

**Amendment Rules, Circulars
Notifications and Orders
under Companies Act, 2013**

A Compendium

[updated upto 1st August, 2015]



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

AUGUST 2015

PRICE : ₹ 300/- (Excluding Postage)

© THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

All rights reserved. No part of this publication may be translated or copied in any form or by any means without the prior written permission of The Institute of Company Secretaries of India.

Although due care and diligence have been taken in the publication of this Compendium the Institute shall not be responsible for any loss or damage, resulting from any action taken on the basis of the contents of this Compendium. Any one wishing to act on the basis of the material contained herein should do so after cross checking with the original source.

ISBN : 978-93-82207-20-7

Published by :

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI House, 22, Institutional Area, Lodi Road, New Delhi - 110 003

Phones : 4534 1000, 4150 4444 □ Fax : 24626727

Website : www.icsi.edu □ E-mail : info@icsi.edu

Printed at :

Samrat Offset Works/1000/August 2015

PREFACE TO THE THIRD EDITION

In order to facilitate ease of doing business and ease the practical difficulties faced by the industry, the Ministry of Corporate Affairs has issued notifications, clarifications and amendments.

The Companies (Amendment) Act, 2015 was introduced and received assent of the President on 25th May, 2015. The amendments deal with related party transactions, fraud reporting by auditors, restrictions on public inspection of Board resolutions, responsibilities of audit committee, restrictions on bail, making common seal optional, jurisdiction of special courts to try offences, etc.

Understanding the need of doing business in a smooth manner, the Ministry has also notified much awaited exemptions for the Private companies, Government companies, Nidhi companies and companies with charitable objects.

This edition of the compendium has been revised to include the amendments, notifications and clarifications issued by the Ministry of Corporate Affairs till August 1, 2015.

I commend the dedicated efforts put in by team ICSI led by CS Alka Kapoor, Joint Secretary and comprising CS Banu Dandona, CS Lakshmi Arun, Deputy Directors, CS Kalpesh Mehta, Assistant Director, CS Disha Kant, Assistant Education Officer, CS Naveen Kumar, Assistant under the overall guidance of CS Sutanu Sinha, Chief Executive & Officiating Secretary, in bringing out this publication.

In any publication, there is always scope for further improvement. I would personally be grateful to users and readers for offering their suggestions/comments for further refinement.

New Delhi

07 August, 2015

CS Atul H. Mehta

President, ICSI

PREFACE TO THE SECOND EDITION

Laws framed are reflection of societal developments, with varied degrees of interpretations; there always remains scope for the regulators to ensure that the stakeholder expectations are duly incorporated in the law.

Companies Act, 2013 was enacted on 29th August, 2013 replacing the six decade old Companies Act, 1956. Recognizing the various operational difficulties under this Act, the Ministry has so far issued 29 amendment rules, 54 circulars, 24 notifications, 10 orders, which signals intent of the regulators to ensure effective implementation of this mammoth piece of legislation in accordance with stakeholders needs and requirements.

This compendium is an effort to consolidate the amendment rules, circulars, notifications and orders issued under Companies Act, 2013 to enhance the readability and deeper understanding of the subject. The contents of the compendium have been developed in a user friendly manner. It also contains in a nutshell amendment rules, circulars, notifications and orders in a tabular form providing an overview to the readers. Every chapter enlists the sections covered thereunder, the topics covered, the rules framed thereunder, the notification and effective date of said rules, the amendment rules & circulars issued by the Ministry under the Chapter.

The gist of amendment rules, circulars, notifications and orders is also given in each chapter which is followed by complete text of the said amendment rules, circulars, notifications and orders.

I am confident that the members and readers will find this compendium extremely useful.

I commend the dedicated efforts put in by team ICSI led by CS Alka Kapoor, Joint Secretary and comprising CS Banu Dandona, CS Lakshmi Arun, Deputy Directors, CS Rakesh Kumar, CS Disha Kant, Assistant Education Officers, CS Naveen Kumar, Assistant under the overall guidance of CS Sutanu Sinha, Chief Executive & Officiating Secretary, in bringing out this publication.

In any publication, there is always scope for further improvement. I would personally be grateful to users and readers for offering their suggestions/comments for further refinement.

New Delhi

29th May, 2015

CS Atul H. Mehta

President, ICSI

PREFACE TO FIRST EDITION

To master or thrive in dynamic world, we need to embrace sustainable growth and development through continuous learning, and constant improvement in the areas where we practise, learn and professionalize in the emerging areas, which lead to diversification of profession at the individual and the institutional level.

The implementation phase of Companies Act, 2013 and the rules made thereunder on operational aspects such as annual document filing, shareholders' meeting, board meeting, committee meeting, disclosures, transfer of securities, maintenance of records, issue of capital, incorporation/conversion of companies, buy-back of shares etc.; issues that involves approval of shareholders/directors; technology enabled provisions such as e-voting, video conferencing, e-filing etc; led to initial teething difficulties, and the Ministry of Corporate Affairs clarified the concerns of the stakeholders in its first and second phase of notification of sections under Companies Act, 2013.

Keeping with its capacity building initiatives, the Institute has decided to bring out a compendium of amendment rules, various notifications, circulars and orders issued by the Ministry of Corporate Affairs, in a user friendly manner, which have been classified Chapter-wise with text highlights and question answer along with consolidated table. I am confident that this compendium will facilitate the members and readers in understanding the nuances of clarifications issued by the Ministry.

I commend the dedicated efforts put in by Ms. Lakshmi Arun, Deputy Director and Mr. Chittaranjan Pal, Assistant Education Officer in the Institute for developing chapter-wise overview of various clarifications, comparative statements in nutshell, under the guidance of Ms. Sonia Baijal, Director, Academics.

I would personally be grateful to the users and readers for offering their views and suggestions for further refinement.

New Delhi

15th August, 2014

CS R. Sridharan

President, ICSI

C O N T E N T S

Introduction	1
Chapter I – Preliminary	32
Chapter II – Incorporation of company and matters incidental thereto	43
Chapter III – Prospectus and Allotment of Securities	61
Chapter IV – Share Capital and Debentures	65
Chapter V – Acceptance of Deposits by Companies	82
Chapter VI – Registration of Charges	93
Chapter VII – Management and Administration	95
Chapter VIII – Declaration and Payment of Dividend	117
Chapter IX – Accounts of Companies	122
Chapter X – Audit and Auditors	144
Chapter XI – Appointment and Qualification of Directors	156
Chapter XII – Meetings of Board and its Powers	170
Chapter XIII – Appointment and Remuneration of Managerial Personnel	190
Chapter XIV – Inspection, Inquiry and Investigation	194
Chapter XV – Compromises, Arrangements and Amalgamations	195
Chapter XVI – Prevention of Oppression and Mismanagement	196
Chapter XVII – Registered Valuers	197
Chapter XVIII – Removal of names of companies from the Register of Companies	198
Chapter XIX – Revival and Rehabilitation of Sick Companies	199
Chapter XX – Winding up	200
Chapter XXI – Companies Authorised to register under this Act	201
Chapter XXII – Companies Incorporated outside India	202

Chapter XXIII – Government Companies	203
Chapter XXIV – Registration Offices and Fees	204
Chapter XXV – Companies to furnish information or Statistics	221
Chapter XXVI – Nidhis	222
Chapter XXVII – National Company Law Tribunal and Appellate Tribunal	223
Chapter XXVIII – Special Courts	224
Chapter XXIX – The Companies (Amendment) Act, 2015	225
Chapter XXX – Notified Exemptions	237
Others	275
SCHEDULE II	315
SCHEDULE V	319
SCHEDULE VII	321

INTRODUCTION

The Companies Act, 2013 replaced six decade old Companies Act, 1956, bringing the corporate legislation in India to be par with modern legislations elsewhere in the globe. The Companies Act, 2013 is divided into 29 chapters, 470 sections and 7 schedules. The new law incorporates several provisions relating to investor protection, better auditing tools, fraud control, single window clearance for mergers, e-governance, secretarial standards, board duties, board performance evaluation, enhanced role of independent directors, institutionalization of corporate social responsibility, etc.

The sections/rules under Companies Act 2013 are being notified in phases. Section 1 was notified on August 29, 2013, 98 sections on September 12, 2013, Section 135 was notified on 27th February, 2014 and 183 sections on April 01, 2014. 187 sections are yet to be notified, out of these 177 sections relate to National Company Law Tribunal and other 10 Sections relate to establishment of other statutory bodies like Investor Education Protection Fund, Special Courts, etc. All the sections relating to operation of the company such as Incorporation and conversions, Board and General Meetings, Board powers, Allotment and issue of share capital etc have been already notified, the sections pertaining to the aspects such as mergers, winding up etc., that involves the role of National Company Law Tribunal are yet to be notified.

On 25th May, 2015, the President of India gave his assent to the Companies (Amendment) Act, 2015 and the Ministry of Corporate Affairs vide Notification No. S.O. 1440(E) dated 29th May, 2015 notified sections 1 to 12 and 15 to 23 of Companies (Amendment) Act, 2015.

As there have been implementation difficulties with respect to the notified sections of the Companies Act 2013, pertaining to the functions and operations of the company, the Ministry has been issuing circulars notifications, orders and amendment rules etc.

Broad topics covered in these circulars, notifications, orders and amendment rules include :

1. Corporate Social Responsibility
2. Conversion of companies
3. Definition of associate company/subsidiary company
4. Entries in the register of loans and investments
5. E-voting
6. Independent Director

7. Name availability etc.
8. Related party transactions
9. Relevant Financial year for filing of annual return/annual accounts under the Companies Act 2013
10. Resident Director
11. Share transfer forms executed before the notification
12. The Companies (Amendment) Act, 2015
13. Exemptions to Government Companies
14. Exemptions to Nidhi Companies
15. Exemptions to Private Companies
16. Exemptions to Section 8 (Non-Profit)
17. Sending of Financial Statement at shorter notice
18. Fee relaxation for forms MGT-7 and AOC - 4.

A brief of these circulars/notifications/amendments is given in this chapter.

Companies Act 2013**The Genesis**

Passed in Loksabha on December 18, 2012

Passed in Rajya Sabha on August 08, 2013

President's assent on August 29, 2013

Total no of chapters/sections/schedules-29/470/7

No of sections/schedules notified-282/7

The Companies (Amendment) Act, 2015

Statement of objects and reasons

E-governance

Corporate Social Responsibility

Enhanced disclosures

Investor protection and protection of minority

Secretarial Audit/Secretarial Standards

New Concepts

One person Company/Small Company/Dormant Company

Independent Director/Women Director/Resident Director

Special Courts/class actions

Registered valuer

Vigil Mechanism

Cross Border Mergers

Clarifications/amendments issued on aspects including

E-voting, CSR, E-forms

Audit/Nomination committee

Definition of Associate Company/Related party

Share Transfer forms

Conversion of public limited to Private Limited

Independent Director/Women Director

AMENDMENT RULES/CIRCULARS/NOTIFICATIONS/ORDERS IN A NUTSHELL

CHAPTER I
PRELIMINARY

<i>Amendment Rules/Circulars/Notifications/Orders/ and Particular</i>	<i>Description</i>
General Circular No. 24/2014 dated 25/06/2014- Clarification with regard to holding of shares in a fiduciary capacity by associate company under section 2(6) of the Companies Act, 2013.	Shares held by a company in another company in a "fiduciary capacity" shall not be counted for the purpose of determining the relationship of associate company under section 2(6) of the Companies Act, 2013.
The Companies (Removal of difficulties) Fifth Order, 2014 dated 9 th July, 2014 pertaining to Section 2(76).	Amendment of section 2 of the Companies Act 2013, In sub-clause (v) of clause (76) of section 2 for the words "or holds", the words "and holds" shall be substituted.
Companies (Removal of difficulties) sixth order dated 24/07/2014- Removal of difficulty regarding the interpretation of clause (76) of section 2, definition of related party	<p>Amendment of section 2 of the Companies Act 2013, in clause (76), in sub-clause (iv), after the word "manager", the word "or his relative" shall be inserted.</p> <p>Accordingly the amended definition of related party under Section 2(76) is as follows:</p> <p>Section 2(76) of the Companies Act 2013 as notified on September 12, 2013 defines "related party", with reference to a company, means—</p> <ul style="list-style-type: none"> (i) a director or his relative; (ii) a key managerial personnel or his relative; (iii) a firm, in which a director, manager or his relative is a partner; (iv) a private company in which a director or manager <u>or his relative</u> is a member or director; (v) a public company in which a director or manager is a director <u>and</u> holds along with his relatives, more than two per cent. of its paid-up share capital; (vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager; (vii) any person on whose advice, directions or instructions a director or manager is accustomed to act: <p>Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions</p>

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
<p>Companies (Specification of Definition Details) Amendment Rules dated July 17, 2014 - Amendment in rule 3 of Companies (Specification of Definition details) Rules, 2014</p>	<p>or instructions given in a professional capacity;</p> <p>(viii) any company which is—</p> <p>(A) a holding, subsidiary or an associate company of such company; or</p> <p>(B) a subsidiary of a holding company to which it is also a subsidiary;</p> <p>(ix) such other person as may be prescribed;</p>
<p>The Companies (Removal of difficulties) Order, 2015 dated 13th February, 2015 (amended the definition of small company)</p>	<p>After the words 'a director' the words 'other than an independent director' shall be inserted</p> <p>Amended 2(85) by substituting the word "Or" occurring between clause sub-clause (i) and (ii) with the word "and" .</p>

CHAPTER-II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

<p>General Circular No. 12/2014 dated 22/05/2014- Applicability of PAN requirement for foreign nationals</p>	<p>PAN details are mandatory, only for those foreign nationals who are required to possess "PAN" , in terms of provisions of Income Tax Act, 1961 on the date of application for incorporation</p>
<p>General Circular No. 16/2014 dated 10/06/2014- Applicability of PAN requirement for foreign nationals</p>	<p>A foreign national who is a subscriber to MoA, does not possess PAN shall furnish a declaration in the prescribed Performa, as an attachment to the Incorporation Form INC-7.</p>
<p>General Circular No. 18 /2014 dated 11/06/2014- Clarification for filing of form INC 27 for conversion of company from public to private under the provisions of Companies Act 2013</p>	<p>The Resident director shall also submit PAN details at the time of Incorporation</p>
<p>General Circular No. 18 /2014 dated 11/06/2014- Clarification for filing of form INC 27 for conversion of company from public to private under the provisions of Companies Act 2013</p>	<p>The applications for conversions have to be filed and disposed as per the earlier provisions provided in Companies Act, 1956 till the corresponding provisions in Companies Act, 2013 are notified.</p>
<p>General Circular No. 23/2014 dated 25/06/2014- Clarification relating to incorporation of a company i.e. company incorporated outside India.</p>	<p>An existing company, being a subsidiary of a company incorporated outside India, registered under the Companies Act, 1956, either as private company or a public company by virtue of section 4(7) of that Act, will continue as a private company or public company as the case may be, without any change in the incorporation status of such company.</p>
<p>General Circular No. 26 dated 27/06/2014-Clarification with regard to use of words "commodity exchange" in a company.</p>	<p>The use of word "commodity exchange " may be allowed only where a " No objection Certificate" from the forward market commission is furnished by the applicant.</p> <p>This requirement is also applicable to a company</p>

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
General Circular No. 29/2014 dated 11/07 /2014- Registration of names of the companies shall be in consonance with the provision of the Emblems and Names (Prevention of Improper Use) Act, 1950.	which are registered with the words "commodity exchange" before the issue of this circular.
Companies (Incorporation) Amendment Rules, 2015 dated 1st May, 2015.	While allotting names to the companies/LLPs, the concerned Registrar of Companies should ensure that the names are not in contravention of the provisions of the Emblems and Names (Prevention of Improper use) Act, 1950.
Companies (Incorporation) Second Amendment Rules, 2015 dated 29th May, 2015.	Introduction of the concept of Integrated Incorporation. In Rule 12 the proviso with respect to the companies whose objects requires approval of any Sectoral Regulator shall obtain such registration and Approval before pursuing such Objects and the requirement for Declaration to be submitted at the stage of incorporation of the company was inserted. - Rule 24 with respect to Declaration at the time of Commencement of Business and filling requirement of Form INC-21 Omitted. - Existing Form INC- 13 and INC-16 Substituted with new Form INC-13 and Form INC-16.

