Committee of Asset Management Companies (AMCs) (SEBI Circular No.: SEBI/HO/IMD/IMD-I DOF2/P/CIR/2022/17 February 09, 2022)

Taking into account the recommendation of Mutual Fund Advisory Committee (MFAC) and the feedback received from the industry, SEBI has prescribed that the AMCs of mutual funds shall be required to constitute an Audit Committee. The role, responsibility, membership and other features of the Audit Committee of AMC are detailed in this circular. Currently, the requirement for an Audit Committee is at the level of trustees of Mutual Funds.

For details:

https://www.sebi.gov.in/legal/circulars/feb-2022/circular-on-audit-committee-of-asset-management-companies-amcs-_55987.html

4. Separation of role of Chairperson and MD/CEO (SEBI PR No. 5/2022 dated February 15, 2022)

Considering constraints posed by the prevailing pandemic situation and with a view to enabling the companies to plan for a smoother transition, as a way forward, SEBI Board, in its meeting decided that the provision for separation of role of Chairperson and MD/CEO may not be retained as a mandatory requirement and instead be made applicable to the listed entities on a “voluntary basis”. Earlier, the top 500 listed companies by market capitalisation had to mandatorily separate the role of the Chairperson and MD/CEO from April 01, 2022, following the two years extension given by the SEBI. The SEBI Board, in its meeting of March 2018, had considered and approved the proposal relating to separation of the role of Chairperson and MD/CEO of listed companies.

For details:

https://www.sebi.gov.in/media/press-releases/feb-2022/sebi-board-meeting_56076.html

Lesson 8- Audits

1. Publishing Investor Charter and disclosure of Investor Complaints by Stock Brokers on their websites (SEBI Circular No.: SEBI/HO/MIRSD/DOP/CIR/P/2021/676 dated December 02, 2021)

In order to facilitate investor awareness about various activities which an investor deals with such as opening of account, KYC and in person verification, complaint resolution etc., SEBI, has prepared an Investor Charter for Stock Brokers inter-alia detailing the services provided to Investors, Rights of Investors, various activities of Stock Brokers with timelines DOs and DON'Ts for Investors and Grievance Redressal Mechanism which is placed at Annexure 'A' to this Circular. In this regard, Stock Exchanges are directed to advise Stock Brokers to bring the Investor Charter for Stock Brokers to the notice of their clients through disclosing the Investor Charter on their respective websites. Additionally, all the Stock Brokers shall disclose on their respective websites, the data on complaints received against them or against issues dealt by them and redressal thereof, latest by 7th of succeeding month, as per the format enclosed at Annexure 'B' to this circular.

For details:

https://www.sebi.gov.in/legal/circulars/dec-2021/publishing-investor-charter-and-disclosure-of-investor-complaints-by-stock-brokers-on-their-websites_54402.html

2. Publishing of Investor Charter and disclosure of Investor Complaints by Portfolio Managers/Mutual Funds/AIFs (SEBI Circular No.: SEBI/HO/IMD/IMD-II DOF7/P/CIR/2021/681, SEBI/HO/IMD/IMD-I/DOF9/P/CIR/2021/682 dated December 10, 2021)

With a view to enhancing awareness of investors about the various activities which an investor deals with while availing the services provided by portfolio managers/Mutual Funds/AIFs, an investor charter has been prepared by SEBI. The registered Portfolio Managers and Mutual Funds are advised to bring to the notice of their clients the Investor Charter by prominently displaying on their websites.

However, AIFs are advised to bring the Investor Charter to the notice of their investors by disclosing in the Private Placement Memorandum (PPM) in case of new schemes and by disclosing to the investors on their registered e-mail in case of existing schemes.

Additionally, in order to enhance transparency in the Investor Grievance Redressal Mechanism, all Portfolio Managers and Mutual Funds on a monthly basis shall disclose on their websites as well as on Association of Mutual Funds in India (AMFI) website, the data pertaining to all complaints including SCORES complaints received by them. The information shall be made available by 7th of the succeeding month. For effective monitoring, AIFs shall maintain data on investor complaints, which shall be compiled latest within 7 days from the end of quarter. The provisions of these circulars shall come into effect from January 01, 2022.

