



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

SUPPLEMENT PROFESSIONAL PROGRAMME (OLD SYLLABUS)

for

December, 2021 Examination

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

MODULE 1

PAPER 2

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Lesson 3 - Due Diligence – An Overview

1) The MCA notified the commencement date for Section 45 of the Companies (Amendment) Act, 2020 (Notification No: S.O. 1303 (E), Dated March 24, 2021)

The MCA has appointed March 24, 2021 as the commencement date for Section 45 of the Companies (Amendment) Act, 2020 which seeks to amend Section 247(3) of the Companies Act, 2013 by imposing penalty on valuer instead of earlier notified fine for contravention of the provisions of section 247 or the rules made thereunder.

Old Penal Provision

If a valuer contravenes the provisions of this section or the rules made thereunder, the valuer shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

New Penal Provision

“If a valuer contravenes the provisions of section 247 or the rules made thereunder, the valuer shall be *[liable to a penalty of fifty thousand rupees]*.”

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NjY1OA==&docCategory=Notifications&type=open>

https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

2) Section 62 of the Companies (Amendment) Act, 2020 has amended Section 446B of the Companies Act, 2013 w.r.t. “Lesser penalties for One Person Companies or Small Companies” Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

Section 446B

Old Penal Provision

Notwithstanding anything contained in this Act, if a One Person Company or a small company fails to comply with the provisions of sub-section (5) of section 92, sub-section (2) of section 117 or sub-section (3) of section 137, such company and officer in default of such company shall be liable to a penalty which shall not be more than one half of the penalty specified in such sections.

New Penal Provision

Notwithstanding anything contained in the Companies Act, 2013, if penalty is payable for non-compliance of any of the provisions of the Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be.

Explanation.—For the purposes of this section:

- (a) "Producer Company" means a company as defined in clause (l) of section 378A;
- (b) "start-up company" means a private company incorporated under this Act or under the Companies Act, 1956 and recognised as start-up in accordance with the notification issued by the Central Government in the Department for Promotion of Industry and Internal Trade.

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NjcIMQ==&docCategory=Notifications&type=open>

6) Section 64 of the Companies (Amendment) Act, 2020 has amended Section 452 of the Companies Act, 2013 w.r.t. "Punishment for Wrongful Withholding of Property"- Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

In Section 452(2) of the Companies Act, 2013, the following proviso has been inserted, namely:—

"Provided that the imprisonment of such officer or employee, as the case may be, shall not be ordered for wrongful possession or withholding of a dwelling unit, if the court is satisfied that the company has not paid to that officer or employee, as the case may be, any amount relating to—

- (a) provident fund, pension fund, gratuity fund or any other fund for the welfare of its officers or employees, maintained by the company;
- (b) compensation or liability for compensation under the Workmen's Compensation Act, 1923 in respect of death or disablement."

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NjcIMQ==&docCategory=Notifications&type=open>

7) Section 65 of the Companies (Amendment) Act, 2020 has amended Section 454 of the Companies Act, 2013 w.r.t. “Adjudication of Penalties”-Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

In Section 454(3) of the Companies Act, 2013, the following proviso has been inserted, namely:—

"Provided that in case the default relates to non-compliance of sub-section (4) of section 92 or sub-section (1) or sub-section (2) of section 137 and such default has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded."

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc1MQ==&docCategory=Notifications&type=open>

Lesson 4 – Issue of Securities

1) Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2021 (January 08, 2021)

SEBI vide its notification amends the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, which shall come into force on the date of their publication in the Official Gazette i.e. 08-01-2021.

The following amendments shall be made:

1) The amendment is brought under regulation 112 which specifies, the requirements of minimum promoters' contribution shall not apply in the case where the equity shares of the issuer are frequently traded on a stock exchange for a period of at least 3 years immediately preceding the reference date, and the issuer has redressed at least 95% of the complaints received from the investors till the end of the quarter immediately preceding the month of the reference date. Further, it is provided that the issuer has been in compliance with the SEBI (LODR) Regulations, 2015, for a minimum period of 3 years immediately preceding the reference date.

However, if the issuer has not complied with the provisions of SEBI (LODR) Regulations, 2015, relating to composition of board of directors, for any quarter during the last three years immediately preceding the date of filing of draft offer document/offer document, but is compliant with such provisions at the time of filing of draft offer document/offer document, and adequate disclosures are made in the offer document about such non-compliances during the three years immediately preceding the date of filing the draft offer document/offer document, it shall be deemed as compliance with the condition.

The SEBI further laid the condition that where the promoters propose to subscribe to the specified securities offered to the extent greater than higher of the two options available in clause (a) of sub-regulation (1) of regulation 113, the subscription in excess of such percentage shall be made at a price determined in terms of the provisions of regulation 164 or the issue price, whichever is higher.

2) The existing proviso after Regulation 115 (c) which specifies that the excess promoters' contribution as provided in the proviso to clause (b) of regulation 112 shall not be subject to lock-in, has been omitted.

3) The Board further notified the new proviso in the Regulation 167 (4), which specifies that lock-in period shall not be applicable to the specified securities to the extent to achieve 10% public shareholding.

For more details visit: https://www.sebi.gov.in/legal/regulations/jan-2021/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-amendment-regulations-2021_48704.html

2) Reduction in unblocking/refund of application money (SEBI Circular No. SEBI/HO/CFD/DIL1/CIR/P/2021/47 dated March 31, 2021)

SEBI has reduced the timelines for refund of investors' money to 4 working days in case of non-receipt of minimum subscription and the issuer failing to obtain listing or trading permission from the stock exchanges. The timelines have been reduced after taking into consideration that Application Supported by Blocked Amount (ASBA) has been mandated for all applicants in public issues, the application money is not transferred but only blocked in the account of the investor and is debited only upon allotment and unblocked if there is no/part allotment. Further, post introduction of UPI mechanism in public issues, intermediaries are responsible to compensate the investors for any delay in unblocking of amounts in the ASBA Accounts exceeding four working days from the bid/issue closing date.

At present, in case of non-receipt of minimum subscription, the issuer is mandated to refund all the application money within 15 days from the closure of the issue. If the issuer fails to obtain listing or trading permission from the stock exchanges where the securities were to be listed, it shall refund the entire money received within 7 days of receipt of intimation from the exchanges rejecting the application. These timelines have now been reduced to four days.

For more details visit: <https://www.sebi.gov.in/legal/circulars/mar-2021/reduction-in-unblocking-refund-of-application-money-49722.html>

3) SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2021 (May 5, 2021)

SEBI vide its Gazette notification dated May 5, 2021, amended the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, which shall come into force on the date of their publication in the Official Gazette.