CHAPTER III

PROSPECTUS AND ALLOTMENT OF SECURITIES

Companies (Prospectus and Allotment of securities) Amendment Rules, 2014 dated June 30, 2014 additional proviso to Rule 14(2)(a).	Amendment in Rule 14(2) of Companies (Prospectus and Allotment of securities) Rules, 2014 "Provided also that in case of an offer or invitation for non-convertible debentures referred to in the second proviso, made within a period of six months from the date of commencement of these rules, the special resolution referred to in the second proviso may be passed within the said period of six months from the date of commencement of these rules"
General Circular No. 43/2014 dated 13th November, 2014 on the subject of applicability of Chapter II of Companies Act, 2013 on Foreign Currency Convertible Bonds (FCCBs) and Foreign Currency Bonds (FCBs).	The issue of FCCBs and FCBs by companies is regu- lated by the regulations of Ministry of Finance on "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipts Mechanism) Scheme, 1993" and Reserve Bank of India through its various directions/regulations, hence unless otherwise provided in the said Scheme or the directions/regulations issued by Reserve Bank of India, provisions of Chapter III of the Com- panies Act, 2013 shall not apply to an issue of FCCBs or FCBs made exclusively to persons resi- dent outside India in accordance with above regu- lations.

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*

Description

CHAPTER IV

SHARE CAPITAL AND DEBENTURES

General Circular No. 19/ 2014 dated 12/06/2014-
Clarification on rules prescribed under
Companies Act, 2013 matters relating to share
capital and debentures.

Clarification on the following points:

- Share transfer forms executed before 01/04/2014
- Delegation of powers by board under Rule 6(2)(a) of Companies (Share Capital and debentures) Rules, 2014

The Companies (Share Capital and Debenture)
Amendment Rules 2014 dated June 18, 2014.

- (i) in rule 4, after sub - rule (6), for the Explanation, the following Explanation shall be substituted, namely:-

“Explanation.- For the purposes of this rule it is hereby clarified that equity shares with differential rights issued by any company under the provisions of the Companies Act, 1956 (1 of 1956) and the rules made thereunder, shall continue to be regulated under such provisions and rules.”.

- (ii) in rule 13, (a) in sub-rule (2), after clause (j), the following Explanation shall be inserted, namely:-

“Explanation.- For the purposes of these rules, it is hereby clarified that, till a registered valuer is appointed in accordance with the provisions of the Act, the valuation report shall be made by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent Chartered Accountant in practice having a minimum experience of ten years”.;

(b) after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(3) The price of shares or other securities to be issued on preferential basis shall not be less than the price determined on the basis of valuation report of a registered valuer.”.

- (iii) in rule 18, (a) in sub-rule (1), in clause (a), for the proviso, the following proviso shall be substituted, namely:-

“Provided that the following classes of companies may issue secured debentures for a period exceeding ten years but not exceeding thirty years, (i) Companies engaged in setting up of infrastructure projects;

(ii) ‘Infrastructure Finance Companies’ as defined in clause (viiia) of sub-direction (1) of direction 2 of Non-Banking Financial (Non-deposit accepting or holding) Companies

<i>Amendment Rules/Circulars/Notifications/Orders/ and Particular</i>	<i>Description</i>
	Prudential Norms (Reserve Bank) Directions, 2007; (iii) 'Infrastructure Debt Fund Non-Banking Financial companies' as defined in clause of (b) direction 3 of Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011". (b) in sub-rule (7), in clause (b), in sub-clause (ii), after the letters, brackets, words and figures "RBI (Amendment) Act, 1997", the words "and for Housing Finance Companies registered with the National Housing Bank" shall be inserted.
Companies (Share Capital and Debentures) Amendment Rules, 2015 dated 18th March, 2015.	<ul style="list-style-type: none"> – Issuance of revised Form SH-13 and Form SH-14. – The limit of issuing duplicate share certificate has been revised to 45 days. <p>Insertion of proviso in Rule 13 sub-rule (1)</p> <p>"Provided that in case of any preferential offer made by a company to one or more existing members only, the provisions of sub-rule (1) and proviso to sub-rule (3) of rule 14 of Companies (Prospectus and Allotment of Securities) Rules, 2014 shall not apply."</p>
Companies (Share Capital and Debentures) Second Amendment Rules, 2015 dated	In rule 5 in sub rule (3) was substituted, the requirement for affixing common Seal has been made optional for issue of Share Certificate.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

General Circular No. 27/2014 dated 30/06/2014- Clarification regarding filing of form DPT-4 under Companies Act, 2013.	Extension of time for the period of 2 months i.e. upto 31/08/2014 without any additional fee in terms of section 403 of the companies Act to enable the company for filing the statement in Form DPT-4.
The Companies (Acceptance of Deposits) Amendment Rules, 2014 – dated June 06, 2014	Amendment in rule 5(1) the following proviso namely:- "provided that the companies may accept the deposits without deposit insurance contract till the 31 st March, 2015"
General Circular No. 05/2015 dated 30th March, 2015 on the subject of Amounts received by private companies from their members, directors or their relatives before 1st April, 2014.	It was clarified that the amounts received by private companies from their members, directors or their relatives prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

	<p>Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.</p>
<p>Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015.</p>	<p>Insertion of a proviso to the explanation to sub-clause (vii) of Rule 2(1) of Companies (Acceptance of Deposits) Rules, 2014</p>
	<p>The Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015 amongst other things, provides that every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it in the manner specified in the rules and a copy of the rating shall be sent to the Registrar of Companies alongwith the return of deposits in Form DPT-3. The amendment rules also issued revised Form DPT-3 (Return of deposit).</p>
	<p>Substitution of Rule 5(1) with the following :</p>
	<p>“Provided that the companies may accept deposits without deposit insurance contract till the 31st March, 2016 or till the availability of a deposit insurance product, whichever is earlier.”</p>
<p>General Circular 9/2015 Dated 18.06.2015 - Clarification on repayment of deposits accepted by the companies before the commencement of the Companies Act, 2013 under section 74 of the said Act.</p>	<ol style="list-style-type: none"> 1. it is clarified that a depositor is free to file an application under section 73(4) of the said Act, with the Company Law Board if the company fails to make repayment of deposits accepted by it. 2. the company may also file application under section 74(2) of the said act with the Company Law Board seeking extension of time in making the repayment of deposits accepted by it before the commencement of the provisions of the said Act. 3. it is also clarified that there is no bar on the Registrar of Companies for filling of prosecution against a company if such company fails to make repayment of deposits accepted by it under the provisions of the Companies Act, 1956 or Companies Act, 2013, subject to content of Para 3 of this Circular.

Amendment Rules/Circulars/Notifications/Orders/
and Particular

Description

CHAPTER - VI

REGISTRATION OF CHARGES

Companies (Registration of Charges) Amendment
Rules, 2015 dated 29.05.2015

Substitution in rule 3, in sub-rule (4), In Clause (a),
for the words "under the seal of the company ",
substituted as the words "under the seal ,if any, of
the company"

CHAPTER VII

MANAGEMENT AND ADMINISTRATION

General Circular No. 17/2014 dated 11/06/2014-
Filing of MGT-10

Stakeholders are required to fill Form MGT-10
physically, get it duly signed/certified by a
professional and file it alongwith other required
enclosures as attachments with the prescribed
General E-Form No. GNL-2. This temporary
arrangement will continue till an E-Form for MGT-
10 is made available. Fee applicable for MGT-10
will be as per the Table of Fees prescribed in Companies
(Registration Offices and Fees) Rules, 2014.

General Circular No. 20/2014 dated 17/06/2014-
Clarification with regard to voting through
electronic means

The compliance with procedural requirements,
engagement of Depository agencies and the need
for clarity on matter like demand for poll/ postal
ballot will take some more time to be decided so
till 31st December 2014 the said provisions for
e-voting are not necessary to be treated
mandatory.

General Circular No. 22/2014 dated 25/06/2014-
Clarification with regard to format of annual
return applicable for financial year 2013-14 and
fees to be charged by companies for allowing
inspection of records

Form MGT-7 shall not apply to annual returns in
respect of companies whose financial years ended
on or before 1st April 2014 and for annual returns
pertaining to earlier years. These companies may
file their returns in the relevant Form applicable
under the Companies Act 1956.

Company (Removal of Difficulties) Order dated
29/04/2014 to be read with S.O. 1406 Corrigendum
dated 27/05/2014.

In sub-section (2) of section 92 of the said Act,
for the words 'The annual return, filed by a listed
company or, by a company having such paid-up
capital and turnover as may be prescribed', the
words 'The annual return, filed by a listed company
or, by a company having such paid-up capital or
turnover as may be prescribed' shall be substituted.

Companies (Management and Administration)
Amendment Rules, 2014- dated June 23,2014

Amendment in rule 20(1) of Companies
(Management and Administration) Rules, 2014
rule 20(1).

- "provided that the company may provide the facility
referred to in this sub-rule on or before the 1st day
of January 2015

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

Companies (Management and Administration)
Second Amendment Rules, 2014 dated July 24, 2014

In rule 9, after sub-rule (3), the following proviso shall be inserted namely:—

“Provided that nothing contained in this rule shall apply in relation to a trust which is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India”.

In rule 13: (a) the words “either value or volume of the shares” shall be omitted;

(b) the Explanation shall be omitted. in rule 23, in sub-rule (1), for the words “not less than five lakh rupees”, the words “not more than five lakh rupees” shall be substituted in rule 27, in sub-rule (1) and in the Explanation, for the word “shall”, the word “may” shall be substituted.

General Circular 28/2014 dated 9th July, 2014 on subject Clarification on form MGT – 14 through Straight Through Process mode.

In order to simplify procedures and with a view to ensure timely disposal of E-Forms in the office of Registrars of Companies and keeping in view the penal provisions for false declaration as contained in section 448 read with section 447, Ministry of Corporate Affairs clarified that form no. MGT-14 will be processed and taken on record using the Straight through Process mode, in all cases except for change of Name, Change of objects, resolution for further issue of capital and conversion of companies.

General Circular No. 45/2014 dated 18th November, 2014

Extension of time for holding Annual General Meeting (AGM) under section 96(1) of the Companies Act, 2013-Companies registered in State of Jammu and Kashmir.

Companies (Management and Administration)
Amendment Rules, 2015 dated 19th March, 2015

Rule 20 of Companies (Management and Administration) Rules, 2014, relating to Electronic Voting have been substituted, with New Rule 20.

General Circular No. 10/2015 dated 13.07.2015 - Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013

Relaxation in additional fee payable on Filing of Financial Statement Forms AOC- 4, AOC-4 XBRL and Annual Return in Form MGT-7 up to 31.10.2015 has been granted. Further a company which is not required to file Financial Statement in XBRL format and is required to file its consolidated financial statement in separate form AOC-4 CFS may do so without any additional fee up to 30.11.2015.

General Circular Dated 21.07.2015 - Clarification with regard to circulation and filing of financial statement under relevant provisions of the Companies Act, 2013

it is clarified that a company holding a general meeting after giving shorter notice as provided under section 101 of the Act may also circulate financial statement (to be laid / considered in the same general meeting) at such shorter notice.

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*

Description

it is also clarified that in case of a foreign subsidiary, which is not required to get its accounts audited as per legal requirement prevalent in the country of its incorporation and which does not get such accounts audited, the holding/parent Indian may place/ file such unaudited accounts to comply with requirement of Section 136(1) and 137(1) as applicable. Further it is clarified that these accounts need to be translated in English if the original accounts are not in English. Further the format of accounts of foreign subsidiaries should be as far as possible, in accordance with requirements under Companies Act, 2013. In case this is not possible, a statement indicating the reasons for deviation may be placed /filed along with such accounts.

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

Companies (Declaration and Payment of Dividend)
Amendment Rules, 2014 dated June 12, 2014.

Rule 3(5) reads as under "No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company of the current year."

Companies (Declaration and Payment of Dividend)
(Amendment) Rules, 2015 dated 24th February, 2015.

Insertion of a footnote with regard to gazetted principal rules.

Companies (Declaration and Payment of Dividend)
Second Amendment Rules, 2015 dated 29.05.2015

In Companies (Declaration and Payment of Dividend) Rules, 2014 in rule 3, Sub rule (5) Omitted.

CHAPTER IX

ACCOUNTS OF COMPANIES

General Circular No. 08/2014 dated 04.04.2014-
Commencement of provisions of the Companies Act, 2013 with regard to maintenance of books of accounts and preparations/adoption/filing of financial statements, auditor's report, Board's report and attachments to such statements and reports - Applicability with regard to relevant financial year.

The financial statements (and documents required to be attached thereto), auditor's report and Board's report In respect of financial years that commenced earlier than 1st April, 2014 shall be governed by the relevant provisions/ Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing on or after 1st April, 2014, the provisions of the new Act shall apply.

