

Info Capsule

COMPANIES (RESTRICTION ON NUMBER OF LAYERS) RULES, 2017¹

In exercise of the powers conferred under proviso to clause (87) of section 2, section 450 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely:—

1. Short title and Commencement.

- (1) These rules may be called the Companies (Restriction on number of layers) Rules, 2017.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Restriction on number of layers for certain classes of holding companies.

- (1) On and from the date of commencement of these rules, no company, other than a company belonging to a class specified in sub-rule (2), shall have more than two layers of subsidiaries:

Provided that the provisions of this sub-rule shall not affect a company from acquiring a company incorporated outside India with subsidiaries beyond two layers as per the laws of such country:

Provided further that for computing the number of layers under this rule, one layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account.

- (2) The provisions of this rule shall not apply to the following classes of companies, namely:—
 - (a) A banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
 - (b) A non-banking financial company as defined in clause (f) of Section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) which is registered with the Reserve Bank of India and considered as systematically important non-banking financial company by the Reserve Bank of India;
 - (c) An insurance company being a company which carries on the business of insurance in accordance with provisions of the Insurance Act, 1938 (4 of 1938) and the Insurance Regulatory Development Authority Act, 1999 (41 of 1999);
 - (d) A Government company referred to in clause (45) of section 2 of the Act.
- (3) The provisions of this rule shall not be in derogation of the proviso to sub-section (1) of section 186 of the Act.

¹ Available at: http://www.mca.gov.in/Ministry/pdf/CompaniesRestrictionOnNumberofLayersRule_22092017.pdf

- (4) Every company, other than a company referred to in sub-rule (2), existing on or before the commencement of these rules, which has number of layers of subsidiaries in excess of the layers specified in sub-rule (1) -
- (i) Shall file, with the Registrar a return in Form CRL-1 disclosing the details specified therein, within a period of one hundred and fifty days from the date of publication of these rules in the Official Gazette;
 - (ii) Shall not, after the date of commencement of these rules, have any additional layer of subsidiaries over and above the layers existing on such date; and
 - (iii) Shall not, in case one or more layers are reduced by it subsequent to the commencement of these rules, have the number of layers beyond the number of layers it has after such reduction or maximum layers allowed in sub-rule (1), whichever is more.
- (5) If any company contravenes any provision of these rules the company and every officer of the company who is in default shall be punishable with fine which may extend to ten thousand rupees and where the contravention is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which such contravention continues.

Annexure

Form CRL-1

Return regarding number of layers
(see clause (i) of sub-rule (4) of Rule 2)

1. (a) Name of the company: _____
(b) CIN of the company: _____
2. Number of layers of subsidiaries as on the date of commencement of these rules _____
3. Layer wise details of subsidiary companies

SN	Name of subsidiary	CIN of subsidiary company	Name of holding company	CIN of holding company	Per centage of shares held by holding company
Layer 1					
1	SL1-1				
2	SL1-2				
3	SL1-3				
Layer 2				
..	SL2-1				
..	SL2-2				
..	SL2-3				
Layer 3..				
..	SL3-1				
..	SL3-2				
..	SL3-3				
Layer 4.				
..	SL4-1				

..	SL4-2				
..	SL4-3				
..				
..Upto last layer

I (Name of director of the company signing the Form) am authorized by the Board of Directors of the company vide resolution number _____ dated _____ (DD/MM/YYYY) to sign this form and declare that —

- (1) The information of the subsidiaries and the layers as contained in the form is true, correct and complete and no information has been suppressed or concealed.

- (2) I have read the provisions of section 448 and 449 of Companies Act, 2013 which provide for punishment for false statement and punishment for false evidence respectively.

To be digitally signed by

Director — DSC

Director — Identification Number of the Director

Date:

Place:

IBBI INVITES PUBLIC COMMENTS ON (I) DRAFT INSOLVENCY AND BANKRUPTCY (APPLICATION TO ADJUDICATING AUTHORITY FOR INSOLVENCY RESOLUTION PROCESS FOR INDIVIDUALS AND FIRMS) RULES, 2017, AND (II) DRAFT INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR INDIVIDUALS AND FIRMS) REGULATIONS, 2017 BY OCTOBER 31, 2017²

The Insolvency and Bankruptcy Board of India had constituted a Working Group to recommend the strategy and approach for implementation of the provisions of the Insolvency and Bankruptcy Code, 2016 dealing with insolvency and bankruptcy in respect of: (i) Guarantors to corporate debtors i.e. personal guarantors, and (ii) Individuals having business and submit a report along with Draft Rules and Regulations.

The Working Group has since submitted a report dealing with insolvency resolution process of individuals and firms. It intends to submit a separate report for bankruptcy process of individuals and firms. IBBI intends to implement insolvency resolution in the first phase for: (i) Guarantors to corporate debtors, i.e., personal guarantors, and (ii) Individuals having business (partnership, proprietorship or any other).

Along with the report for insolvency resolution process of individuals and firms, the Working Group has submitted (i) the draft Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Individuals and Firms) Rules, 2017, and (ii) the draft Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Individuals and Firms) Regulations, 2017. These rules and regulations are available at www.ibbi.gov.in.

IBBI invites public comments on these draft rules and regulations by October 31, 2017. For providing comments, please follow the process as under:

- (i) Visit IBBI website, www.ibbi.gov.in
- (ii) Select 'Public Comments'
- (iii) Select draft rules/regulations
- (iv) Select Comment Type (General/ Specific)
- (v) Provide your Name, and Email ID

If your comment is Specific, select the draft rules or regulations, you wish to make a comment upon, from the dropdown menu, as under:

The draft rules i.e. Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Individuals and Firms) Rules, 2017

The draft regulations i.e. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Individuals and Firms) Regulations, 2017

² Available at: <http://pib.nic.in/newsite/erelease.aspx>

Please select draft rules or regulations number and then sub rule/ regulation number, and write comments under the selected number.

Click 'Submit'

If your comment is 'General' please select one of the following options:

- Inconsistency, if any, between the provisions within the draft rules or regulations (intra-regulations);
- Inconsistency, if any, between the provisions in different draft rules or regulations (intra-regulations);
- Inconsistency, if any, between the provisions in the draft rules or regulations with those in the rules;
- Inconsistency, if any, between the provisions in the draft rules or regulations with those in the Code;
- Inconsistency, if any, between the provisions in the draft rules or regulations with those in any other law;
- Any difficulty in implementation of any of the provisions in the draft rules or regulations; and
- Any provision that should have been provided in the draft rules or regulations, but has not been provided; or
- Any provision that has been provided in the draft rules or regulations, but should not have been provided.

And then write comments under the selected option.

Click 'Submit'

You can make comments on more than one draft rule, or more than one draft regulation / sub regulation number, by repeating the process outlined above from point 4(i) and (ii) onwards.

Team ICSI

Disclaimer : The information in the Info Capsules is developed according to the information available in public domain and for academic purposes only. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.