The brief of the SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2021 is given hereunder as: -

I. General

- 'Institutional Trading Platform' rechristened as 'Innovators Growth platform(IGP)
- 'Accredited Investors' rechristened as 'Innovators Growth Platform Investors'

II. Listing of Securities on IGP [Reg. 282 (4)]

- Issuer issued SR equity shares to its promoters/founders are allowed to make an IPO of only ordinary shares for listing on the IGP
- Subject to compliance with Chapter X and provisions for SR equity shares in accordance with Reg. 6 (3) of ICDR regulations

III. Allocation of the issue size [Reg. 287(4)]

- Issuers can allocate 60% of the issue size on a discretionary basis, to eligible

investors under Reg. 283(1) prior to the issue opening.

- At price not lower than offer price to other applicants
- Minimum application value of Rs.50 lakhs

IV. Lock in for SR equity shares [reg.288(5)]

- SR equity shares shall be locked- in:
 - Till conversion into equity shares with voting rights similar to that of ordinary shares, or
 - For a period of 6 months from the date of allotment, whichever is later.

V. Exit from Innovators Growth Platform (reg. 290A)

- Issuer whose specified securities are traded on the IGP pursuant to an IPO may exit from IGP subject to the following conditions if-
 - Approved by the BODs and shareholders (SR passed through postal ballot or e-voting by the majority of public shareholders)
 - Delisting price-based on a floor price determined in terms of reg. 8 of SAST regulations and additional delisting premium justified by acquirer/promoter,
 - The post offer acquirer/promoter together with the shares tendered reaches 75% of the total issued shares of that class
 - At least 50% shares of the public shareholders are tendered and accepted;
 - Stock Exchanges where shares are listed approves of such an exit
- Exit shall be pursuant to the SEBI (Delisting of Equity shares) Regulation, 2009.
- Following provisions of the SEBI (Delisting of Equity Shares) Regulation, 2009 shall not apply:
 - Reg 8(1)(a) & (b) relating to conditions and procedure for delisting where exit opportunity is required;
 - Reg 15 relating to offer price, and
 - Reg 17 relating to minimum number of equity shares to be acquired.

VI. Migration to main board [292(3)]

- An entity applying to migrate to the main board and Not satisfying the condition laid down in reg.292(2) Must have 50% of its capital held by Qualified Institutional Buyers (Earlier requirement- 75%) as on date of application for migration under the regular category

For more details visit: https://www.sebi.gov.in/legal/regulations/may-2021/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-second-amendment-regulations-2021_50078.html

4) The Companies (Share Capital and Debentures) Amendment Rules, 2021 (Notification dated February 11, 2021) (Effective from April 01, 2021)

The MCA has notified the Companies (Share Capital and Debentures) Amendment Rules, 2021 to further amend the Companies (Share Capital and Debentures) Rules, 2014.

In the Companies (Share Capital and Debentures) Rules 2014, after rule 12, the following rule has been inserted, namely:-

"12A. Period for notice under sub-clause (i) of clause (a) of sub-section (1) of Section 62

For the purposes of sub-clause (i) of clause (a) of sub-section (1) of section 62, the time period within which the offer shall be made for acceptance shall be not less than seven days from the date of offer."

Details of Changes

This amendment seeks to insert a new Rule 12A in the Companies (Share Capital and Debentures) Rules, 2014 pertaining to period for notice of issue of share capital under sub-clause (i) of clause (a) of section 62(1) of the Companies Act, 2013. This Amendment prescribes the time period within which the offer related to further issue of shares to existing shareholders shall be made for acceptance, which shall not be less than seven days from the date of offer.

For more details visit: http://www.mca.gov.in/Ministry/pdf/AmendmentRules_12022021.pdf

Streamlining the process of IPOs with UPI in ASBA and redressal of investor grievances (SEBI Circular No. SEBI/HO/CFD/ DIL2/CIR/P/2021/2480/1/M dated March 16, 2021)

The SEBI proposed to streamline the Initial Public Offering (IPO) process with unified payment interface (UPI) in Application Supported by Blocked Amount (ASBA) and redressal of investor grievances.

The circular was issued addressing all the Registered Merchant Bankers, Recognized Stock Exchanges, Registered Registrars to an Issue, and Share Transfer Agents Self- Certified Syndicate Banks.

Streamlining the IPO Process

- Lead Managers shall ensure the adherence of timelines, processes, and compensation policy by intermediaries.
- In order to ensure timely response with regard to IPO process, SCSBs shall identify the nodal officer for IPO applications processed through UPI as a payment mechanism and submit the details to SEBI within 7 working days from the issuance of this circular.

- For ease of doing business, Sponsor Banks shall host a web portal for intermediaries (closed user group) from the date of IPO opening till the date of listing with details of statistics of mandate blocks/unblocks, performance of Apps and UPI Handles, downtime/network latency (if any) across intermediaries and any such processes having an impact/bearing on the IPO bidding process.

Reinitiations of UPI Bids

To avoid duplication, the facility of reinitiation provided to Syndicate Members shall preferably be allowed only once per bid/batch and as deemed fit by the concerned Stock Exchange, after bid closure time.

Further, the circular has provided the provisions regarding:

- a. Unblocking of UPI Mandates
- b. Cancelled/Withdrawn/Deleted applications

The new rule would come into force for IPOs opening on or after May 01, 2021.

For more details visit: https://www.sebi.gov.in/legal/circulars/mar-2021/streamlining-the-process-of-ipos-with-upi-in-asba-and-redressal-of-investors-grievances_49522.html

5) Streamlining the process of IPOs with UPI in ASBA and redressal of investor grievances (SEBI Circular No. SEBI/HO/CFD/ DIL2/CIR/P/2021/2480/1/M dated March 16, 2021)

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At present, in case of non-receipt of minimum subscription, the issuer is mandated to refund all the application money within 15 days from the closure of the issue. If the issuer fails to obtain listing or trading permission from the stock exchanges where the securities were to be listed, it shall refund the entire money received within 7 days of receipt of intimation from the exchanges rejecting the application. These timelines have now been reduced to four days.

For more details visit: https://www.sebi.gov.in/legal/circulars/mar-2021/reduction-in-unblocking-refund-of-application-money_49722.html

7) Section 11 of the Companies (Amendment) Act, 2020 amends Section 62 of the Companies Act, 2013 w.r.t. "Further issue of share capital"-Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

In section 62 (1) (a) (i) of the Companies Act, 2013 after the words "less than fifteen days", the words "or such lesser number of days as may be prescribed" has been inserted.