General Circular No. 21/2014 dated 18/06/2014-
Clarifications with regard to provisions of CSR under section 135 of the Companies Act, 2013

Under Section 135 of the Companies Act, 2013 and the Companies (Corporate Social Responsibility Policy) Rules, 2014, as well as activities to be undertaken as per Schedule VII of the Companies Act, 2013. Clarifications with respect to representations received in the Ministry on Corporate Social Responsibility (herein after referred as ('CSR') are as under-

(i) The statutory provision and provisions of CSR Rules, 2014, is to ensure that while activities

 Amendment Rules/Circulars/Notifications/Orders/
and Particular

Description

-
- undertaken in pursuance of the CSR policy must be relatable to Schedule VII of the Companies Act 2013, the entries in the said Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said Schedule. The items enlisted in the amended Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities.
- (ii) It is further clarified that CSR activities should be undertaken by the companies in project/ programme mode [as referred in Rule 4 (1) of Companies CSR Rules, 2014]. One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. would not be qualified as part of CSR expenditure.
 - (iii) Expenses incurred by companies for the fulfillment of any Act/ Statute of regulations (such as Labour Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act.
 - (iv) Salaries paid by the companies to regular CSR staff as well as to volunteers of the companies (in proportion to company's time/hours spent specifically on CSR) can be factored into CSR project cost as part of the CSR expenditure.
 - (v) "Any financial year" referred under Sub-Section (1) of Section 135 of the Act read with Rule 3(2) of Companies CSR Rule, 2014, implies 'any of the three preceding financial years'.
 - (vi) Expenditure incurred by Foreign Holding Company for CSR activities in India will qualify as CSR spend of the Indian subsidiary if, the CSR expenditures are routed through Indian subsidiaries and if the Indian subsidiary is required to do so as per section 135 of the Act.
 - (vii) 'Registered Trust' (as referred in Rule 4(2) of the Companies CSR Rules, 2014) would include Trusts registered under Income Tax Act 1956, for those States where registration of Trust is not mandatory.
 - (viii) Contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure as long as (a) the Trust/ society/ section 8 companies etc. is created exclusively for undertaking CSR activities or (b) where the corpus is created exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Act.

<i>Amendment Rules/Circulars/Notifications/Orders/ and Particular</i>	<i>Description</i>
General Circular No. 35/2014 dated 27th August, 2014 on the subject of Clarification Accounting Standards (AS) 10 - Capitalization of Cost.	<p>It has been clarified that Accounting Standards AS-10 and AS-16 prescribe the principles of capitalization of various costs based on the underlying concept that only such expenditure should be capitalized as form a part of the cost of fixed assets which increase the worth of the assets. Cost incurred during the extended delay in commencement of commercial production after the plant is otherwise ready does not increase the worth of fixed assets. Such costs cannot, therefore, be capitalized.</p> <p>Accounting Standard AS 16, inter alia provides guidance with regard to part capitalization where some units of a project are complete. In case one of the units of the project is ready for commercial production and is capable of being used while construction continues for the other units, costs should be capitalized in relation to that part once the part is ready for commercial production.</p> <p>Further is has been clarified that AS 10 and AS 16 are applicable irrespective of whether the power projects are 'Cost Plus projects' or 'Competitive Bid projects'.</p>
General Circular No. 36/2014 dated 17th September, 2014 on the subject of Corporate Social Responsibility	<p>Rule 4(6) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 as notified on 27.02.2014 has been amended by notification dated 12.09.2014; and</p> <p>Consequently, clarification (iv) in General Circular No. 21 of 2014 dated 18.06.2014, stands omitted.</p>
General Circular No. 39/2014 dated 14th October, 2014 on matters relating to consolidated Financial Statement	<p>It is clarified that Schedule III to the Act read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.</p>
General Circular No. 01/2015 dated 3rd February, 2015 Constitution of a High Level Committee to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013.	<p>A High Level Committee to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013 has been constituted</p>
The Companies (CSR policy) Amendment rules, 2014 dated 12th September, 2014	<p>In rule 4 sub-rule (6), after the words "but such expenditure" the words and comma "including expenditure on administrative overheads," shall be inserted.</p>
The Companies (Accounts) Amendment Rules, 2014 dated 14th October, 2014	<p>In rule 6, after the existing proviso, the following provisos shall be inserted, namely:-</p>

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

<p>The Companies (Accounts) Amendment rules, 2015 dated 16th January, 2015</p>	<p>“Provided further that nothing in this rule shall apply in respect of preparation of consolidated financial statement by an intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company incorporated outside India:</p> <p>Provided also that nothing contained in this rule shall, subject to any other law or regulation, apply for the financial year commencing from the 1st day of April, 2014 and ending on the 31st March, 2015, in case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, as the case may be. ”</p> <p>Rule 2A has been inserted.</p> <p>2A. Notice of address at which books of account are to be maintained.—For the purposes of the first proviso to sub-section (1) of Section 128, the notice regarding address at which books of account may be kept shall be in Form AOC-5.</p> <p>New form AOC-5 inserted.</p>
<p>The Companies (CSR policy) Amendment rules, 2014 dated 19th January, 2015</p>	<p>Rule 4 sub-rule (2) has been amended</p>
<p>The Companies (Indian Accounting Standards) Rules, 2015. Notification dated 16th February, 2015</p>	<p>Issuance of Indian Accounting Standards</p>

CHAPTER X
AUDIT AND AUDITORS

General Circular no. 33/2014 dated 31/07/2014-Clarification with regard to applicability of provisions of sections 139(5) and 139 (7) of Companies Act, 2013

The Companies Act 2013 does not alter the position with regard to audit of such deemed Government companies through CG&AG and thus such companies are covered under sub-section(5) and (7) of section 139 of the Companies Act, 2013

It will primarily be the responsibility of the company concerned to intimate to the CG&AG about its incorporation along with name, location of registered office, capital structure of such a company immediately on its incorporation. It is also incumbent on such a company to share such intimation to the relevant government so that such Government may also send a suitable request to CG&AG.

Companies (Cost Records and Audit) Rules, 2014 on 30th June, 2014

The Central Government notified Companies (cost records and audit) Rules, 2014 on 30th June, 2014.

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
	<p>The rules inter-alia prescribes-</p> <ul style="list-style-type: none"> (i) Sectors for which Cost Records made applicable (ii) Format of maintenance of cost records in form CRA-1. (iii) Applicability for Cost Audit (iv) Filing of notice of appointment of Cost Auditor with the Central Government in e-form CRA-2. (v) Format of Cost Audit Report in Form CRA-3. (vi) Filing of Cost Audit Report along with full information and explanation on Every reservation or qualification contained therein, in form CRA-4 to Central Government. <p>Due to delay in availability of form CR-2 on MCA-21 portal, the last date for filing was extended vide circular no. 42/2014 dt. 12th November, 2014 and Circular no. 2/2015 dt. 11th February, 2015.</p> <p>On 31st December, 2014 the Central Government issued Companies (Cost Record and Audit) Amendment Rules, 2014 which significantly amended the rules.</p>
Companies (Removal of Difficulties) Seventh Order, 2014 on 4th September, 2014	<p>Amended section 143 of the Companies Act, to be read as under :—</p> <p>“In the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor General of India shall appoint the auditor under sub-section (5) or sub-section (7) of Section 139 and direct such auditor the manner in which the accounts of the company are required to be audited and thereupon the auditor so appointed shall submit a copy of the audit report to the Comptroller and Auditor-General of India which, among other things, include the directions, if any, issued by the Comptroller and Auditor-General of India, the action taken thereon and its impact on the accounts and financial statement of the company”</p>
Companies (Auditor’s Report) Order, 2015 dated 10th April, 2015	<p>The Companies (Auditor’s Report) Order, 2015 applicable to every company including a foreign company. The order is not applicable to -</p> <p>— Banking company,</p>

<i>Amendment Rules/Circulars/Notifications/Orders/ and Particular</i>	<i>Description</i>
The Companies (Cost Records and Audit) Amendment Rules, 2015 dated 12.06.2015	<ul style="list-style-type: none"> — Insurance company, — Company licensed to operate under section 8 of the Companies Act, 2013, — One Person Company and Small Company <p>Private limited company (with a paid up capital and reserves not more than rupees fifty lakh and which does not have loan outstanding exceeding rupees twenty five lakh from any bank or financial institution and does not have a turnover exceeding rupees five crore at any point of time during the financial year)</p> <p>Forms CRA- 2 and CRA- 4 substituted.</p>
General Circular No. 08/2015 dated 12.06.2015 - Extension of time for filing of Notice of appointment of the Cost Auditor for the F.Y. 2015-16 in Form CRA-2 and filing of cost audit report to the Central Government for the F.Y. 2014-15 in Form CRA-4.	<p>The additional fee on account of any delay beyond the prescribed period of 30 days from the date of the board meeting, in which the appointment of the Auditor was made for filling CRA- 2 for the financial year starting on or after 1st April, 2015 is waived for all such filling till 30th June, 2015.</p> <p>Additional fees on delayed filling of form CRA-4 beyond the prescribed period of 30 days from the date of receipt of a copy of Cost Audit Report from the Cost Auditor for the Financial Year starting on or after 1st April, 2014 is also waived for all such filling till 31st August, 2015</p>

CHAPTER XI

APPOINTMENT AND QUALIFICATION OF DIRECTORS

General Circular No. 14/2014 dated 09/06/2014 Clarification with regard to rules prescribed under the Companies Act, 2013- matters relating to appointment of directors and independent directors	Clarification has been given with regard to appointment and qualification of Independent Director
General Circular No. 25/2014 dated 26/06/2014- Clarification on applicability of requirement for resident director	<p>Residency requirement would be reckoned from the date of commencement of section 141 of the Act i.e. 1st April, 2014, The first 'previous calendar year' for compliance with these provisions would, therefore, be Calendar year 2014.</p> <p>Companies incorporated between 1.4.2014 to 30.9.2014 should have a resident director either at the incorporation stage itself or within six months of their incorporation. Companies incorporated after 30/09/2014 needs to have the resident director from the date of incorporation itself.</p>
General Circular No. 38/2014 dated 14th October, 2014 on the subject Right of persons other than retiring directors to stand for directorship - Refund	In case of section 8 companies it has been clarified that the Board of directors of a section 8 company is to decide as to whether the deposit made by or

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
of deposit under section 160 of the Companies Act, 2013 in certain cases.	on behalf of the person failing to secure more than twenty-five percent of the valid votes is to be forfeited or refunded.
General Circular No. 03/2015 dated 03rd March, 2015 on the subject of Clarification relating to filing of e-form DIR - 11 & DIR-12 under the Companies Act, 2013	Allowed any one of the resigned director who was an authorized signatory Director for the purpose of filing DIR-12 only along with additional fees, as applicable and subject to compliance of other provisions of Companies Act, 2013.
Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 dated 18 th September, 2014	<ul style="list-style-type: none"> <li data-bbox="857 615 1437 804">(i) Rule 6(2) amended to rationalize the required information from the applicant registering on the databank of Independent Directors by removing the required details of Income Tax PAN, Mother's and Spouse Name from the databank of Independent Directors. <li data-bbox="857 831 1437 982">(ii) Rule 6(4) amended to remove the requirement of Form DIR-1 to be filled up by a person who desires to get his name included in the databank of Independent Director as the rules omitted the existing Form DIR-1. <li data-bbox="857 1010 1437 1230">(iii) Rule 9(3) amended to include the term "verify" while applying for allotment of Director Identification Number (DIN) in form DIN-3. Earlier the verification by the applicant provided in Form DIR-4 as attachment to DIN 3. This requirement has now removed as the same is included in revised Form DIN-3. <li data-bbox="857 1257 1437 1535">(iv) Every individual who has been allotted a DIN under these rules shall report the change if any in his particulars as stated in Form DIN-3. Rule 12 (1) is also amended to include the term "verify" in form DIR 6 itself, which is the prescribed form for intimating change in DIN particulars. Earlier the verification by the applicant provided in Form DIR-7 as attachment to DIN 6. <li data-bbox="857 1562 1437 1785">(v) New sub rule (4) inserted in Rule 9 to provide that in case the name of a person does not have a last name, then his or her father's or grandfather's surname shall be mentioned in the last name along with the declaration in Form No. DIR-3A (New Form). This declaration will be submitted alongwith Form DIN-3. <li data-bbox="857 1812 1437 1902">(vi) Rule 10 amended to replace the concept of "Provisional DIN" with the "Application Number". <li data-bbox="857 1929 1437 1950">(vii) New sub-rule 10A has been inserted.

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

Companies (Appointment and Qualification of Directors) Amendment Rules, 2015 dated 19th January, 2015

Insertion of following proviso
 "Provided that in case a company has already filed **Form DIR-12** with the Registrar under rule 15, a foreign director of such company resigning from his office may authorise in writing a practising chartered accountant or cost accountant in practice or company secretary in practice or any other resident director of the company to sign **Form DIR-11** and file the same on his behalf intimating the reasons for the resignation."

CHAPTER XII
MEETINGS OF BOARD AND ITS POWERS

Circular No 19/2013 dated 10.12.2013 - Clarification with regard to applicability of section 182(3) of the Companies Act, 2013.

- (i) Companies contributing any amount or amounts to an 'Electoral Trust Company' for contributing to a political party or parties are not required to make disclosures required under section 182(3) of Companies Act 2013. It will suffice if the Accounts of the company disclose the amount released to an Electoral Trust Company.
- (ii) Companies contributing any amount or amounts directly to a political party or parties will be required to make the disclosures laid down in section 182(3) of the Companies Act, 2013.
- (iii) Electoral Trust Companies will be required to disclose all amounts received by them from other companies/sources in their Books of Accounts and also disclose the amount or amounts contributed by them to a political party or parties as required by section 182(3) of Companies Act, 2013.

General Circular No. 03/2014 dated 14/02/2014- Clarification with regard to section 185 of Companies Act, 2013

Any guarantee given or security provided by a holding company in respect of loans made by a bank or financial institution to its subsidiary company, exemption as provided in clause (d) of sub section (8) of section 372A of the Companies Act, 1956 shall be applicable till section 186 of the Companies Act, 2013 is notified, it will also be applicable to the cases where loans so obtained are exclusively utilised by the subsidiary for its principal business activities.