For details:

1. <https://www.sebi.gov.in/legal/circulars/dec-2021/circular-on-investor-charter-and-disclosure-of-investor-complaints-by-mutual-funds-on-their-websites-and-amfi-website-%2054545.html>
2. https://www.sebi.gov.in/legal/circulars/dec-2021/publishing-of-investor-charter-and-disclosure-of-investor-complaints-by-portfolio-managers-on-their-websites_54546.html
3. https://www.sebi.gov.in/legal/circulars/dec-2021/publishing-investor-charter-and-disclosure-of-complaints-by-aifs_54544.html

Lesson 9- Secretarial Audit

1. The SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2022 (SEBI Notification No. : No. SEBI/LAD-NRO/GN/2022/64 dated January 14, 2022)

SEBI vide its notification dated January 14, 2022, has amended the provisions of SEBI (Foreign Portfolio Investors) Regulations, 2019.

The new regulation 43B has been inserted through this amendment which deals with exemption from strict enforcement of the regulations in other cases as follows:

The Board may suo motu or on an application made by a foreign portfolio investor, for reasons recorded in writing, grant relaxation from the strict enforcement of any of the provisions of these regulations, subject to such conditions as the Board deems fit to impose in the interests of investors and the securities market and for the development of the securities market, if the Board is satisfied that:

- (a) the non-compliance is caused due to factors beyond the control of the entity; or
- (b) the requirement is procedural or technical in nature.

The above mentioned application shall be accompanied by a non-refundable fee of US \$ 1,000 payable by way of NEFT/ RTGS/ IMPS or any other mode allowed by the Reserve Bank of India in the designated bank account of the Board.

For details:

https://www.sebi.gov.in/legal/regulations/jan-2022/securities-and-exchange-board-of-india-foreign-portfolio-investors-amendment-regulations-2022_55352.html

2. Extension of validity period under the Competition Act, 2002 (MCA Notification No.; S.O. 1192(E) dated march 16, 2022)

Ministry of Corporate Affairs vide its notification dated March 16th, 2022 and in exercise of the powers conferred by clause (a) of section 54 pertaining to exemption from the application of this Act, or any provision thereof, and for such period of the Competition Act, 2002, the Central Government, in the public interest, extended the validity of the exemptions for a period of further 5 years.

For details:

<https://egazette.nic.in/WriteReadData/2022/234300.pdf>

3. Clarification on applicability of regulation 23 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions (SEBI Circular No.: SEBI/HO/CFD/CMD1/CIR/P/2022/40 dated March 30, 2022)

SEBI vide this circular has clarified that for an related party transaction (RPT) that has been approved by the audit committee and shareholders prior to April 1, 2022, there shall be no requirement to seek fresh approval from the shareholders. The RPT that has been

approved by the audit committee prior to April 1, 2022 which continues beyond such date and becomes material as per the revised materiality threshold shall be placed before the shareholders in the first General Meeting held after April 1, 2022.

Further, provided that the explanatory statement contained in the notice sent to the shareholders for seeking approval for an RPT shall provide relevant information so as to enable the shareholders to take a view whether the terms and conditions of the proposed RPT are not unfavorable to the listed entity, compared to the terms and conditions, had similar transaction been entered into between two unrelated parties.

For details:

https://www.sebi.gov.in/legal/circulars/mar-2022/clarification-on-applicability-of-regulation-23-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-in-relation-to-related-party-transactions_57398.html

4. Frequently Asked Questions on SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

SEBI has issued Frequently Asked Questions (FAQs) on SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations, 2011). These FAQs offer a simplistic explanation/clarification of terms/concepts related to the SAST Regulations, 2011, some of the FAQs are listed below:

- a. What is meant by Takeovers & Substantial acquisition of shares?
When an “acquirer” takes over the control of the “Target Company”, it is termed as Takeover. When an acquirer acquires “substantial quantity of shares or voting rights” of the Target Company, it results into substantial acquisition of shares.
- b. Under which situations is an open offer required to be made by an acquirer?