Details of Changes:

The Central Government has been empowered to prescribe days lesser than 15, for deeming decline of offer of rights issue. This will reduce the timelines for applying for rights issues.

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc1MQ==&docCategory=Notifications&type=open>

Lesson 6 – Due diligence – Mergers and Amalgamations

1) The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021 (Notification G.S.R. 93(E), Dated February 01, 2021)

The MCA has notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021 to further amend the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, in rule 25, after sub-rule (1) the following sub-rule has been inserted, namely:-

“(1A) A scheme of merger or amalgamation under section 233 of the Companies Act, 2013 may be entered into between any of the following class of companies, namely:-

- (i) two or more start-up companies; or
- (ii) one or more start-up company with one or more small company.

Explanation.- For the purposes of this sub-rule, “start-up company” means a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognised as such in accordance with notification number G.S.R. 127 (E), dated February 19, 2019 issued by the Department for Promotion of Industry and Internal Trade.”

Details of Changes:

The Notification has amended Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, allowing scheme of merger or amalgamation under section 233 of the Companies Act, 2013 (fast track mergers through relatively simpler procedure) between any of the following class of companies, namely:-

- (i) two or more start-up companies; or***
- (ii) one or more start-up company with one or more small company.***

For more details visit:

http://www.mca.gov.in/Ministry/pdf/AmalgamationsAmndtRules_02022021.pdf

2) SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2021(May 5, 2021)

SEBI vide its Gazette notification dated May 5, 2021, amended the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, which shall come into force on the date of their publication in the Official Gazette.

The brief of the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2021 is given hereunder as: -

I. General

- ‘Institutional Trading Platform’ rechristened as ‘Innovators Growth Platform’ (IPG)

II. Disclosure of voting pattern of Committee of Independent Directors (IDs)[reg. 26(6)]

- Committee of IDs formed by the target company to not only provide and publish reasoned recommendation on the open offer but also Disclose the voting pattern of the meeting in which the proposal was discussed

III. Enhanced limits for entities having listed their specified securities on IGP

- Limit of acquiring shares or voting rights requiring public announcement of an open offer enhanced to 49% (reg. 3)
- Limit of holding shares or voting rights requiring voluntarily public announcement of an open offer enhanced to 49% (reg 6)
- Requirement of disclosure of aggregate shareholding or voting rights by the acquirer will be triggered on holding of 10% or more shares.
- Requirement of disclosing change in shareholding or voting rights of the acquirer will be triggered only if such change exceed 5% of total shareholding or voting rights in the target company.

For more details visit: https://www.sebi.gov.in/legal/regulations/may-2021/securities-and-exchange-board-of-india-substantial-acquisition-of-shares-and-takeovers-amendment-regulations-2021_50077.html

Lesson 12 – Compliance Management

1) Amendments under the Companies (Amendment) Act, 2019 and the Companies (Amendment) Act, 2020*

The provisions related to CSR under the Companies (Amendment) Act, 2019 came into force w.e.f. 22nd January, 2021 as under:

(a) Provisions on CSR Spending

Section 135(5) of the Companies Act, 2013 has been amended vide the Companies (Amendment) Act, 2019—

Amended Section 135(5) provides that the Board of every company referred to in Section 135 (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities: Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, is required to specify the reasons for not spending the amount and, unless the unspent amount relates to any ongoing project referred to in section 135(6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

After Section 135 (5), the following sub-section (6), (7) & (8) is inserted, namely:—

Section 135(6)

Any amount remaining unspent under Section 135(5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

(b) The Companies(Amendment) Act, 2019 has introduced Penalty for Non-Compliance of Section 135(5) & (6)

Section 135 (7)

If a company contravenes the provisions of sub-section (5) or sub-section (6) of Section 135, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of such company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

(Note: It may be noted that the above section 135(7) is again amended by subsequent amendment by the Companies (Amendment) Act, 2020 which decriminalised the above w.e.f. same day i.e. 22nd January, 2020)

The amended Section 135(7) is as under:

If a company is in default in complying with the provisions of sub -section (5) or sub -section (6) of the Companies Act, 2013, the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or Rs.1 crore, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one -tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or Rs.2 Lakhs, whichever is less.

Section 135(8)

The Central Government is empowered to give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of section 135 and such company or class of companies shall comply with such directions.

For more details visit:https://www.mca.gov.in/Ministry/pdf/AMENDMENTACT_01082019.pdf
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc0OA==&docCategory=Notifications&type=open>

The provisions related to CSR under the Companies (Amendment) Act, 2020 came into force w.e.f. 22nd January, 2021 as under:

(c) Set off of excess spending on CSR

In Section 135(5), after the second proviso, the following proviso has been inserted, namely:

—
"Provided also that if the company spends an amount in excess of the requirements provided under this sub -section, such company may set off such excess amount against the requirement to

spend under this sub -section for such number of succeeding financial years and in such manner, as may be prescribed.";

Details of Changes

This Amendment inserted a new provision that in case of the companies, which spends an amount in excess of the requirement of 2%, will be allowed to set off such excess amount out of their obligation to spend for such number of succeeding financial years as prescribed in the CSR rules.

(b) A new sub -section 9 has been inserted in Section 135 of the Companies Act, 2013, namely:

Where the amount to be spent by a company under Section 135(5) of the Companies Act, 2013 does not exceed Rs. 50 Lakh, the requirement for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc1MO==&docCategory=Notifications&type=open>

2) 2) The Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 (Notification No. G.S.R. 40 (E), Dated January 22, 2021)

The MCA has notified the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 to further amend the Companies (Corporate Social Responsibility Policy) Rules, 2014.

I) In the Companies (Corporate Social Responsibility Policy) Rules, 2014, for rule 2, the following rule has been substituted, namely: -

Rule 2: Definitions

(a) "**Act**" means the Companies Act, 2013 (18 of 2013);

(b) "**Administrative overheads**" means the expenses incurred by the company for 'general management and administration' of Corporate Social Responsibility functions in the company but shall not include the expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular Corporate Social Responsibility project or programme;

(c) "**Annexure**" means the Annexure appended to these rules;

(d) "**Corporate Social Responsibility (CSR)** " means the activities undertaken by a Company in pursuance of its statutory obligation laid down in section 135 of the Companies Act, 2013 in

accordance with the provisions contained in these rules, but shall not include the following, namely:-

(i) Activities undertaken in pursuance of normal course of business of the company.

Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020- 21, 2021-22, 2022-23 subject to the conditions that-

(a) such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act;

(b) details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report;

(ii) any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level;

(iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;

(iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 (29 of 2019);

(v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;

(vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India;

(e) "**CSR Committee**" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act;

(f) "**CSR Policy**" means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan;

(g) "**International Organisation**" means an organisation notified by the Central Government as an international organisation under section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply;

(h) "**Net profit**" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely:

(i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and

(ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:

Provided that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of sub-section (1) of section 381, read with section 198 of the Act;

(i) **"Ongoing Project"** means a multi-year project undertaken by a Company in fulfilment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification;

(j) **"Public Authority"** means 'Public Authority' as defined in clause (h) of section 2 of the Right to Information Act, 2005 (22 of 2005);

(k) **"Section"** means a section of the Act.

II) In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 3, in sub-rule (2), in clause (b), for the words, brackets and figure "sub-section (2) to (5)", the words, brackets and figure "sub-section (2) to (6)" shall be substituted.

After Amendment

Every company which ceases to be a company covered under section 135(1) of the Companies Act, 2013 for three consecutive financial years shall not be required to –

(a) constitute a CSR Committee; and

(b) comply with the provisions contained in sub-section (2) to (6) of Section 135 of the Companies Act, 2013,

till such time it meets the criteria specified in sub-section (1) of section 135 of the Companies Act, 2013.

III) In Rule 4 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the following rule shall be substituted, namely:-

CSR Implementation. –

(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through –

(a) a company established under section 8 of the Companies Act, 2013 or a registered public trust or a registered society, registered under section 12A and 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company, or

(b) a company established under section 8 of the Companies Act, 2013 or a registered trust or a registered society, established by the Central Government or State Government; or

(c) any entity established under an Act of Parliament or a State legislature; or

(d) a company established under section 8 of the Companies Act, 2013 or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

(2) (a) Every entity, covered under sub-rule (1), who intends to undertake any CSR activity, shall register itself with the Central Government by filing the **Form CSR-1** electronically with the Registrar, with effect from the **01st day of April 2021**:

Provided that the provisions of this sub-rule shall not affect the CSR projects or programmes approved prior to the **01st day of April 2021**.

(b) Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.

(c) On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically.

(3) A company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.

(4) A company may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programmes in accordance with these rules.

(5) The Board of a company shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and the Chief Financial Officer or the person responsible for financial management shall certify to the effect.

(6) In case of ongoing project, the Board of a Company shall monitor the implementation of the project with reference to the approved timelines and year-wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

IV) In Rule 5(2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the following sub-rule is substituted, namely:-

CSR Committee:

The CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR policy, which shall include the following, namely:-

- (a) the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act;
- (b) the manner of execution of such projects or programmes as specified in sub-rule (1) of rule 4;
- (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;
- (d) monitoring and reporting mechanism for the projects or programmes; and
- (e) details of need and impact assessment, if any, for the projects undertaken by the company:

Provided that Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.

V) Rule 6 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 pertaining to CSR Policy is omitted.

VI) In Rule 7 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the following rule is substituted, namely:-

CSR Expenditure.

(1) The board shall ensure that the administrative overheads shall not exceed five percent of total CSR expenditure of the company for the financial year.

(2) Any surplus arising out of the CSR activities shall not form part of the business profit of a company and shall be ploughed back into the same project or shall be transferred to the Unspent CSR Account and spent in pursuance of CSR policy and annual action plan of the company or transfer such surplus amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

(3) Where a company spends an amount in excess of requirement provided under sub-section (5) of section 135, such excess amount may be set off against the requirement to spend under sub-section (5) of section 135 up to immediate succeeding three financial years subject to the conditions that –

- (i) the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of sub-rule (2) of this rule.
- (ii) the Board of the company shall pass a resolution to that effect.

(4) The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by –

(a) a company established under section 8 of the Companies Act, 2013 or a Registered Public Trust or Registered Society, having charitable objects and CSR Registration Number under sub-rule (2) of rule 4; or

(b) beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or

(c) a public authority:

Provided that any capital asset created by a company prior to the commencement of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, shall within a period of one hundred and eighty days from such commencement comply with the requirement of this rule, which may be extended by a further period of not more than ninety days with the approval of the Board based on reasonable justification.

(VII) In Rule 8 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the following rule is substituted, namely:-

CSR Reporting

(1) The Board's Report of a company covered under these rules pertaining to any financial year shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

(2) In case of a foreign company, the balance sheet filed under clause (b) of sub-section (1) of section 381 of the Act, shall contain an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

(3) (a) Every company having average CSR obligation of ten crore rupees or more in pursuance of subsection (5) of section 135 of the Act, in the three immediately preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.

(b) The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.

(c) A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less.

(VIII) In Rule 9 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the following rule is substituted, namely:-

Rule 9 - Display of CSR activities on its website

The Board of Directors of the Company shall mandatorily disclose the composition of the CSR Committee, and CSR Policy and Projects approved by the Board on their website, if any, for public access.

(IX) Rule 10 - Transfer of unspent CSR amount.

Until a fund is specified in Schedule VII for the purposes of sub-section (5) and (6) of section 135 of the Act, the unspent CSR amount, if any, shall be transferred by the company to any fund included in schedule VII of the Act.

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTM1MTc=&docCategory=Notifications&type=open>

3) The MCA has notified the commencement date of clause (i) of Section 23 of the Companies (Amendment) Act, 2017 (Notification No. S.O. 1066 (E), Dated March 05, 2021)

The MCA has notified March 05, 2021 as the commencement date of provision of clause (i) of Section 23 of the Companies (Amendment) Act, 2017 which seeks to amend Section 92 of the Companies Act, 2013 pertaining to Annual Return.

The amendment has inserted a proviso in Section 92(1) of the Companies Act, 2013 pertaining to the empowerment of the Central Government to prescribe abridged form of annual return for One Person Company, small company and such other class or classes of companies as may be prescribed.

Further, amendments related to omission of particulars to be mentioned in the Annual Return w.r.t. the Indebtedness of the companies and certain details regarding Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them has also been enforced.

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NjczMg==&docCategory=Notifications&type=open>

https://www.mca.gov.in/Ministry/pdf/CAAct2017_05012018.pdf

4) The Companies (Management and Administration) Amendment Rules, 2021 (Notification No. G.S.R. 159(E), dated March 05, 2021)

The MCA has notified the Companies (Management and Administration) Amendment Rules, 2021 to further amend the Companies (Management and Administration) Rules, 2014.