General Circular No. 04/2014 dated 25/03/2014- Clarification with regard to section 180 of the Companies Act, 2013

Resolution passed under section 293 of the Companies Act, 1956 prior to 12.09.2013 with reference to borrowings (subject to the limits prescribed) and / or creation of security on assets of the company will be regarded as sufficient compliance of the requirements of section 180 of the

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
General Circular No. 15/2014 dated 09/06/2014 Clarification regarding maintaining registers in new format [section 186(9)]	Companies Act, 2013 for a period of one year from the date of notification of section 180 of the Act. The registers maintained by the companies pursuant to section 372A(5) of the Companies Act, 1956 may continue and the new format prescribed vide Form MBP2 shall be used for entering particulars in such registers on and from 01/04/2014
General Circular No. 30/2014 dated 17/07/2014- Clarification on matters relating to related party transactions	The clarifications are given for the following points:- <i>Scope of second proviso to Section 188(1) -</i> Second proviso to subsection (1) of section 188 requires that no member of the company shall vote on a special resolution to approve the contract or arrangement (referred to in the first proviso), if such a member is a related party. It is clarified that 'related party' referred to in the second proviso has to be construed with reference only to the contract or arrangement for which the said special resolution is being passed. Thus, the term 'related party' in the above context refers only to such related party as may be a related party in the context of the contract or arrangement for which the said special resolution is being passed. <i>Applicability of Section 188 to corporate restructuring, amalgamations etc:</i> It is clarified that transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Companies Act, 1956/Companies Act, 2013, will not attract the requirements of section 188 of the Companies Act, 2013. <i>Requirement of fresh approvals for past contracts under Section 188:</i> Contracts entered into by companies, after making necessary compliances under Section 297 of the Companies Act, 1956, which already came into effect before the commencement of Section 188 of the Companies Act, 2013, will not require fresh approval under the said section 188 till the expiry of the original term of such contracts. Thus, if any modification in such contract is made on or after 1 st April, 2014, the requirements under section 188 will have to be complied with.
Companies (Meetings and Powers of Board) Amendments Rules, 2014 - dated June 12, 2014	In Rule 6, after the explanation, the following shall be inserted, namely:- "Provided that public companies covered under this rule which were not required to constitute

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

General Circular 04/2015 dated 10th March, 2015 on subject of loans and advances to employees	<p>Audit Committee under section 292A of the Companies Act, 1956(1 of 1956) shall constitute their Audit Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier;</p> <p>Provided further that public companies covered under this rule shall constitute their Nomination and Remuneration Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier</p>
General Circular 06/2015 dated 9th April, 2015, clarification under sub-section (7) of section 186 of the Companies Act, 2013	<p>It has been clarified that loans and/or advances made by the companies to their employees, other than the managing or whole time directors (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013. This clarification will, however, be applicable if such loans/advances to employees are in accordance with the conditions of service applicable to employees and are also in accordance with the remuneration policy, in cases where such policy is required to be formulated.</p>
Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014 dated 14th August, 2014	<p>In cases where the effective yield (effective rate of return) on tax free bonds is greater than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan, there is no violation of sub-section (7) of section 186 of the Companies Act, 2013.</p>
Companies (Meetings of Board and its Powers) Amendment Rules, 2015 dated 18th March, 2015	<p>Substitution of Rule 15 sub-rule (3) relating to contract or arrangements with related party.</p> <p>Rule 8 relating to power of Board to be exercised at Board Meeting has been amended by omitting item numbers (3), (5), (6), (7), (8) and (9) and the entries relating thereto.</p>
Companies (Removal of Difficulties) Order, 2015 dated 13th February, 2015	<p>Insertion in section 186 of the Companies Act, 2013 in sub-section (11), in clause (b), after item (iii), the following item has been inserted, namely :—</p> <p>“(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.”.</p>

CHAPTER XIII
APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

Notification no S.O. 1913(E) dated 25/07/2014 --

The class of companies for the purpose of the

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
second proviso to sub-section(1) of section 203 of the Companies Act 2013	second proviso to section 203(1) of the companies act 2013, includes Public companies having paid- up share capital of rupees 100 crore or more and annual turnover of rupees 1000 crore or more which are engaged in multiple businesses and have appointed Chief Executive Officer for each such business
(Appointment and Remuneration Personnel) Amendment Rules, 2014 dated June 9, 2014 —	'8A Appointment of Company Secretaries in companies not covered under rule 8.- A company other than a company covered under rule 8 which has a paid up share capital of five crore rupees or more shall have a whole-time company secretary.

CHAPTER XXIV

REGISTRATION OFFICES AND FEES

General Circular No. 10/2014 dated 07/05/2014- Clarification regarding certification of E forms/ non e-forms under the Companies Act, 2013 by the practicing professionals	<p>The Ministry has allowed registered Members of the professionals bodies (the ICAI, ICSI and the ICAI) to authenticate correctness and integrity of documents being filed by them with the MCA in electronic mode. Details of documents required to be certified have been given in the notification dated 28/04/2014 available on the MCA portal.</p> <p>The requirement of authentication of documents prescribed under the Companies (Registration Offices and Fees) Rules, 2014 which elaborate on the responsibility. Further, Rule 10 of ibid the Registrar is to examine e-forms or non e-forms attached and filed with general forms on MCA portal viz. to verify whether all the requirements have been complied with and all the attachment to the forms have been duly scanned and attached in accordance with the requirement of above said rules.</p> <p>Where any instance of filing of documents, application or return or petition etc. containing false or misleading information or omission of material fact or incomplete information is observed, the Regional Director or the Registrar as the case may be, shall conduct a quick inquiry against the professionals who certified the form and signatory thereof including an officer in default who appears prima facie responsible for submitting false or misleading or incorrect information pursuant to requirement of above said Rules; 15 days notice may be given for the purpose.</p> <p>The Regional Director or the Registrar will submit his/her report in respect of the inquiry initiated, irrespective of the outcome, to the E-Governance cell of the Ministry within 15 days of the expiry of</p>
---	--

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

<p>General Circular No.05/2014 dated 28 March, 2014 Online payment of stamp duty and court fee stamp for issue of certified copies.</p>	<p>period given for submission of an explanation with recommendation in initiating action u/s 447 and 448 of the Companies Act, 2013 wherever applicable and also regarding referral of the matter to the concerned professional Institute for initiating disciplinary proceedings.</p> <p>The E-Gov cell of the Ministry shall process each case so referred and issue necessary instructions to the Regional Director/ Registrar of Companies for initiating action u/s 448 and 449 of the Act wherever prima facie cases have been made out. The E-Gov cell will thereafter refer such cases to the concerned Institute for conducting disciplinary proceedings against the errant member as well as debar the concerned professional from filing any document on the MCA portal in future,</p> <p>The Ministry has reviewed the process of issue of certified copies of the documents filed with the Registrar of companies. As per the existing process, in case a User applies for the certified true copy of any document, he needs to pay MCA fee online at MCA portal. The fee is computed based on the number of documents required.</p> <p>Once the selection of documents is done and the requisite MCA fee is paid, the Stakeholder is required to approach the jurisdictional ROC along with the application and the acknowledgement of the fee paid. The application needs to be filed along with Stamp Papers of requisite value and the Court Fee stamp attached to the same. The amount of Stamp Duty as well as Court Fee varies from State to State. On receipt of the application, the respective ROC affix the certified documents on the Stamp paper and returns the same to the Stakeholder (Applicant) duly certified.</p> <p>With a view to identify and improve the component causing delay in issue of certified copy the Ministry has enabled payment of Stamp Duty as well as Court Fee online through MCA portal. This would enable the respective ROCs to send the certified documents without awaiting for physical stamp papers and any formal application (with Court Fee Stamp) in this regard.</p>
<p>Table of fees (pursuant to rule 12 of the Companies (Registration of Offices and Fees) Rules 2014) Dated 01 April, 2014</p> <p>Companies (Registration of Offices and Fees) Amendment Rules 2014, dated 28/04/2014</p>	<p>Table of fees (pursuant to rule 12 of the Companies (Registration of Offices and Fees) Rules 2014</p> <p>After amendment the rule (12)(a) read as under : The following e-forms filed by companies, other than one person companies and small companies, undersub-rule (1) of rule 9, shall be pre-certified by</p>

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*

Description

	<p>the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice, namely:- INC-21, INC-22, INC-28, PAS-3, SH-7, CHG-1, CHG-4, CHG-9, MGT- 14, DIR-6, DIR-12, MR-1, MR-2, MSC-1, MSC-3, MSC-4, GNL-3, ADT-1, NDH-1, NDH-2, NDH-3;</p> <p>(b) The following e-forms filed by companies, other than one person companies and small companies, under sub rule</p> <p>(1) of rule 9, shall be pre-certified in the following manner, namely:—</p> <p>(i) GNL-1 - optional pre-certification by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice;</p> <p>(ii) DPT-3 – certification by Auditors of the company;</p> <p>(i) MGT-10-certification by a Company Secretary in whole-time practice;</p> <p>(ii) AOC-4- certification by a Chartered Accountant in whole-time practice;</p> <p>(c) E-form DIR-3 shall be filed along with attestation of photograph, identity proof and proof of residence of the applicant by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice.”</p> <p>After amendment rule 9 (1), read as under :</p> <p>“The Central Government shall set up and maintain a secure centralised electronic registry in which all the applications, financial statement, prospectus, return, register, memorandum, articles, particulars of charges, or any particulars or returns or any other documents under the Act shall be filed and stored electronically.”</p>
<p>Companies (Registration Offices and Fees) Amendment Rules, 2015 dated 24th February, 2015</p>	<p>The Companies (Registration Offices and Fees) Amendment Rules, 2015-04-29 Insertion of Sub-rule (7) in Rule 10</p> <p>The inserted rule reads thus:</p> <p>“7. Any further information or documents called for, in respect of application or e-form or document, filed electronically with the Ministry of Corporate Affairs shall be furnished in Form No. GNL-4 as an addendum”</p>
<p>Companies (Registration Offices and Fees) Second Amendment Rules, 2015 dated 29.05.2015</p>	<p>In rule 15 the following proviso was inserted</p> <p>“Provided that no person shall be entitled under section 399 to inspect or to obtain copies of</p>

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
	resolution referred to in clause (g) of Sub section (3) of Section 117 of the Act".
The Companies (Amendment) Act, 2015	
MCA Notification No. - S.O. 1440(E) dated 29th May, 2015	Provisions of sections 1 to 12 and 15 to 23 of the Companies (Amendment) Act, 2015 come into force from 29th May, 2015
Exemption Notifications	
i. Government Companies	G.S.R. 463(E) dated 05th June, 2015 for Exemptions to Government Companies under section 462 of Companies Act, 2013
ii. Nidhi Companies	G.S.R. 465(E) dated 05th June, 2015 for Exemptions to Nidhi's under section 462 of Companies Act, 2013
iii. Private Companies	G.S.R. 464(E) dated 05th June, 2015 for Exemptions to Private Companies under section 462 of Companies Act, 2013
iv. Section 8 (Non-Profit)	G.S.R. 466(E) dated 05th June, 2015 for Exemptions to Section 8 (Non-Profit) under section 462 of Companies Act, 2013.
OTHERS	
Notification G.S.R. 772(E) Company Law Board (Fees on Applications and Petitions) Amendment Rules, 2014, dated 3rd November, 2014	Revision of fees
General Circular No. 41/2014 dated 15th October, 2014 on the subject Company Law Settlement Scheme, 2014 (CLSS- 2014)- Clarification u/s 164(2) of the Companies Act, 2013.	It has been clarified that in case of companies, who have filed their balance sheets and annual returns on or after 01/04/2014 but prior to launch of CLSS-2014, disqualification under clause(a) of sub-section (2) of section 164 of the Companies Act, 2013 shall apply only for prospective defaults, if any, by such companies.
Notification S.O. 2425(E) 18th September, 2014	Constitution of Advisory Committee to be called the National Advisory Committee on Accounting Standards
General Circular No. 34/2014 dated 12/08/2014- Company Law Settlement Scheme, 2014.	In order to give an opportunity to companies who have failed to file annual statutory documents (Annual Return and Financial Statements), has launched Company Law Settlement Scheme, 2014 (CLSS-2014).
	The scheme gives an opportunity to the defaulting companies to enable them to make their default good by filing belated documents.
	Corporates can avail the following benefits:
	— Immunity from prosecution for delayed filing

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
General Circular 32 /2014 dated 23/07/2014- Clarification on transitional period for resolutions passed Under the Companies Act, 1956.	<p>— A reduced additional fee of 25% of the actual additional fees payable</p> <p>— Escape for directors disqualified under section 164(2) of Companies Act, 2013</p> <p><i>This scheme shall not apply to the filing of belated documents other than the following:</i></p> <ol style="list-style-type: none"> a. Form 20B - Form for filing annual return by a company having share capital. b. Form 21A - Particulars of Annual return for the company not having share capital. c. Form 23AC, 23ACA, 23AC-XBRL and 23ACA-XBRL - Forms for filing Balance Sheet and Profit & Loss account. d. Form 66 - Form for submission of Compliance Certificate with the Registrar. e. Form 238 - Form for Intimation for Appointment of Auditors.
Notification no S.O. 1524 (E) dated 13/06/2014 - Office of official Liquidator at Hyderabad having territorial jurisdiction of whole State of Telengana	<p>Resolutions approved or passed by companies under relevant applicable provisions of the Old Act during the period from 1st September, 2013 to 31st March, 2014, can be implemented, in accordance with provisions of the Old Act, notwithstanding the repeal of the relevant provision subject to the conditions (a) that the implementation of the resolution actually commenced before 1st April, 2014 and (b) that this transitional arrangement will be available upto expiry of one year from the passing of the resolution or six months from the commencement of the corresponding provision in New Act whichever is later. It is also clarified that any amendment of the resolution must be in accordance with the relevant provision of the New Act.</p> <p>In the exercise of powers conferred by Section 448 of the Companies Act, 1956, the Central Government hereby establish the office of the Official Liquidator at Hyderabad having territorial jurisdiction for the purposes of the said Act for discharging the functions of the Official Liquidator in the whole State of Telengana and appoints the official Liquidator for the liquidation of companies under the said Act in the state of Telengana.</p>
Notification no. S.O. 1525 (E) dated 13/06/2014 - Establish office of Registrar of Companies at Hyderabad having territorial jurisdiction in the whole of Telengana	<p>In exercise of powers conferred by sub-section (1) and sub- section (2) of Section 396 of the Companies Act, 2013 (18 of 2013), the Central Government hereby establish the office of the Registrar of Companies at Hyderabad having</p>