If an acquirer has agreed to acquire or acquired control over a target company or shares or voting rights in a target company which would be in excess of the threshold limits, then the acquirer is required to make an open offer to shareholders of the target company.

- c. Can a person holding less than 25% of the voting rights/ shares in a target company, make an offer?
Yes, any person holding less than 25% of shares/ voting rights in a target company can make an open offer provided the open offer is for a minimum of 26% of the share capital of the company.
- d. What is the basis of computation of the creeping acquisitions limit under Regulation 3(2) of Takeover Regulations 2011?
For computing acquisitions limits for creeping acquisition specified under regulation 3(2), gross acquisitions/ purchases shall be taken in to account thereby ignoring any intermittent fall in shareholding or voting rights whether owing to disposal of shares or dilution of voting rights on account of fresh issue of shares by the target company.
- e. Whether hostile offers/bids are permitted under the new regulations?

There is no such term as hostile bid in the regulations. The hostile bid is generally understood to be an unsolicited bid by a person, without any arrangement or MOU with persons currently in control. Any person with or without holding any shares in a target company, can make an offer to acquire shares of a listed company subject to minimum offer size of 26%.

For details:

https://www.sebi.gov.in/sebi_data/faqfiles/mar-2022/1648620806406.pdf

5. Clarification on applicability of Regulation 23(4) read with Regulation 23(3)(e) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions (SEBI Circular No.: SEBI/HO/CFD/CMD1/CIR/P/2022/47 dated April 08, 2022)

In order to facilitate listed entities to align their processes to conduct AGMs and obtain omnibus shareholders' approval for material related party transactions (RPTs), it has been specified that the shareholders' approval of omnibus RPTs approved in an AGM shall be valid upto the date of the next AGM for a period not exceeding fifteen months. In case of omnibus approvals for material RPTs, obtained from shareholders in general meetings other than AGMs, the validity of such omnibus approvals shall not exceed one year.

For details:

<https://www.sebi.gov.in/legal/circulars/apr2022/clarification-onapplicability-ofregulation-23-4-readwith-regulation-23-3-eof-the-sebi-listingobligations-anddisclosurerequirementsregulations-2015-inrelation-to-relatedparty-transactio-57807.html>

Lesson 19- Due Diligence-I

1. The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2021 (SEBI Notification No. SEBI/LAD-NRO/GN/2021/60 dated December 06, 2022)

In exercise of the powers conferred under section 30 of the Securities and Exchange Board of India Act, 1992, SEBI amended the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2021 inter-alia provides that in the event the acquirer makes a public announcement of an open offer for acquiring shares or voting rights or control of a target company, the acquirer may seek the delisting of the target company by making a delisting offer in accordance with this regulation.

The acquirer shall have declared his intention to so delist the target company at the time of making such public announcement of an open offer as well as at the time of making the detailed public statement.

For details:

<https://egazette.nic.in/WriteReadData/2021/231637.pdf>

2. Disclosures in the abridged prospectus and front cover page of the offer document (SEBI Circular No.: SEBI/HO/CFD/SSEP/CIR/P/2022/14 dated February 04, 2022)

In order to further simplify, provide greater clarity and consistency in the disclosures across various documents and to provide additional but critical information in the abridged prospectus, the format for disclosures in the abridged prospectus has been revised and is placed at Annexure A of this Circular. This Circular shall be applicable for all issues opening after the date of this Circular. While the disclosures in the abridged prospectus shall be as per Annexure A of this Circular instead of Annexure I of Part E of Schedule VI of SEBI (ICDR) Regulations, the disclosure on front outside cover page shall be as per Annexure B of this Circular.