- (i) **In the Companies (Management and Administration) Rules, 2014, in Rule 11 (1), the following sub-rule shall be substituted, namely:-**

“(1) Every company shall file its annual return in Form No.MGT-7 except One Person Company (OPC) and Small Company. One Person Company and Small Company shall file annual return from the financial year 2020-2021 onwards in Form No.MGT-7A”;

- (ii) **In the Companies (Management and Administration) Rules, 2014, in Rule 12, the following sub-rule shall be substituted, namely:-**

“Filing of Annual Return with Registrar- A copy of the annual return shall be filed with the Registrar with such fees as may be specified for this purpose.”

- (iii) **In the Companies (Management and Administration) Rules, 2014, in Rule 20, after proviso in sub-rule (2), the following explanations shall be numbered namely:**

Explanation-I. - For the purpose of this sub-rule, “Nidhi” means a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from and lending to, its members only, for their mutual benefit, and which complies with such rules as are made by the Central Government for regulation of such class of companies.

Explanation-II. - For the purposes of this rule, the expression-

- (i) “agency” means the National Securities Depository Limited, the Central Depository Services (India) Limited or any other entity approved by the Ministry of Corporate Affairs subject to condition that the National Securities Depository Limited, the Central Depository Services (India) Limited or such other entity has obtained a certificate from the Standardisation Testing and Quality Certification Directorate, Department of Information Technology, Ministry of Communications and Information Technology, Government of India including with regard to compliance with parameters under Explanation (vi);
- (ii) “cut-off date” means a date not earlier than seven days before the date of general meeting for determining the eligibility to vote by electronic means or in the general meeting;
- (iii) “cyber security” means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosures, disruption, modification or destruction;

- (iv) “electronic voting system” means a secured system based process of display of electronic ballots, recording of votes of the members and the number of votes polled in favour or against, in such a manner that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralised server with adequate cyber security;
- (v) “remote e-voting” means the facility of casting votes by a member using an electronic voting system from a place other than venue of general meeting;
- (vi) “secured system” means computer hardware, software, and procedure that-
 - (a) are reasonably secure from unauthorised access and misuse;
 - (b) provide a reasonable level of reliability and correct operation;
 - (c) are reasonably suited to performing the intended functions; and
 - (d) adhere to generally accepted security procedures;
- (vii) “voting by electronic means” includes “remote e-voting” and voting at the general meeting through an electronic voting system which may be the same as used for remote e-voting.

Details of Changes

The Amendment provides that One Person Company and Small Company shall file their Annual Return under the provisions of Section 92 of the Companies Act, 2013 in Form MGT-7A from the financial year 2020-21 onwards and every other company shall continue to file their Annual Return in Form MGT-7. Further MCA has done away with annexing extract of Annual Return in the Board’s Report and certain explanations related to agency, cut-off date, cyber security, electronic voting system etc., are also reinstated in E-voting Rules.

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTM0ODk=&docCategory=Notifications&type=open>

5) Amendments to Schedule III of the Companies Act, 2013, (Notification No: G.S.R. 207(E), Dated March 24, 2021 (Effective from April 01, 2021)

The Central Government has made further amendments in Schedule III of the Companies Act, 2013 with effect from 1st day of April, 2021, to incorporate various additional disclosure requirements while preparing the financial statements of an entity which are covered under the three divisions of Schedule III of the Companies Act, 2013.

As per the amendment some of the Additional disclosures which are also required to be made:

- Disclosure of Shareholding of Promoters
- Trade Payables ageing schedule
- Reconciliation of the gross and net carrying amounts of each class of assets
- Trade Receivables ageing schedule
- Detailed disclosure regarding title deeds of Immovable Property not held in name of the Company.
- Disclosure regarding revaluation & Capital-Work-in Progress (CWIP).
- Intangible assets under development.
- Loans or Advances granted to promoters, directors, KMPs and the related parties
- Details of Benami Property held
- Reconciliation and reasons of material discrepancies, in quarterly statements submitted to bank and books of accounts
- Disclosure where a company is a declared wilful defaulter by any bank or financial Institution
- Relationship with Struck off Companies
- Pending registration of charges or satisfaction with Registrar of Companies
- Compliance with number of layers of companies
- Disclosure of 11 Ratios
- Compliance with approved Scheme(s) of Arrangements
- Utilisation of Borrowed funds and share premium
- Undisclosed Income
- Disclosure regarding Corporate Social Responsibility
- Details of Crypto Currency or Virtual Currency

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=NzYlNg==&docCategory=Notifications&type=open>

6) Format of compliance report on Corporate Governance by Listed Entities (Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/567 dated May 31, 2021)

As per SEBI (LODR) Regulations, 2015, a listed entity is required to submit a quarterly compliance report on corporate governance in the specified format by SEBI from time to time to recognised Stock Exchange(s).

In order to bring about transparency and to strengthen the disclosures around loans/guarantees/comfort letters/ security provided by the listed entity, directly or indirectly to promoter/ promoter group entities or any other entity controlled by them, the SEBI has decided to mandate such disclosures on a half yearly basis, in the Compliance Report on Corporate Governance as per the format of disclosure annexed to this circular and shall be effective from

financial year 2021-22.

For more details visit: https://www.sebi.gov.in/legal/circulars/may-2021/format-of-compliance-report-on-corporate-governance-by-listed-entities_50338.html

7) SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2021 (May 5, 2021)

SEBI vide its Gazette notification dated May 5, 2021, amended the provisions of SEBI (LODR) Regulations, 2015, which shall come into force on the date of their publication in the Official Gazette.