 Amendment Rules/Circulars/Notifications/Orders/
and Particular

Description

<p>Notification S.O. 1352 (E) dated 21st May, 2014</p>	<p>jurisdiction in the whole State of Telengana for discharging of the Registrar of Companies under the various provisions of he said Act and appoints the Registrar of Companies , Hyderabad as registrar of Companies for the purpose of registration of companies under the said Act in the State of Telengana.</p> <p>Delegation of powers</p> <p>In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, Ministry of Corporate Affairs, dated the 10th July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) <i>vide</i> number S.O. 1539(E), dated the 10th July, 2012, in so far as it relates to items (a) to (f) and item (n), except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates to the Regional Directors at Mumbai, Kolkata, Chennai, Noida, Ahmedabad, Hyderabad and Shillong, the power and functions vested in it under the following sections of the said Act, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said sections, if in its opinion such a course of action is necessary in the public interest, namely :—</p> <ul style="list-style-type: none"> (a) clause (i) of sub-section (4) of Section 8 (for alteration of memorandum in case of conversion into another kind of company); (b) sub-section (6) of Section 8; (c) sub-sections (4) and (5) of Section 13; (d) Section 16; (e) Section 87; (f) sub-section (3) of Section 111; (g) sub-section (1) of Section 140; and (h) Proviso (i) to sub-section (1) of Section 399.
<p>Notification S. O. 1354(E). dated 21st May, 2014- Delegation of Powers</p>	<p>In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, Ministry of Corporate Affairs, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), <i>vide</i> number G.S.R. 650(E), dated the 19th October, 2006 except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates the powers and functions of the Central Government in respect of allotment of Director Identification Number under Sections 153 and 154 of the said Act to the Regional Director, Joint</p>

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
Notification S.O. 1353(E) dated 21st May, 2014- delegation of powers	<p>Director, Deputy Director or Assistant Director posted in the office of Regional Director at Noida.</p> <p>In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, Ministry of Corporate Affairs, dated the 10th July, 2012, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) <i>vide</i> number S.O. 1538 (E), dated the 10th July, 2012, in so far as it relates to items (a) to (b) and items (d) to (e), except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates to the Registrar of Companies, the power and functions vested in it under the following sections of the said Act, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers and functions under the said sections, if in its opinion, such a course of action is necessary in the public interest, namely:—</p> <ul style="list-style-type: none"> (a) sub-section (2) of Section 4; (b) sub-section (1) of Section 8; (c) clause (i) of sub-section (4) of Section 8, except for alteration of memorandum in case of conversion into another kind of company; (d) sub-section (5) of Section 8; and (e) sub-section (2) of Section 13.
General Circular No 6/2014 dated 28. 03.2014- Roll out plan of various	Roll out plan of various forms under the Companies Act, 2013 and continuance of forms under the provisions of Companies Act, 1956
Notification no. S.O. (E) dated 27/03/2014- Nomenclature of various forms prescribed under the provisions of Companies Act, 2013 being notified.	In order to facilitate easy understanding of the e-forms being rolled out under the provisions of Companies Act, 2013 and Rules made thereunder, the stakeholders are hereby informed that unlike numbering of various forms under the Companies Act, 1956, forms under the new Act are mandatorily numbered alpha-numeric. Initial of forms is to be started with alphabet of two or three letters based on the subject of the Chapter, followed by serial number of the form. This will define the nature of the forms and would be easy to recognise.
Notification S.O. 902(E) dated 26 th March, 2014 Notified 183 sections of the Companies Act, 2013, dated 12th September, 2013	In exercise of the powers conferred by sub-section (3) of Section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 1 st day of April, 2014 as

*Amendment Rules/Circulars/Notifications/Orders/
and Particular*
Description

<p>General Circular No. 07/2014 dated 01st April, 2014- Dissemination of Information with regards to provisions of the Companies Act, 2013 as notified till date vis-a-vis the corresponding provisions of the Companies Act, 1956.</p>	<p>the date on which the 183 sections of the said Act shall come into force.</p> <p>Provisions of the Companies Act, 2013 as notified vis-a-vis the corresponding provisions of the Companies Act, 1956.</p>
<p>Companies (Miscellaneous) Amendment Rules, 2014 dated 17-07-2014.</p>	<p>In the Companies (Miscellaneous) Rules, 2014 after Rule 10, the following rule shall be inserted, namely:-</p> <p>“11. Application or forms pending before Central Government, Regional Director or Registrar of Companies” - Any application or form filed with the Central Government or Regional Director or Registrar (hereinafter reoffered to as ‘the authority’) prior to the commencement of these rules but not disposed of by such authority for want of any information or document shall, on its submission, to the satisfaction of the authority, be disposed of in accordance with the rules made under the Companies Act, 1956(1 of 1956).</p>
<p>Companies (Removal of Difficulties) Order, 2013 dated 20th September, 2013</p>	<p>Until a date is notified by the Central Government under sub-section (1) of section 434 of the Companies Act, 2013 (18 of 2013) for transfer of all matters, proceedings or cases to the Tribunal constituted under Chapter XXVII of the said Act, the Board of Company Law Administration shall exercise the powers of the Tribunal under sections 24, 58 and section 59 in pursuance of the second proviso to sub-section (1) of section 465 of the said Act.</p>
<p>Notified 98 sections of the Companies Act, 2013 dated 12th September, 2013</p>	<p>In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 12th day of September, 2013 as the date on which the 99 sections of the said Act shall come into force.</p>
<p>Constitution of Company Law Committee Order dated 04th June, 2015</p>	<p>With this order the central government constituted a company law committee to make recommendations to the Government on issue arising from the implementation of the Companies Act, 2013 and to examine the recommendations received from the Bankruptcy Law Reforms Committee, the High Level Committee on CSR, the Law Commission and other Agencies.</p>

Schedule

Notification no. G.S.R. 237 (E). dated 31/03/2014- Amendment in schedule II

Amendment in schedule II of the companies act , in Part 'A' in Para 3 for sub paragraphs (i) to (iii) and in Part C.

Amendment Rules/Circulars/Notifications/Orders/ and Particular	Description
Notification G.S.R. 627(E) dated 29th August, 2014- Amendment in Schedule II	Substitution of sub- paragraph (i) in paragraph 3 of Part 'A'.
Clarification with regard to applicability of Schedule V	Substitution of after paragraph 4 under the heading Notes after Part 'C'.
General Circular No. 07 / 2015 dated 10th April, 2015 on the subject of Remuneration to managerial person under Schedule XIII of the Companies Act, 1956 - Clarification with regard to payment for period	It has been clarified that a managerial person receiving remuneration under schedule XIII of Companies Act, 1956 may continue to receive remuneration for his remaining term in accordance with terms and conditions approved by company as per relevant provisions of Schedule XIII of earlier Act even if the part of his/her tenure falls after 1st April, 2014.
Notification G. S. R. 130 (E) dated 27/02/2014- Amendments in schedule VII of the Companies Act, 2013 for item (i) to (x)	<p>(I) In Schedule VII. for items (i) to (x) and the entries relating thereto, the following items and entries shall be substituted, namely ;—</p> <ul style="list-style-type: none"> (i) eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water: (ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently able and livelihood enhancement projects; (iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups: (iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water; (v) Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries: promotion and development of traditional arts and handicrafts; (vi) Measures for the benefit of armed forces veterans, war widows and their dependents; (vii) Training to promote rural sports, nationally recognized sports, Paralympics sports and Olympic sports:

 Amendment Rules/Circulars/Notifications/Orders/
and Particular

Description

<p>Notification no. G.S.R. 261 (E) dated 31/03/2014 In notification G.S.R. 130 dated 27/02/2014, "promoting preventing health care " read "promoting healthcare including preventive health care"</p> <p>Notification no. G.S.R. 568 (E) dated 06/08/2014- In exercise of the powers conferred by Section 467(1) of the Companies Act,2013, the Central Government hereby makes further amendments in Schedule VII of the said Act</p> <p>Notification G. S. R. 741(E) dated 24th October, 2014 – Amendment in Schedule VII</p>	<p>(viii) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio- economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women:</p> <p>(ix) Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;</p> <p>(x) Rural development projects.</p> <p>In the notification of the Government of India in the Ministry of Corporate Affairs dated the 27th February, 2014 published in the Gazette of India, Extraordinary, Part II, Section 3, S ub-section (i) vide G.S.R. No. 130(E), dated the 28th February, 2014 at page 2, line 20 for "promoting preventive health care" read "promoting health care including preventive health care".</p> <p>In Schedule VII, after item (x), the following item and entry shall be inserted, namely: "(xi) Slum area development. Explanation. — For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force."</p> <p>(i) In item (i), after the words "and sanitation", the words "including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation" has been inserted;</p> <p>(ii) In item (iv), after the words "and water", the words "including contribution to the Clean Ganga Fund setup by the Central Government for rejuvenation of river Ganga;" has been inserted.</p>
---	--

CHAPTER I

PRELIMINARY

Chapter Title	Preliminary
Sections Covered	Section-1G2
Topics Covered	Commencement and Application Definition of various terms used in the Act. (95 definitions)
Rules Framed thereunder	Companies (Specification of definitions details) rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars, Orders and Amendment Rules issued by the Ministry under this chapter so far:

1. General Circular No. 20/2013 dated 27th December, 2013
2. General Circular no. 24/2014 dated 25th June, 2014
3. The Companies (Removal of difficulties) Fifth Order, 2014 dated 9th July, 2014
4. The Companies (Removal of difficulties) Sixth Order, 2014 dated 24th July, 2014.
5. The Companies (Removal of difficulties) Order, 2015 dated 13th Feb., 2015.
6. The Companies (Specification of Definitions details) Amendment Rules 2014 dated 17th July, 2014.

Broad Topics covered in Circulars, Orders and Amendment Rules are as under :

- Subsidiary Company or Subsidiary
- Associate Company
- Related Party
- Small Company

I. SUBSIDIARY COMPANY OR SUBSIDIARY

Under section 2 (87) "Subsidiary Company" or "Subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company—

- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies:

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

Explanation.—For the purposes of this clause,—

- (a) a company shall be deemed to be a subsidiary company of the holding company even if the

control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

(b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(c) the expression "company" includes any body corporate;

(d) "layer" in relation to a holding company means its subsidiary or subsidiaries.

Issue involved

Whether shares held or power exercisable by a company in a 'fiduciary capacity' will be excluded while determining if a particular company is a subsidiary of another company. Further, in terms of section 4(3) of the Companies Act, 1956, such shares or powers were excluded from the purview of holding-subsidiary relationship.

Clarification issued

The Ministry has vide its General circular No. 27/2013 dated 27th December 2013 clarified that the shares held by a company or power exercisable by it in another company in a 'fiduciary capacity' shall not be counted for the purpose of determining the holding-subsidiary relationship in terms of the provision of section 2(87) of the Companies Act, 2013.

II. ASSOCIATE COMPANY

Shares held in Fiduciary Capacity, with reference to the definition of "Associate Company"

Section 2(6) of Companies Act 2013 defines that "associate company", in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

Explanation.—For the purposes of this clause, "significant influence" means control of at least twenty per cent. of total share capital, or of business decisions under an agreement;

Issue involved

Whether shares held by a company in another company in a fiduciary capacity shall be counted for the purpose of determining the relationship of 'associate company' under Section 2(6) of the Companies Act 2013?

Clarification issued

The Ministry of Corporate Affairs (MCA) vide its General circular No. 24/2013 dated 25th June, 2014, clarified that the shares held by a company in another company in a 'fiduciary capacity' shall not be counted for the purpose of determining the relationship of 'associate company' under section 2(6) of the Companies Act, 2013.

III. RELATED PARTY

Section 2(76) of the Companies Act 2013 as notified on September 12, 2013 defines "related party", with reference to a company, means—

- (i) a director or his relative;
- (ii) a key managerial personnel or his relative;
- (iii) a firm, in which a director, manager or his relative is a partner;

- (iv) a private company in which a director or manager is a member or director;
- (v) a public company in which a director or manager is a director or holds along with his relatives, more than two per cent. of its paid-up share capital;
- (vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;
- (vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

- (viii) any company which is—
 - (A) a holding, subsidiary or an associate company of such company; or
 - (B) a subsidiary of a holding company to which it is also a subsidiary;
- (ix) such other person as may be prescribed;

Issue involved

Whether sub-clause (iv) to Section 2(76) includes the term relative?

There are interpretation issue due to absence of the word "relative" in sub-clause (iv), although such word has occurred in sub-clauses (i), (ii), (iii) and (v) of the Section 2 (76) resulting in a disharmonious interpretation of the said definition.

Order issued

The Ministry of Corporate Affairs vide its Companies (Removal of Difficulties) fifth Order, 2014, dated 9th July, 2014 notified that in sub-clause (v) of clause (76) of section 2, for the words "or holds", the words "and holds" shall be substituted.

The Ministry of Corporate Affairs vide its Companies (Removal of Difficulties) Sixth Order, 2014, dated July 24, 2014 notified that In section 2 of the Companies Act, 2013, in clause (76), in sub-clause (iv), after the word "manager", the word "or his relative" shall be inserted.

Accordingly the amended definition of related party under Section 2(76) is as follows (changes indicated in the bold):

"related party", with reference to a company, means—

- (i) a director or his relative;
- (ii) a key managerial personnel or his relative;
- (iii) a firm, in which a director, manager or his relative is a partner;
- (iv) a private company in which a director or manager **or his relative** is a member or director;
- (v) a public company in which a director or manager is a director **and holds** along with his relatives, more than two per cent. of its paid-up share capital;
- (vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;
- (vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(ix) such other person as may be prescribed;

Issue involved

Whether Independent director of the holding company or his relative with reference to a company is deemed to be related party under Rule 3 of Companies (Specification of Definitions details) Rules 2014?

Rule 3 of Companies (Specification of Definition details) Rules 2014 reads as under:

Rule 3. Related party.- For the purposes of sub-clause (ix) of clause (76) of section 2 of the Act, a director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

Amendments to Rules

The Ministry has vide its Companies (Specification of Definitions details) Amendment Rules 2014 clarified that , in Rule 3, after the words "A director" the words "other than independent director" shall be inserted. Accordingly Independent directors of the holding company shall not be deemed to be a related party.

Accordingly, the amended Rule 3 is read as under:

Rule 3. Related party.- For the purposes of sub-clause (ix) of clause (76) of section 2 of the Act, a director other than independent director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

IV. SMALL COMPANY

Section 2(85) of the Companies Act, 2013 defines small company as under:

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

- (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; or
- (ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty 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;

Issue Involved

According to clause (85) of section 2, a company may be treated as a 'small company' if it meets either of the conditions provided therein i.e. Rs. 50 lakh paid up capital **or** turnover of Rs. 2 Crore. Difficulties have arisen in this regard as companies which, though, meet one of the criteria but

exceed the monetary limit in respect of second criteria excessively are also getting classified as 'small companies'.

Order issued

In order to remove the said difficulty, the Ministry of Corporate Affairs vide its Companies (Removal of Difficulties) Order, 2015 dated 13th February, 2015 notified that the word "Or" occurring between clause sub-clause (i) and (ii) of clause (85) of section 2, the words "and" shall be substituted.