For details:

https://www.sebi.gov.in/legal/circulars/feb-2022/disclosures-in-the-abridged-prospectus-and-front-cover-page-of-the-offer-document_55920.html

3. Automation of disclosure requirements under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011-System Driven Disclosures - Ease of doing business (SEBI Circular No.: SEBI/HO/CFD/DCR-3/P/CIR/2022/27 dated March 07, 2022)

In order to streamline the capture and dissemination of the information related to “encumbrances” and thus bring in more transparency, it has been decided that all types of encumbrances as defined under Regulation 28 (3) of Takeover Regulations shall necessarily be recorded in the depository system. With effect from June 30, 2022, the depositories shall also devise an appropriate mechanism to record all types of outstanding encumbrances in the depository system. For the purpose of dissemination of this information, the stock exchanges

shall also devise an appropriate mechanism for dissemination of disclosures under System Driven Disclosures in a simple readable pdf format. Reconciliation of data shall be conducted by listed companies, stock exchanges and depositories at least once in a quarter or immediately whenever any discrepancy is noticed. The provisions of this circular shall come into effect from July 01, 2022.

For details:

<https://www.sebi.gov.in/legal/circulars/mar-2022/automation-of-disclosure-requirements-under-sebi-substantial-acquisition-of-shares-and-takeovers-regulations-2011-system-driven-disclosures-ease-of-doing-business-56655.html>

Lesson 20- Due Diligence – II – Non Compliances, Penalties and Adjudications

1. SEBI (Settlement Proceedings) (Amendment) Regulations, 2022 (SEBI Notification No. NoSEBI/LAD-NRO/GN/2022/62 dated January 14, 2022)

SEBI vide its notification dated January 14, 2022, has amended the provisions of SEBI (Settlement Proceedings) Regulations, 2018 which has come into force on the date of their publication in the Official Gazette. The SEBI (Settlement Proceedings) Regulations, 2018 provides that the settlement terms may include a settlement amount and/or nonmonetary terms. Vide this amendment, SEBI has prescribed that the non-monetary terms may also include “restraining from accessing the securities market and/or prohibiting from buying, selling or otherwise dealing in securities, directly or indirectly and associating with the securities market in any manner for a specific period”.

For details:

<https://egazette.nic.in/WriteReadData/2022/232643.pdf>

2. Foreign Exchange Management (Non-debt Instruments) (Amendment) Rules, 2022 (MoF Notification No. S.O. 1802(E) dated April 12, 2022)

The Central Government amended the Foreign Exchange Management (Non debt Instruments) Rules, 2019. Rule 8 of the Foreign Exchange Management (Non-debt Instruments) (Amendment) Rules, 2022 inter alia provides that an Indian company may issue “employees’ stock option”, “sweat equity shares”, and “Share Based Employee Benefits” to its employees or directors or employees or directors of its holding company or joint venture or wholly owned overseas subsidiary or subsidiaries who are resident outside India.

Provided that –

- (a) the scheme has been drawn either in terms of regulations issued under the Securities and Exchange Board of India Act, 1992 or the Companies (Share Capital and Debentures) Rules, 2014 or as per other applicable law, as the case may be;
- (b) the “employee’s stock option” or “sweat equity shares” or “Share Based Employee Benefits” so issued under the applicable rules or regulations are in compliance with the sectoral cap applicable to the said company;
- (c) the issue of “employee’s stock option” or “sweat equity shares” or “Share Based Employee Benefits” in a company where foreign investment is under the approval route shall require prior government approval;
- (d) issue of “employee’s stock option” or “sweat equity shares” or “Share Based Employee Benefits” to a citizen of Bangladesh or Pakistan shall require prior government approval. It may be noted that an individual who is a person resident outside India exercising an option which was issued when he or she was a person resident in India shall hold the shares so acquired on exercising the option on a non-repatriation basis.

For details:

<https://egazette.nic.in/WriteReadData/2022/235070.pdf>

Note: Students appearing in December, 2022 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, ICSI & or other authority till 31st May, 2022.