The brief of the SEBI (LODR) (Second Amendment) Regulations, 2021 is given hereunder as:-

Regulation No.	New Provision
7(3) - Compliance Certificate	With effect from the recent amendment, the listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorised representative of the share transfer agent, <i>within thirty days from the end of the financial year</i> , earlier the same was to be submitted within one month of end of each half of the financial year.
21 – Risk Management Committee	<p>Applicability: The provisions of this regulation shall be applicable to top 1000 listed entities earlier the same was to be applicable to top 500 listed entities.</p> <p>Composition: The Risk Management Committee shall have minimum three members with majority of them being members of the board of directors, including at least one independent director and in case of a listed entity having outstanding SR equity shares, at least two thirds of the Risk Management Committee shall comprise independent directors.</p> <p>Number of meetings: At least twice in a year, and not more than one hundred and eighty days shall elapse between any two consecutive meetings.</p> <p>Quorum: Two members or one third of the members of the committee, whichever is higher, including at least one member of the board of directors in attendance.</p> <p>Roles and responsibilities: the role and responsibilities of the Risk Management Committee shall mandatorily include the performance of functions specified in Part D of Schedule II.</p>

24 - Corporate governance requirements with respect to subsidiary of listed entity	A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than <i>or equal to</i> fifty percent without passing a special resolution in its General Meeting
24A – Secretarial Audit and Secretarial Compliance Report	<p>Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex a secretarial audit report given by a company secretary in practice, in such form as specified, with the annual report of the listed entity.</p> <p>Every listed entity shall submit a secretarial compliance report in such form as specified, to stock exchanges, within 60 days from end of each financial year.</p>
27 (2) - Corporate Governance	The corporate governance report to be filed within 21 days from the end of each quarter, earlier it was filed within 15 days, in order of uniformity with the submission of shareholding pattern (Regulation 31) and investor grievance report (Regulation 13).
30 (6) - Disclosure of events or information.	It was Provided further that disclosure with respect to events specified in sub-para 4 of Para A of Part A of Schedule III shall be made within “the timelines specified therein”. Earlier it was “thirty minutes of the conclusion of the board meeting.”
32 - Statement of deviation(s) or variation(s)	Where the listed entity has appointed a monitoring agency to monitor utilisation of proceeds of a public or rights issue, the listed entity shall submit to the stock exchange(s) any comments or report received from the monitoring agency within forty-five days from the end of each quarter.
34 - Annual Report	The requirement of submitting a business responsibility report shall be discontinued after the financial year 2021–22 and thereafter, with effect from the financial year 2022–23, the top one thousand listed entities based on market capitalization shall submit a <i>business responsibility and sustainability report</i> describing quantitative and standardized disclosures on ESG parameters to enable comparability across companies, sectors and time, shall form part of the Annual Report.
40(9) – Transfer or transmission or transposition of securities	Certificate from a practicing company secretary within thirty days of end of the financial year, certifying that all certificates have been issued within thirty days of the date of lodgement for transfer, sub-division, consolidation, renewal, exchange or endorsement of calls/allotment monies certificate from a practising company secretary, earlier the same was required to be submitted within one month of the end of each half of the financial year
43A - Dividend Distribution Policy	The top 1000 listed entities based on market capitalization (calculated as on March 31 of every financial year) shall formulate a dividend distribution policy which shall be disclosed on the website of the listed entity and a web-link shall also be provided in their annual reports.

	The listed entities other than those specified above may disclose their dividend distribution policies on a voluntary basis on their websites and provide a web-link in their annual reports.
44(3) - Voting Results	The listed entity shall submit to the stock exchange, within <i>two working days</i> of conclusion of its General Meeting, details regarding the voting results, earlier it was required to be submitted within forty eight hours of conclusion of its General Meeting
46 - Website Compliance	<p>In addition to the existing website compliance, following new disclosures have been prescribed:</p> <ol style="list-style-type: none"> 1. Audio or video recordings and transcripts of post earnings/quarterly calls, by whatever name called, conducted physically or through digital means, simultaneously with submission to the recognized stock exchange(s), in the following manner: <ol style="list-style-type: none"> (i) the presentation and the audio/video recordings shall be promptly made available on the website and in any case, before the next trading day or within twenty-four hours from the conclusion of such calls, whichever is earlier; (ii) the transcripts of such calls shall be made available on the website within five working days of the conclusion of such calls. <p>The requirement for disclosure(s) of audio/video recordings and transcript shall be voluntary with effect from April 01, 2021 and mandatory with effect from April 01, 2022.</p> 2. Secretarial compliance report 3. Disclosure of the policy for determination of materiality of events or information 4. Disclosure of contact details of key managerial personnel who are authorized for the purpose of determining materiality of an event or information and for the purpose of making disclosures to stock exchange(s) 5. Disclosures under sub-regulation (8) of regulation 30 of these regulations 6. statements of deviation(s) or variation(s) 7. Dividend distribution policy 8. Annual return as provided under section 92 of the Companies Act, 2013

47 - Advertisements in Newspapers	<p>Now the listed entity will not be required to publish the following:</p> <ol style="list-style-type: none"> 1. Notice of meeting of the board of directors where financial results shall be discussed 2. statements of deviation(s) or variation(s) as specified in regulation 32 (1)
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For more details visit: https://www.sebi.gov.in/legal/regulations/may-2021/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-second-amendment-regulations-2021_50100.html

8) Section 22(ii) of the Companies (Amendment) Act, 2020 amends Section 117 of the Companies Act, 2013 w.r.t. “Resolutions and Agreements to be Filed”-Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

In sub-section (3), in clause (g), for the second proviso of Section 117 of the Companies Act, 2013, the following proviso has been substituted, namely:

"Provided further that nothing contained in this clause shall apply in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business by, —

- (a) a banking company;
- (b) any class of non -banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934, as may be prescribed in consultation with the Reserve Bank of India;
- (c) any class of housing finance company registered under the National Housing Bank Act, 1987, as may be prescribed in consultation with the National Housing Bank; "

Details of Changes

The Central Government has been empowered to exempt any class of NBFCs and any class of Housing Finance Companies from filing of resolutions passed to grant loans or give guarantees or to provide security in respect of loans in the ordinary course of their business.

Earlier, only Banking Companies were exempted.

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc1MQ==&docCategory=Notifications&type=open>

https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

9) Section 25 of the Companies (Amendment) Act, 2020 inserts Section 129A of the Companies Act, 2013 w.r.t. “Periodical financial results.”-Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

The Central Government may, require such class or classes of unlisted companies, as may be prescribed,—

- (a) to prepare the financial results of the company on such periodical basis and in such form as may be prescribed;
- (b) to obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in such manner as may be prescribed; and
- (c) file a copy with the Registrar within a period of thirty days of completion of the relevant period with such fees as may be prescribed.

Details of Changes

A new section 129A has been inserted to empower the Central Government to provide by rules such class or classes of unlisted companies to prepare periodical financial results of the company, audit or limited review thereof and their filing with Registrar of Companies within 30 days of completion of the relevant period as specified in the rules.

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc1MQ==&docCategory=Notifications&type=open>

Miscellaneous

1) Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2021 (January 08, 2021)

SEBI vide its notification amends 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 i.e. 08-01-2021.

In Schedule III, under Part A, in clause 16, the amendment has added to the events, upon the occurrence of which a listed entity shall make the disclosure to the stock exchange in relation to the Corporate Insolvency Resolution Process (CIRP) of a listed Corporate Debtor under the Insolvency Code.