Now, subject to the other provisions of the Companies Act, 2013 the companies satisfying both the criteria of maximum paid up capital of Rs. 50 lakh **or** turnover of Rs. 2 Crore shall be treated as small Company.

Accordingly, the amended definition under Section 2(85) is read as under

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

- (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; **and**
- (ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty 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;

The text of the Circulars, Orders and Amended Rules issued under this Chapter appended as under:

1

General Circular No. 20/2013

No. 1/12/2013-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan
Dr. R.P. Road, New Deihi-110001

Dated: 27th December, 2013.

To

All Registrar of Companies
All Regional Directors

Subject : - Clarification with regard to holding of shares or exercising power in a fiduciary capacity - Holding and Subsidiary relationship under Section 2(87) of the Companies Act, 2013

Sir,

This Ministry has received a number of representations consequent upon notifying section 2(87) of the Companies Act, 2013 which defines "subsidiary company" or "subsidiary". The stakeholders have requested this Ministry to clarify whether shares held or power exercisable by a company in a 'fiduciary capacity' will be excluded while determining if a particular company is a subsidiary of another company. The stakeholders have further pointed out that in terms of section 4(3) of the Companies Act, 1956, such shares or powers were excluded from the purview of holding-subsidiary relationship.

2. The matter has been examined in the Ministry and it is hereby clarified that the shares held by a company or power exercisable by it in another company in a 'fiduciary capacity' shall not be counted for the purpose of determining the holding-subsidiary relationship in terms of the provision of section 2(87) of the Companies Act, 2013.

3. This issues with the approval of competent authority.

Yours faithfully,

Sd/-

(KMS NARAYANAN)

Assistant Director

General Circular No. 24/2014

General Circular No. 24/2014

F. No: 01/13/2013 -CL-V

Government of India

Ministry of Corporate Affairs

W Wing, 5th Floor, Shastri Bhawan
Dr. Rajendra Prasad Road, New Delhi-110001

Date: 25.06.2014

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

Subject: Clarification with regard to holding of shares in a fiduciary capacity by associate company under section 2(6) of the Companies Act, 2013

Sir,

In continuation of the General Circular No. 20/2013 dated 27/12/2013, it is clarified that the shares held by a company in another company in a 'fiduciary capacity' shall not be counted for the purpose of determining the relationship of 'associate company' under section 2(6) of the Companies Act, 2013.

2. This issue with approval of Competent Authority.

Yours faithfully,

Sd/-

(KMS Narayanan)

Asstt. Director
23387263

Copy to:

1. PPS to SECRETARY
2. PPS to Addl. Secretary
3. PS to JS(M)/ JS(B)/ JS(SP)
4. Dir(AK) /Dir(AB)/Dir(NC)/ Dir(PS)

MINISTRY OF CORPORATE AFFAIRS**ORDER**

New Delhi, the 9th July, 2014

S.O. 1820(E).—Whereas the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on 29th August, 2013 and section I thereof came into force on the same date;

And whereas clause (76) of Section 2 of the said Act define the term 'related party'. In sub-clause (v) of the said clause, the word 'or' has appeared inadvertently and therefore defeating the intention of that clause.

And whereas difficulties have arisen regarding compliance with the provision.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 470 of the Companies Act, 2013 the Central Government hereby makes the following order to remove the above said difficulties, namely :-

1. Short title and commencement.—

(1) This order may be called the Companies (Removal of Difficulties) Fifth Order, 2014.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In sub-clause (v) of clause (76) of section 2, for the words "or holds", the words "and holds" shall be substituted.

[F. No. 2/5/2014-CL. VI

AMARDEEP SINGH BHATIA

Jt. Secy

MINISTRY OF CORPORATE AFFAIRS**ORDER**

New Delhi, the 24th July, 2014

S.O. 1894 (E).—Whereas the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on 29th August, 2013 and section 1 thereof came into force on the same date;

And whereas clause (76) of section 2 of the Act, which provides for definition of the term "related party" has come into force on 12th September, 2013;

And whereas difficulties have arisen in interpreting the said clause due to the absence of the word "relative" in sub-clause (iv), although such word has occurred in sub-clauses (i), (ii), (iii) and (v) of the aforesaid clause (76) resulting in a disharmonious interpretation of the said definition.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:—

1. Short title and commencement.—(1) This Order may be called the Companies (Removal of difficulties) Sixth Order, 2014.
(2) It shall come into force on the date of its publication in the Official Gazette.
2. Amendment of section 2.—In section 2 of the Companies Act, 2013, in clause (76), in sub-clause (iv), after the word "manager", the word "or his relative" shall be inserted.

[F. No. 2/14/2014-CL.V]

AMARDEEP SINGH BHATIA

Jt. Secy.

MINISTRY OF CORPORATE AFFAIRS**ORDER**

New Delhi, the 13th February, 2015

S.O. 504(E).—Whereas, the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013;

And whereas, clause (85) of section 2 of the said Act provides for definition of the term “small company”;

And whereas, clause (b) of sub-section (11) of section 186 of the said Act provides that the requirements of provisions of section 186 [except sub-section (1) of the said section] shall not apply to any acquisition made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934) and any other company whose principal business is acquisition of securities;

And whereas, such provisions of clause (85) of section 2 and section 186 of the said Act had come into force on the 1st day of April, 2014;

And whereas, the following difficulties have arisen in giving effect to the above provisions of the said Act:—

- (a) According to clause (85) of section 2, a company may be treated as a ‘small company’ if it meets either of the conditions provided therein thereby making the second limit unrestricted or inconsequential. Difficulties have arisen in this regard as companies which, though, meet one of the criteria but exceed the monetary limit in respect of second criteria excessively are also getting classified as ‘small companies’; and
- (b) in clause (b) of sub-section (11) of section 186, in the absence of provisions for exemption to a banking company or an insurance company or a housing finance company making acquisition of securities in its ordinary course of business, a difficulty has arisen that such companies cannot make any acquisition of securities in their ordinary course of business;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:—

- (1) **Short title and commencement.**—(1) This Order may be called the Companies (Removal of Difficulties) Order, 2015.
 - (2) It shall come into force on the date of its publication in the Official Gazette.
2. In the Companies Act, 2013 (hereinafter referred to as the said Act),—
- (a) in section 2, in clause (85), in sub-clause (i), for the word “or” occurring at the end, the word “and” shall be substituted; and
 - (b) in section 186 of the said Act, in sub-section (11), in clause (b), after item (iii), the following item shall be inserted, namely :—
“(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.”.

[F. No. 1/13/2013-CL.V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 17th July, 2014

G.S.R. 507(E).—In exercise of the powers conferred by sub-clause (ix) of clause (76) of Section 2, 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. (1) These rules may be called the Companies (Specification of definitions details) Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Specification of definitions details) Rules, 2014, in rule 3, after the words 'a director' the words 'other than an independent director', shall be inserted.

[F. No. 01/13/2013 (Part-I)-CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 238(E), dated the 31st March, 2014.

Chapter II

INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO

Chapter Title	Incorporation of Company and matters incidental thereto
Sections Covered	Section-3 to Section-22
Topics Covered	Formation of different types of Companies, Memorandum and Articles of Association and alteration thereof, Formation of companies with charitable objects, etc., Conversion of Companies
Rules Framed thereunder companies	Companies (Incorporation) rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars and Amendment Rules issued by Ministry under this chapter so far:

1. General Circular No. 11/2014 dated 12th May, 2014.
2. General Circular No. 12/2014 dated 22nd May, 2014.
3. General Circular No. 13/2014 dated 23rd May, 2014.
4. General Circular No. 16/2014 dated 10th June, 2014.
5. General Circular No. 18/2014 dated 11th June, 2014.
6. General Circular No. 23/2014 dated 25th June, 2014.
7. General Circular No. 26/2014 dated 27th June, 2014.
8. General Circular No. 29/2014 dated 11th July, 2014.
9. General Circular No. 31/2014 dated 19th July, 2014.
10. Companies (Incorporation) Amendment Rules, 2015 dated 1st May, 2015
11. Companies (Incorporation) Second Amendment Rules, 2015 dated 29th May, 2015

Broad Topics covered in Circulars and Amendment Rule are as under :

1. Applicability of PAN requirement for Foreign Nationals.
2. Clarification for filing form no INC 27 for conversion of company from public to private under the provisions of Companies Act 2013.
3. Subsidiaries to be incorporated or incorporated by companies incorporated outside India.
4. Use of the word 'Commodity Exchange' in the name of the company.
5. Registration of the names of companies to be in consonance with the provisions of the Emblems and Names (Prevention of Improper Use) Act 1950.

6. One time opportunity for extension of Period of Reservation of Name.

7. Integrated Incorporation Form.

I. Applicability of PAN requirement for Foreign Nationals

Issue involved

Whether PAN details are required for foreign nationals while filing form INC-7 (incorporation form)?

Attention of Ministry was drawn to difficulties being faced by Foreign Nationals while filing Incorporation form (INC-7) due to mandatory requirement of submission of PAN details of intending Directors at the time of filing the application for incorporation.

Clarifications issued

The Ministry vide its Circular No. 12/2014 dated May 22, 2014 has clarified that PAN details are mandatory only for those foreign nationals who are required to possess "PAN" in terms of provisions of the Income Tax Act, 1961 on the date of application for incorporation. Where the intending Director who is a Foreign National is not required to compulsorily possess PAN, it will be sufficient for such a person to furnish his/her passport number, alongwith undertaking stating that provisions of mandatory applicability of PAN are not applicable to the person concerned. The form of Declaration is required to be made in the proforma prescribed.

The Ministry further vide its circular no 16/2014 dated June 06, 2014 clarified that the provisions of the Circular No. 12/2014 are applicable to a Foreign National who is a subscriber/promoter at the time of incorporation of the Company. In case of a Resident Director of the proposed company, he/she shall be required to submit PAN details at the time of incorporation.

II. Clarification for filing form no INC - 27 for conversion of company from public to private under the provisions of Companies Act 2013

Issue involved

Whether form INC 27 is to be filed while conversion of public company into a Private Company?

Attention of the Ministry was drawn to difficulties being faced by stakeholders while filing form INC-27 for conversion of a public company into a private company. The relevant provisions of Companies Act, 2013 (second proviso to sub-section (1) and sub-section (2) of section 14) have not been notified.

Clarifications issued

In view of the difficulties, the Ministry has clarified vide its Circular No. 18/2014 dated June 11, 2014 that the corresponding provisions of Companies Act, 1956 (Proviso to sub-section (1) and sub-section (2A) of Section 31) shall remain in force till corresponding provisions of Companies Act, 2013 are notified. The Central Government has delegated such powers under the Companies Act, 1956 to the Registrar of Companies (ROCs) vide item No. (c) of the notification number S.O. 1538(E) dated the 10th July, 2012 and this delegated power remains in force. Applications for such conversions, therefore, have to be filed and disposed as per the earlier provisions.

III. Subsidiaries to be incorporated or incorporated by companies incorporated outside India.

Issue involved

What is the status of subsidiaries incorporated/to be incorporated by companies incorporated

outside India. In absence of the deeming provision of sub-section (7) of section 4 of the Companies Act, 1956 in the Companies Act, 2013?

Ministry received references seeking clarity about the status of subsidiaries incorporated/to be incorporated by companies incorporated outside India. Attention has, in particular, been drawn to the absence of the deeming provision of sub-section (7) of section 4 of the Companies Act, 1956 in the Companies Act, 2013 (New Act).

Clarification issued

The matter has been examined in the Ministry in the light of sections 2(68), 2(71) and 2(87) of the New Act and it is clarified vide circular no 23/2014 dated June 25, 2014 that there is no bar in the new Act for a company incorporated outside India to incorporate a subsidiary either as a public company or a private company. An existing company, being a subsidiary of a company incorporated outside India, registered under the Companies Act, 1956, either as private company or a public company by virtue of section 4(7) of that Act, will continue as a private company or public company, as the case may be, without any change in the incorporation status of such company.

IV. Use of the word 'Commodity Exchange' in the name of the company

Issue involved

Whether the company can register with the word Commodity Exchange?

Clarification issued

The Ministry vide its circular No 26/2014 dated June 27, 2014 that the use of the word "Commodity Exchange" may be allowed only where a "No Objection Certificate" from the Forward Markets Commission (FMC) is furnished by the applicant. All other provisions of the Companies (Incorporation) Rules, 2014 will continue to be applicable. It is also clarified that the certificate from Forward Markets Commission will also be required in cases of companies registered with the words "Commodity Exchange" before the issue of this circular.

V. Registration of the names of companies to be in consonance with the provisions of the Emblems and Names (Prevention of Improper Use) Act 1950.

Issue involved

Whether the Registration of the names of companies to be in consonance with the provisions of the Emblems and Names (Prevention of Improper Use) Act 1950?

Clarification issued

The Ministry vide its Circular No. 29/2014 dated July 11, 2014 directed that while allotting names to Companies/Limited Liability Partnerships, the Registrar of Companies concerned should exercise due care to ensure that the names are not in contravention of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950. To this end it is necessary that Registrars are fully familiar with the provisions of the said Act.

VI. Amendments in Companies Incorporation Rules, 2015

There are several amendments incorporated in Companies (Incorporation) Amendment Rules, 2014, which are as under:

- (a) Rule 5 relating to penalty for One Person Company has been omitted. The revised penal provision for One Person Company has been introduced as Rule 7A.
- (b) Substitution in Rule 7 (1):

The rule provided that "A private company other than a company registered under section 8 of the Act having paid up share capital of fifty lakhs rupees or less or average annual turnover during the relevant period is two crore rupees or less may convert itself into one person company by passing a special resolution in the general meeting."

After the amendment the rule is read as under:

"A private company other than a company registered under section 8 of the Act 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 may convert itself into one person company by passing a special resolution in the general meeting."

- (c) Rule 7A has been introduced after Rule 7, which is read as under:

7A. Penalty.- if a One Person Company or any officer of such company contravenes any of the provisions of these rules, the One Person Company or any officer of the such Company shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to five hundred rupees for every day after the first offence during which such contravention continues";

- (d) In rule 8, in sub-rule(2), in clause(b), in sub-clause (xi), in the proviso, after the words and figures "under section 248 of the Act". The words, figures and brackets "or under section 560 of Companies Act, 1956 (1 of 1956)"has been inserted.