For more details visit: https://www.sebi.gov.in/legal/regulations/jan-2021/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-amendment-regulations-2021_48709.html

2) Section 2 of the Companies (Amendment) Act, 2020 amends Section 2(52) of the Companies Act, 2013 w.r.t. “Definition of Listed Company”-Notification dated September 28, 2020 (Amendment Effective from January 22, 2021)

A proviso has been inserted in the Definition of Listed Company, namely:

"Provided that such class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with the Securities and Exchange Board, shall not be considered as listed companies."

Details of Changes:

The Central Government has been empowered to exclude certain companies, based on listing of certain securities on recognized stock exchanges, as provided by rules, in consultation with SEBI from the definition of listed companies.

For more details visit: https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=Njc1MQ==&docCategory=Notifications&type=open>

3) The Companies (Specification of definitions details) Second Amendment Rules, 2021 (Notification No: G.S.R. 123 (E), Dated February 19, 2021) (Effective from April 01, 2021)

The MCA has notified the Companies (Specification of definitions details) Second Amendment Rules, 2021 to further amend the Companies (Specification of definitions details) Rules, 2014.

In the Companies (Specification of definitions details) Rules, 2014, after rule 2, the following rule has been inserted, namely:-

Rule 2A- Companies not to be considered as listed companies- For the purposes of the proviso to clause (52) of section 2 of the Companies Act, 2013, the following classes of companies shall not be considered as listed companies, namely:-

- a) Public companies which have not listed their equity shares on a recognized stock exchange but have listed their –
 - (i) non-convertible debt securities issued on private placement basis in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008; or
 - (ii) non-convertible redeemable preference shares issued on private placement basis in terms of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013; or
 - (iii) both categories of (i) and (ii) above.
- b) Private companies which have listed their non-convertible debt securities on private placement basis on a recognized stock exchange in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008;
- c) Public companies which have not listed their equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in Section 23(3) of the Companies Act, 2013.

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTM0OTE=&docCategory=Notifications&type=open>

4) The Companies (Specification of Definitions Details) Amendment Rules, 2021 (Notification No: G.S.R. 92(E), Dated February 01, 2021) (Effective from April 01, 2021)

The MCA has notified the Companies (Specification of Definitions Details) Amendment Rules, 2021 to further amend the Companies (Specification of Definitions Details) Rules, 2014.

In rule 2(1) after clause (s), the following clause has been inserted, namely:-

“(t) For the purposes of sub-clause (i) and sub-clause (ii) of clause (85) of section 2 of the Act, paid up capital and turnover of the small company shall not exceed rupees two crores and rupees twenty crores respectively.”

Details of Changes

The MCA for the Ease of doing Business has revised the definition of Small companies by increasing their threshold limits for paid up capital from “not exceeding Rs. 50 Lakhs” to “not exceeding Rs. 2 Crore” and turnover from “not exceeding Rs. 2 Crore” to “not exceeding Rs. 20 Crore”.

Now the Revised Definition under Section 2(85) read with Rule 2(1)(t) of the Companies (Specification of definitions Details) Rules, 2014 with effect from 1 April 2021 is given hereunder:

"small company" means a company, other than a public company,—

(i) paid-up share capital of which does not exceed 2 crore rupees or such higher amount as may be prescribed which shall not be more than 10 crore rupees; and

(ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed 20 crore rupees or such higher amount as may be prescribed which shall not be more than 100 crore rupees:

Provided that nothing in this clause shall apply to—

(A) a holding company or a subsidiary company;

(B) a company registered under section 8; or

(C) a company or body corporate governed by any special Act;

For more details visit:

http://www.mca.gov.in/Ministry/pdf/SpecificationAmndtRules_02022021.pdf

5) The Companies (Incorporation) Second Amendment Rules, 2021 (Notification No: G.S.R. 91(E), Dated February 01, 2021) (Effective from April 01, 2021)

The MCA has notified the Companies (Incorporation) Second Amendment Rules, 2021 to further amend the Companies (Incorporation) Rules, 2014.

I. In rule 3 (1) of the Companies (Incorporation) Rules, 2014:

(i) for the words, "and resident in India" the words "whether resident in India or otherwise" has been substituted;

(ii) in *Explanation 1*, for the words "one hundred and eighty two days" the words "one hundred and twenty days" has been substituted;

(a) Rule 3 (7) of the Companies (Incorporation) Rules, 2014 has been omitted.

Omitted Content

No such company can convert voluntarily into any kind of company unless two years is expired from the date of incorporation of One Person Company, except threshold limit (paid up share capital) is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.

II. For Rule 6 of the Companies (Incorporation) Rules, 2014, the following rule has been substituted, namely:-

"6. Conversion of One Person Company into a Public company or a Private company.-

(1) The One Person Company shall alter its memorandum and articles by passing a resolution in accordance with sub-section (3) of section 122 of the Companies Act, 2013 to give effect to the conversion and to make necessary changes incidental thereto.

(2) A One Person company may be converted into a Private or Public Company, other than a company registered under section 8 of the Companies Act, 2013 after increasing the minimum number of members and directors to two or seven members and two or three directors, as the case may be, and maintaining the minimum paid-up capital as per the requirements of the Companies Act, 2013 for such class of company and by making due compliance of section 18 of the Companies Act, 2013 for conversion.

(3) The company shall file an application in e-Form No.INC-6 for its conversion into Private or Public Company, other than under section 8 of the Companies Act, 2013, along with fees as provided in the Companies (Registration offices and fees) Rules, 2014 by attaching documents, namely:-

- (a) Altered MOA and AOA;
 - (b) copy of resolution;
 - (c) the list of proposed members and its directors along with consent;
 - (d) list of creditors; and
 - (e) the latest audited balance sheet and profit and loss account.
- (4) On being satisfied that the requirements stated herein have been complied with, the Registrar shall approve the form and issue the Certificate.

III. In Rule 7 (1) of the Companies (Incorporation) Rules, 2014, the words" having paid up share capital of fifty lakhs rupees or less and average annual turnover during the relevant period is two crore rupees or less" has been omitted.

(b) In Rule 7 (4) of the Companies (Incorporation) Rules, 2014, in clause (i), the words "the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees, as the case may be" has been omitted.

IV. In the Annexure, (a) the e-Form No.INC-5 has been omitted.

Details of Changes

The MCA vide this notification has notified the Amendments as announced in the Union Budget 2021-22, for OPCs. Amendment has been introduced w.r.t. Allowing non-resident Indians to incorporate OPCs in India, Reducing the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days, Thresholds limit of Paid-up share capital exceeding Rs. 50 lakhs and turnover exceeding Rs. 2 crores for compulsory conversion of OPC into Public/Private Company has been removed, etc.

For more details visit:

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTM00TY=&docCategory=Notifications&type=open>

6) Streamlining the process of IPOs with UPI in ASBA and redressal of investor grievances (SEBI Circular No. SEBI/HO/CFD/ DIL2/CIR/P/2021/2480/1/M dated March 16, 2021)

The SEBI proposed to streamline the Initial Public Offering (IPO) process with unified payment interface (UPI) in Application Supported by Blocked Amount (ASBA) and redressal of investor grievances.

The circular was issued addressing all the Registered Merchant Bankers, Recognized Stock Exchanges, Registered Registrars to an Issue, and Share Transfer Agents Self- Certified Syndicate Banks.

Streamlining the IPO Process

- Lead Managers shall ensure the adherence of timelines, processes, and compensation policy by intermediaries.
- In order to ensure timely response with regard to IPO process, SCSBs shall identify the nodal officer for IPO applications processed through UPI as a payment mechanism and submit the details to SEBI within 7 working days from the issuance of this circular.
- For ease of doing business, Sponsor Banks shall host a web portal for intermediaries (closed user group) from the date of IPO opening till the date of listing with details of statistics of mandate blocks/unblocks, performance of Apps and UPI Handles, downtime/network latency (if any) across intermediaries and any such processes having an impact/bearing on the IPO bidding process.

Reinitiations of UPI Bids

To avoid duplication, the facility of reinitiation provided to Syndicate Members shall preferably be allowed only once per bid/batch and as deemed fit by the concerned Stock Exchange, after bid closure time.

Further, the circular has provided the provisions regarding:

- a. Unblocking of UPI Mandates
- b. Cancelled/Withdrawn/Deleted applications

The new rule would come into force for IPOs opening on or after May 01, 2021.

For more details visit: https://www.sebi.gov.in/legal/circulars/mar-2021/streamlining-the-process-of-ipos-with-upi-in-asba-and-redressal-of-investors-grievances_49522.html

7) Securities Contracts (Regulation) Act, 1956 (As amended by the Finance Act, 2021 (13 of 2021) w.e.f. April 1, 2021) – (April 01, 2021)

The Finance Act 2021, that received the presidential assent on March 28, 2021 made the following amendments to Securities Contracts (Regulation) Act, 1956 (SCRA) :

a. Definition of Pooled Investment Vehicles ('PIVs') [Section 2 (da)]:

'Pooled Investment Vehicle' means a fund established in India in the form of a trust or otherwise, such as mutual fund, alternative investment fund, collective investment scheme or a business trust as defined in sub- section (13A) of section 2 of the Income tax Act, 1961 and registered with the Securities and Exchange Board of India, or such other fund, which raises or collects monies from investors and invests such funds in accordance with such regulations as may be made by the Securities and Exchange Board of India in this behalf.

b. Inclusion of Pooled Investment Vehicles in the definition of security [Section 2 (h)]:

“securities” include---

- (i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or **a pooled investment vehicle or other body corporate;**
- (ida) **units or any other instrument issued by any pooled investment vehicle;**

c. Pooled Investment Vehicles eligible to issue debt securities (secured or otherwise) [Section 30B (1)& (2)]

SEBI registered PIVs will now be eligible to borrow and issue debt securities in the manner and to such extent as may be specified under the regulations made by Securities and Exchange Board of India in this behalf. Further, every pooled investment vehicle shall, subject to the provisions of the trust deed, be permitted to provide security interest to lenders in terms of the facility documents entered into by such pooled investment vehicle.

d. Clarity on enforcement in case of default by Pooled Investment Vehicles [Section 30B (3)& (4)]

Where any pooled investment vehicle defaults in repayment of principal amount or payment of interest or any such amount due to the lender, the lender shall recover the defaulted amount and enforce security interest, if any, against the trust assets, by initiating proceedings against the trustee acting on behalf of such pooled investment vehicle in accordance with the terms and conditions specified in the facility documents. However, on initiation of the proceedings against the trust assets, the trustee shall not be personally liable and his assets shall not be utilised towards recovery of such debt. The trust assets, which remain after recovery of defaulted amount, shall be remitted to the unit holders on proportionate basis.

For more details visit: <https://www.sebi.gov.in/legal/acts/apr-2021/securities-contracts-regulation-act-1956-as-amended-by-the-finance-act-2021-13-of-2021-w-e-f-april-1-2021-49750.html>

8) Business responsibility and sustainability reporting by listed entities (Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562 dated May 10, 2021)

SEBI came out with disclosure requirements under Business Responsibility and Sustainability Report (BRSR) covering ESG (Environmental, Social and Governance) parameters.

In terms of amendment to regulation 34 (2) (f) of LODR Regulations vide Gazette notification no. SEBI/LAD- NRO/GN/2021/22 dated May 05, 2021, SEBI has introduced new reporting requirements on ESG parameters called the Business Responsibility and Sustainability Report (BRSR). The BRSR is accompanied with a guidance note to enable the companies to interpret the scope of disclosures. The format of the BRSR and the guidance note are detailed in Annexure I and Annexure II respectively to this circular.

The BRSR seeks disclosures from listed entities on their performance against the nine principles of the 'National Guidelines on Responsible Business Conduct' (NGBRCs) and reporting under each principle is divided into essential and leadership indicators. The essential indicators are required to be reported on a mandatory basis while the reporting of leadership indicators is on a voluntary basis. Listed entities should endeavour to report the leadership indicators also.

The BRSR is intended towards having quantitative and standardized disclosures on ESG parameters to enable comparability across companies, sectors and time. Such disclosures will be helpful for investors to make better investment decisions. The BRSR shall also enable companies to engage more meaningfully with their stakeholders, by encouraging them to look beyond financials and towards social and environmental impacts.

The filing of BRSR shall be mandatory for the top 1000 listed companies (by market capitalization) with effect from the financial year 2022-2023 and shall replace the existing Business Responsibility Report (BRR). Filing of BRSR is voluntary for the financial year 2021-22.

For more details visit: https://www.sebi.gov.in/legal/circulars/may-2021/business-responsibility-and-sustainability-reporting-by-listed-entities_50096.html

Note: Students appearing in December, 2021 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, RBI & Central Government upto 31st May, 2021.