After the amendment the sub-clause is read as under:

(xi) the proposed name is identical to the name of a company dissolved as a result of liquidation proceeding and a period of two years have not elapsed from the date of such dissolution:

Provided that if the proposed name is identical with the name of a company which is struck off in pursuance of action under section 248 of the Act **or under section 560 of Companies Act, 1956 (1 of 1956)**, then the same shall not be allowed before the expiry of twenty years from the publication in the Official Gazette being so struck off;

- (e) in order to supplement the ease of doing business, rule 16(1)(q) requiring specimen signature and latest photograph duly verified by the banker or notary in form INC 10 has been substituted for self attestation.

After the amendment it is read as under:

(q) the promoter or first director shall attest his signature and latest photograph in Form No. INC. 10

- (f) Insertion of Rule 36, introducing the concept of Integrated Incorporation.

For the purpose of simplifying the filing of forms for incorporation of a company, the integrated process has been introduced in the form of INC 29. The application for allotment of Din upto 3 Directors, reservation of name, incorporation of company and appointment of Directors of the proposed company is to be filled in Form No. INC-29, for One Person Company, Private Company, Public company and Producer company. The additional fee of Rs. 2000 over and above registration fee is to be paid.

- (g) Form No. INC-7, INC-10, INC-11 and INC-22 have been substituted. The same are available at www.mca.gov.in.

VII. Companies (Incorporation) Second Amendment Rules, 2015

- (a) in rule 12, the following proviso was inserted: "Provided that in case pursuing of any of the objects of a company requires registration or approval from sectoral regulators such as

Reserve Bank of India, Securities and Exchange Board, registration or approval, as the case may be, from such regulator shall be obtained by the company before pursuing such objects and a declaration in this behalf shall be submitted at the stage of incorporation of the company.”;

The amended rules will be read as under :

An application shall be filed, with the Registrar within whose jurisdiction the registered office of the company is proposed to be situated, in **Form No.INC.2 (for One Person Company) and Form no. INC.7 (other than One Person Company)** along with the fee as provided in the **Companies (Registration offices and fees) Rules, 2014** for registration of a company:

“Provided that in case pursuing of any of the objects of a company requires registration or approval from sectoral regulators such as Reserve Bank of India, Securities and Exchange Board, registration or approval, as the case may be, from such regulator shall be obtained by the company before pursuing such objects and a declaration in this behalf shall be submitted at the stage of incorporation of the company

- (b) rule 24 and E-form INC -21 relating to Declaration at the time of commencement of business has been omitted;
- (c) Form INC-13 and Form INC-16, Substituted with new Form INC-13 and Form INC-16, (the same are available at www.mca.gov.in)

The text of the Circulars issued under this Chapter appended as under:

1

General Circular No. 11/2014

MCA21 /72/ 2014-e-gov.Cell

Government of India

Ministry of Corporate Affairs

'A' Wing, 5th Floor, Shastri Bhawan
Dr. R.P Road, New Delhi-110001

Date 12th May, 2014

To

All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Sub: - One time opportunity for extension of Period of Reservation of Name.

Sir,

Services for incorporation of companies were not available on the MCA21 portal to stakeholders from 1st April, 2014 to 28th April, 2014 because of the deployment requirements for new E-forms. Many stakeholders had reserved names for the purpose of Company incorporation with 60 days prescribed validity expiring during the above mentioned period. They could not avail of the 60 days prescribed period for using the name to complete the corresponding incorporation requirements due to the non-availability of services.

2. In view of this, the validity of reservation of all such names with due date of expiry between 1st April, 2014 to 28th April, 2014 is hereby extended upto 31st May, 2014. All applicants whose cases fall in the above mentioned category may be advised to file relevant E-forms for incorporating companies under the Companies Act, 2013 well before the extended validity period.

Yours faithfully,

(KMS Narayanan)
Assistant Director
Tel-23387263

1. PPS to Secretary
2. PPS to Additional Secretary
3. PPS to JS(R)/ JS(B)/JS(M)/DII(UCN)/DII(BNH)
4. PS to DIR(AB) & PS to DIR(NC) & DIR(PS).

General Circular No. 12/2014

F.NO.1/12/2013CL-V
Government of India
Ministry of Corporate Affairs

'A' Wing, 5th Floor, Shastri Bhawan
 Dr, Raiendra Prasad Road, New Delhi-110001

Dated: 22nd May, 2014

To

All Regional Directors,
 All Registrar of Companies
 All Stakeholders.

Sub: Applicability' of PAN requirement for Foreign Nationals

Sir,

Attention of Ministry has been drawn to difficulties being faced by Foreign Nationals while filing Incorporation form (INC-7] due to mandatory requirement of submission of PAN details of intending Directors at the time of filing the application for incorporation.

2. It is hereby clarified chat PAN details are mandatory only for those foreign nationals who are required to possess "PAN" in terms of provisions of the Income Tax Act, 1961 on the date of application for incorporation. Where the intending Director who is a Foreign National is not required to compulsorily possess PAN, it will be sufficient for such a person to furnish his/her passport number, alongwith undertaking stating that provisions of mandatory applicability of PAN are not applicable to the person concerned. The form of Declaration is required to he made in the proforma enclosed.
3. This issues with the approval of Competent Authority.

Yours faithfully,

Sd/-

(KMS Narayanan)
 Assistant Director
 Tel: 23387263

Encl. As above

Copy to :

1. PSO to Secretary
2. HPS to Additional Secretary
3. PS to JS(M)/JS(B)/JS (SP)
4. DIR(AK)/DIR(AB)/DIR(NC)/DIR(PS]

Undertaking

I _____ (name) son of (father's name), citizen of _____
 (nationality) _____ having passport No. _____ (passport Number] declare as under:

- (i) That I am not required under the provisions of Income Tax Act, 1961 to Obtain Income Tax Permanent Account Number [PAN];
- (ii) That in view of the above I have not been issued any PAN; and
- (iii) That I undertake to furnish to the Registrar of Companies [Mention Jurisdiction] details of my PAN as soon as a Permanent Account Number is issued to me.

Date.

(Signature)

General Circular No. 13/2014

F. No : MCA21/28/2014-e.Gov.

Government of India

Ministry of Corporate Affairs

"A" Wing, 5th Floor, Shastri Bhawan
Dr. Rajendra Prasad Road, New Delhi-110001

Date: 23.05.2014

To

All Regional Directors

All Registrar of Companies

All Stakeholders

Subject: Extension of validity period for names reserved as on 31st March, 2014.

Sir,

In confirmation of the General Circular No 11/2014 dated 12.05.2014, approval of the Competent Authority is hereby conveyed to extend continuity of all reserved names as on 31st March, 2014 for another fifteen days period from the date of issue of this circular.

This issues with the approval of Competent Authority.

Yours faithfully,

(KMS Narayanan)

Asstt. Director
23387263

Copy to:

1. PPS to Secretary
2. PPS to Addl. Secretary
3. PS to JS(M)/PS to JS(B)/ PPS to JS(SP)
4. Dir(AK) / Dir(AB) / Dir(NC)/ DIR(PS)
5. AD(KMS)

General Circular No.16/ 2014

**F. No: 01/12/2013 CL-V
Ministry of Corporate Affairs
Government of India**

'A' Wing, 5th floor, Shastri Bhawan
Dr. Rajendra Prasad Road, New Delhi-01

Dated: 10.06.2014

To

All Regional Directors,
All Registrars of Companies
All Stakeholders.

Sub: Applicability of PAN requirement for Foreign Nationals

Sir,

In continuation of the General Circular No. 12/2014 dated 22.05.2014 regards the above subject, it is clarified that the provisions of the said Circular are applicable to a Foreign National who is a subscriber/promoter at the time of incorporation of the Company.

2. In case the said subscriber/promoter, does not possess Permanent Account Number (PAN), he/she shall furnish a declaration in the prescribed proforma, as an attachment to the Incorporation Form (INC-7).
3. Further, it is clarified that, in case of a Resident Director of the proposed company he/she shall be required to submit PAN details at the time of incorporation.
4. This issue with the approval of the Competent Authority.

Yours faithfully,

Sd/-

(Sanjay Kumar Gupta)
Deputy Director
Tel: 23384657

Encl : Undertaking

PPS to Secretary
PPS to Additional Secretary
PPS to JS (B)/JS (M)/DII (UCN)/ DII (BNH)/DII (RCM)
PS to DIR (AB)

Undertaking

I (name) _____, son of _____ (father's name), citizen of (nationality) R/o (Address) having passport No. _____ (passport Number) whereby declare as under:

- (i) That I am not required to obtain Income Tax Permanent Account Number (PAN) under the provisions of Income Tax Act, 1961;
- (ii) That in view of the above I have not been issued any PAN; and
- (iii) That I undertake to furnish to the Registrar of Companies (mention jurisdiction) details of my PAN as soon as a Permanent Account Number is allotted to me.

Date:

(Signature)

Place:

Name of the Person

General Circular No. 18/2014

File No. MCA21/72/2014-e.Gov.

Government of India

Ministry of Corporate Affairs

'A' Wing, 5th floor, Shastri Bhawan
Dr. Rajendra Prasad, New Delhi-110001

Dated: 11 June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject:- Clarification for filing of form No. INC-27 for conversion of company from public to private under the provisions of Companies Act, 2013-reg.

Sir,

Attention of the Ministry has been drawn to difficulties being faced by stakeholders while filing form INC-27 for conversion of a public company into a private company. The relevant provisions of Companies Act, 2013 (second proviso to sub-section (1) and sub-section (2) of section 14) have not been notified. In view of this, the corresponding provisions of Companies Act, 1956 (Proviso to sub-section (1) and sub-section (2A) of Section 31) shall remain in force till corresponding provisions of Companies Act, 2013 are notified. The Central Government has delegated such powers under the Companies Act, 1956 to the Registrar of Companies (ROCs) vide item No. (c) of the notification number S.O. 1538{E) dated the 10th July, 2012 and this delegated power remains in force. Applications for such conversions, therefore, have to be filed and disposed as per the earlier provisions.

2. This issues with the approval of the Competent Authority.

(Sanjay Kumar Gupta)
Deputy Director
Ph: 23384657

Copy to:

1. PSO to Secretary
2. PPS to Addl. Secretary
3. PS to JS(M)/ PS to JS(B)/ PPS to JS(SP)
4. DIR(AK)/DIR(AB)/DIR(NC)/DIR(PS)

General Circular No. 23/2014

F. N: 1/13/2013-CL-V

Government of India

Ministry of Corporate Affairs

'A' Wing, 5th Floor, Shastri Bhawan
Dr. R.P. Road, New Delhi-110001

Date: 25.06.2014

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

**Subject: Clarification relating to incorporation of a company i.e. company
Incorporated outside India.**

Sir,

Government has received references seeking clarity about the status of subsidiaries incorporated/ to be incorporated by companies incorporated outside India. Attention has, in particular, been drawn to the absence of the deeming provision of sub-section (7) of section 4 of the Companies Act, 1956 in the Companies Act, 2013 (New Act).

The matter has been examined in the Ministry in the light of sections 2(68), 2(71) and 2(87) of the New Act and it is clarified that there is no bar in the new Act for a company incorporated outside India to incorporate a subsidiary either as a public company or a private company. An existing company, being a subsidiary of a company incorporated outside India, registered under the Companies Act, 1956, either as private company or a public company by virtue of section 4(7) of that Act, will continue as a private company or public company, as the case may be, without any change in the incorporation status of such company.

3. This issue with approval of Competent Authority.

Yours faithfully

Sd/-

(KMS Narayanan)

Asst. Director

23387263

Copy to:

1. PSO to Secretary
2. PPS to Addl. Secretary
3. PS to JS(M)/ PS to JS(B)/ PPS to JS(SP)
4. DIR(AK)/DIR(AB)/DIR(NC)/DIR(PS)

General Circular No: 26 /2014

No. 2/2/2014-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, 'A Wing', Shastri Bhawan
Dr. R.P. Road, New Delhi -110001

Dated: 27th June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject : Clarification with regard to use of the words "Commodity Exchange" in a company-reg.

Sir,

In continuation of this Ministry's circular no. 02/2014 dated 11.02.2014, it is hereby clarified the use of the word "Commodity Exchange" may be allowed only where a "No Objection Certificate" from the Forward Markets Commission (FMC) is furnished by the applicant. All other provisions of the Companies (Incorporation) Rules, 2014 will continue to be applicable.

2. It is also clarified that the certificate from Forward Markets Commission will also be required in cases of companies registered with the words "Commodity Exchange" before the issue of this circular.
3. This issues with the approval of competent authority.

Your's faithfully

Sd/-

(KMS (Narayanan)

Assistant Director (Policy)

23387263

1. E-Governance Cell and Web Contents Officer to place this Circular on Ministry's Website.
2. Guard File

General Circular No.29/2014

File No.2/2/2014-CL-V
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan
Rajendra Prasad Road, New Delhi-110 001

Dated: 11th July, 2014

To

All Regional Directors,
All Registrars of Companies.

Subject: Registration of names of the Companies shall be in consonance with the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 -reg.

Sir,

In continuation of this Ministry's circular No. 02/2014 and 26/2014 dated 11.02.2014 and 27.06.2014 respectively, it is hereby directed that while allotting names to Companies/Limited Liability Partnerships, the Registrar of Companies concerned should exercise due care to ensure that the names are not in contravention of the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950. To this end it is necessary that Registrars are fully familiar with the provisions of the said Act.

2. This issues with the approval of the competent authority.

Yours faithfully

Sd/-

(Kamna Sharma)
Assistant Director

Tel: 23387263

1. E-Governance Cell and Web Contents Officer to place this Circular on Ministry's Website.

General Circular No. 31/2014

F. No. : MCA21/152/2014-eGov Cell

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr. R. P. Road, New Delhi

Dated: 19 July, 2014

To

All Regional Directors

All Registrars of Companies

Subject : Extension of validity period of reserved names – reg.

Sir,

The Service Provider of MCA-21 has brought to the notice of the Ministry that the letters of intimation issued in respect of 9522 cases for reservation of names (INC-1) allow the applicants to use reserved names within 60 days of date of intimation. This is at variance with the implementation in the MCA-21. This is causing inconvenience to the stakeholders.

In view of this, the validity of 1930 of the above mentioned 9522 cases for reservation of names which have expired as on the date of this circular is hereby extended upto 18th August, 2014. Further, in case of 6864 cases where names have been reserved and yet are to be used, the time period as indicated in the letters of intimation is allowed. All applicants may accordingly be advised to file relevant e- forms for incorporation of companies under Companies Act, 2013 well before the validity period.

This issues with the approval of competent authority.

Yours faithfully,

(Animesh Bose)

Assistant Director (Policy)

Copy to:

1. e-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File.

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi 1st May, 2015

G.S.R.....- In exercise of the powers conferred by section 3, section 4, sub-sections (5) and (6) of section 5, section 6, sub-section (1) and (2) of section 7, sub- sections (1) and (2) of section 8, clauses (a) and (b) of sub- section (1) of section 11, sub-sections (2), (3), (4) and (5) of section 12, sub-sections (3), (4) and the proviso to sub-section (5) of section 13, sub- section (2) of section 14, sub- section (1) of section 17, sub-sections (1) and (2) of section 20 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 amendments to the Companies (Incorporation) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Incorporation) Amendment Rules, 2015.
(2) They shall come in to force on the date of their publication in the Official Gazette.
2. In the Companies (Incorporation) Rules, 2014,-
 - (a) rule 5 shall be omitted;
 - (b) in rule 6, for sub-rule (11) , for the words "having paid up share capital of fifty lakhs rupees or less or average annual turnover", the words " having paid up share capital of fifty lakhs rupees or less and average annual turnover" shall be substituted;
 - (c) in rule 7, in sub-rule (1) , for the words "having paid up share capital of fifty lakhs rupees or less or average annual turnover" , during the relevant period is , the words " having paid up share capital of fifty lakhs rupees or less and average annual turnover during the relevant period" shall be substituted;
 - (d) after rule 7, the following rules shall be inserted , namely:-

"7A. **Penalty.-** If a One Person Company or any officer of such company contravenes any of the provisions of these rules, the One Person Company or any officer of the such company shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to five hundred rupees for every day after the first offence during which such contravention continues";
 - (e) in rule 8, in sub- rule (2), In clause (b), in sub- clause (xi) , in the proviso, after the words and figures "under section 248 of the Act", the words, figures and brackets "or under section 560 of the Companies Act, 1956 (1 of 1956)" shall be inserted;
 - (f) in rule 16, in sub-rule (1), for clause (q), the following shall be substituted, namely :-

"(q) the promoter or first director shall self attest his signature and latest photograph in Form No. INC. 10".
 - (g) after rule 35, the following rules shall be inserted namely:-

36. Integrated Process for Incorporation.- (1) For the purpose of simplifying the filing of forms for incorporation of a company, the integrated process shall apply with effect from **01/05/2015**.

- (2) For the purpose of sub-rule (1), the application for allotment of Director Identification Number upto three Directors, reservation of a name, incorporation of company and appointment of Directors of the proposed company shall be filed in Integrated **Form No. INC – 29, For One Person Company , private company, public company and producer company**, with the Registrar within whose jurisdiction the registered office of the company is proposed to be situated , along with the fee of rupees two thousand in addition to the registration fee as specified in Companies (Registration of Offices and Fees) Rules, 2014.
- (3) For the purposes of filing Integrated Incorporation form, the particulars of maximum of three directors shall be allowed to be filled in INC-29 and allotment of Director Identification Number of maximum of three proposed directors shall be permitted in Form INC-29 in case of proposed directors not having approved Director Identification Number.
- (4) The promoter or applicant of the proposed company shall propose only one name in e-form No. INC- 29.
- (5) The promoter or applicant of the proposed company may prepare Memorandum of Association as per templates in Form INC – 30 and may opt for templates of Articles of association in Form INC-31 in accordance with the provisions of rule 13 for preparation of Memorandum of Association and Article of Association.
- (6) The promoter or the applicant shall sign and witness, the Memorandum of Association and Articles of Association in the forms downloaded from the portal of the Ministry of Corporate Affairs and scanned legibly and attach to e-form INC-29 in accordance with the provisions of rule 13 for preparation of Memorandum of Association and Articles of Association.
- (7) The facility to file Integrated for incorporation in Form INC- 29 is available as an option to the process for separate applications for allotment of Director Identification Number , reservation of name and Incorporation of a company as provided in these rules.
- (8) For an application filed using the integrated process of incorporation as provided in this rule, there provisions of sub-clause (i) of sub-section (5) of section 4 of the Act and rule 9 of these rules shall not apply.
- (9) A Company using the provisions of this rule may furnish verification of its registered office under sub-section (2) of section 12 of the Act by filling e- Form INC- 29 in which case the company shall attach along with such E- Form INC-29, any of the documents referred to in sub-rule (2) of rule 25.
- (10) The requirement of filing e-form INC-28 may be dispensed with if, the proposed company maintains its registered office at the given correspondence address.
- (11) The registrar within whose jurisdiction the registered office of the company is proposed to be situated shall process INC-29 including application for allotment of Director identification number.
- (12) (a) Where the Registrar, on examining e-form INC-29, finds that it is necessary to call for further information or finds such application or document to be defective or incomplete in any respect , he shall give intimation to the applicant to remove the defects and re-submit the e-form within fifteen days from the date of such intimation given by the registrar.
- (b) After the resubmission of the document , if the registrar still finds that the document is defective or incomplete in any respect, he shall give one more opportunity of fifteen days to remove such defects or deficiencies.

- (c) In case, the registrar is of the opinion that the document is defective or incomplete in any respect after giving such two opportunities, the e-form INC-29 of the proposed company shall be rejected.
- (13) The certificate of Incorporation shall be issued by the registrar in Form No. INC – 11.
- (14) In Annexure , in Form No. INC – 11, for the words, figures and brackets “ and rule 8 of the Companies (Incorporation) Rules, 2014”, the words, figures and brackets “ and rule 18 of the Companies (Incorporation) Rules, 2014”. Shall be substituted.
- (15) in Annexure,-
- (a) for Form No. INC-7, INC-10, INC-11 and INC -22, the following form shall, respectively be substituted, namely:-

The forms are available at www.mca.gov.in

[F.NO. 01/13/2013 CL-V(Part- I)]

(Amardeep Singh Bhatia)

Joint Secretary to the Govt. of India

Note :- The principal rules were published in the Gazette of India, Extraordinary, Part- II, Section 3, sub-section (i), vide number G.S.R. 250(E), dated the 31st March, 2014.

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, Dated the 29th May, 2015

G.S.R. (E). - In exercise of the powers conferred by section 7 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 further to amend the Companies (Incorporation) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Incorporation) Second Amendment Rules, 2015.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Incorporation) Rules, 2014,-

(a) in rule 12, the following proviso shall be inserted, namely:-

“Provided that in case pursuing of any of the objects of a company requires registration or approval from sectoral regulators such as Reserve Bank of India, Securities and Exchange Board, registration or approval, as the case may be, from such regulator shall be obtained by the company before pursuing such objects and a declaration in this behalf shall be submitted at the stage of incorporation of the company.”;

(b) rule 24 shall be omitted;

(c) in the Annexure, -

(i) for the existing Form INC-13 and Form INC-16, the following Form INC-13 and Form INC-16 shall respectively be substituted, namely:-

(ii) Form INC-21 shall be omitted.

The forms are available on mca.gov.in.

(F.No. 1/13/2013-CL-V)

Amardeep Singh Bhatia
Joint Secretary to the Government of India

Chapter III

PROSPECTUS AND ALLOTMENT OF SECURITIES

Chapter Title	Prospectus and allotment of Securities
Sections Covered	Section-23 to Section-42
Topics Covered	Public Offer of Securities, Power of SEBI to regulate issue and transfer of securities, etc, Prospectus, Global Depository Receipts, Private Placement
Rules Framed thereunder	Companies (Prospectus and Allotment of Securities) Rules, 2014 Companies (Issue of Global Depository Receipts) Rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars and Amendment Rules issued by the Ministry under this chapter:

1. Companies (Prospectus and Allotment of Securities) Amendment Rules, 2014 dated 30th June, 2014
2. General Circular No. 43/2014 dated 13th November, 2014

Broad Topics covered in Circular and Amendment Rules are as under :

- Passing of Special Resolution in case of offer or invitation for non-convertible Debentures.
- Applicability of Chapter III of Companies Act, 2013 to an issue of FCCBs or FCBs.

I. Offer or invitation for non-convertible debentures under Companies (prospectus and Allotment of Securities) Rules 2014.

Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules 2014 reads as under

A company shall not make a private placement of its securities unless -

(a) the proposed offer of securities or invitation to subscribe securities has been previously approved by the shareholders of the company, by a Special Resolution, for each of the Offers or Invitations:

Provided that in the explanatory statement annexed to the notice for the general meeting the basis or justification for the price (including premium, if any) at which the offer or invitation is being made shall be disclosed:

Provided further that in case of offer or invitation for non-convertible debentures, it shall be sufficient if the company passes a previous special resolution only once in a year for all the offers or invitation for such debentures during the year.

Issue involved

What is the time limit for passing the special resolution in case of offer or invitation for non-convertible debentures issued within six months of commencement of Companies (prospectus and Allotment of Securities) Rules 2014?

Amendment Rules issued

The Ministry vide the Companies (Prospectus and Allotment of Securities) Amendment Rules 2014 dated June 30, 2014 has made the following amendment in this regard:

after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in case of an offer or invitation for non-convertible debentures referred to in the second proviso, made within a period of six months from the date of commencement of these rules, the special resolution referred to in the second proviso may be passed within the said period of six months from the date of commencement of these rules.”.

After amendment Rule 14(2) of Companies (Prospectus and Allotment of Securities) Rules, 2014 reads as under:

A company shall not make a private placement of its securities unless -

(a) the proposed offer of securities or invitation to subscribe securities has been previously approved by the shareholders of the company, by a Special Resolution, for each of the Offers or Invitations:

Provided that in the explanatory statement annexed to the notice for the general meeting the basis or justification for the price (including premium, if any) at which the offer or invitation is being made shall be disclosed:

Provided further that in case of offer or invitation for non-convertible debentures, it shall be sufficient if the company passes a previous special resolution only once in a year for all the offers or invitation for such debentures during the year.

“Provided also that in case of an offer or invitation for non-convertible debentures referred to in the second proviso, made within a period of six months from the date of commencement of these rules, the special resolution referred to in the second proviso may be passed within the said period of six months from the date of commencement of these rules.”

II. Applicability of Chapter III of Companies Act, 2013 to an issue of FCCBs or FCBs**Issue involved**

— Whether the provisions of Chapter III of the Companies Act, 2013 applicable to the issue of Foreign Currency Convertible Bonds (FCCBs) and Foreign Currency Bonds (FCBs) by Indian companies exclusively to persons resident outside India in accordance with applicable sectoral regulatory provisions?

Clarification issued

The Ministry of Corporate Affairs vide Circular no. 43/2014 dated November 13, 2014 clarified that the issue of FCCBs and FCBs by companies is regulated by the regulations of Ministry of Finance on “Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipts Mechanism) Scheme, 1993” and Reserve Bank of India through its various directions/regulations. **Hence unless otherwise provided in the said Scheme or the directions/regulations issued by Reserve Bank of India, provisions of Chapter III of the Companies Act, 2013 shall not apply to an issue of FCCBs or FCBs made exclusively to persons resident outside India in accordance with above regulations.**

The text of the Amended Rules issued under this Chapter appended as under:

1

THE GAZETTE OF INDIA: EXTRAORDINARY [PART II—SEC. 3(i)]

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 30th June, 2014

G.S.R. 424 (E).—In exercise of the powers conferred by section 42 read with sub-section (1) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Prospectus and Allotment of Securities) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2014.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Prospectus and Allotment of Securities) Rules, 2014, in rule 14, in sub-rule (2), in clause (a), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in case of an offer or invitation for non-convertible debentures referred to in the second proviso, made within a period of six months from the date of commencement of these rules, the special resolution referred to in the second proviso may be passed within the said period of six months from the date of commencement of these rules.” .

[F. No 1/21/2013-CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note:- The Principal rules were published in the Official Gazette vide notification number G.S.R. 251(E) dated 31st March, 2014

General Circular No. 43/2014

No. 1/21 /2013-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, "A" Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi

Dated: 13th November, 2014

To

All Regional Directors,

All Registrars of Companies.

Subject: Issue of Foreign Currency Convertible Bonds (FCCBs) and Foreign Currency Bonds (FCBs) - Clarification regarding applicability of provisions of Chapter III of the Companies Act, 2013.

Sir,

The Ministry has been receiving references from stakeholders seeking clarity on applicability of provisions of Chapter III of the Companies Act, 2013 (Act) to the issue of Foreign Currency Convertible Bonds (FCCBs) and Foreign Currency Bonds (FCBs) by Indian companies exclusively to persons resident outside India in accordance with applicable sectoral regulatory provisions.

2. The matter has been examined in the Ministry in consultation with Ministry of Finance and SEBI. The issue of FCCBs and FCBs by companies is regulated by the Ministry of Finance's regulations contained in *Issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipts Mechanism) Scheme, 1993* (Scheme) and Reserve Bank of India through its various directions/regulations. It is, accordingly, clarified that unless otherwise provided in the said Scheme or the directions/regulations issued by Reserve Bank of India, provisions of Chapter III of the Act shall not apply to an issue of a FCCB or FCB made exclusively to persons resident outside India in accordance with the above mentioned regulations.

3. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Narayanan)

Assistant Director (Policy)

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File

Chapter IV

SHARE CAPITAL AND DEBENTURES

Chapter Title	Share Capital and Debentures
Sections Covered	Section-43 to Section-72
Topics Covered	Kinds of Share Capital, Certificate of shares, Voting right and Variation of shareholders rights, Calls on Shares, Issuance of Shares on Premium and Prohibition on issue of shares at discount, Sweat Equity Shares, Issue and redemption of preference shares, Transfer and transmission of securities, Rectification of register of members, Further issue of share capital, Issue of bonus shares, alteration/reduction of share capital, Power of company to purchase its own scrippities, issuance of Debentures
Rules Framed thereunder	Companies (Share capital and debentures) Rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars and Amendment Rules issued by the Ministry under this chapter so far:

1. General Circular No. 19/2014 dated 12th June, 2014.
2. Companies (Share Capital and Debentures) Amendment Rules, 2014 dated 18th June, 2014
3. Companies (Share Capital and Debentures) Amendment Rules, 2015 dated 18th March, 2015
4. Companies (Share Capital and Debentures) Second Amendment Rules, 2015 dated 29th May, 2015

Broad Topics covered in the Circular and Amendment Rules are as under :

- Share Transfer Forms executed before April 01, 2014.
- Issue of Duplicate Share Certificates by Committee of Directors
- Equity shares with differential voting rights
- Valuation report
- Price of the shares issued on preferential basis
- Issue of debentures by infrastructure companies

I. Share Transfer forms Executed before April 01, 2014

Issue involved

Whether share transfer forms executed before April 01, 2014 in form 7B is to be accepted?

In view of prescription of new Securities Transfer Form as per Form SH-4 with effect from 1st

April, 2014, the companies and other stakeholders have sought clarity with regard to Share Transfer Forms executed before 1st April, 2014 as per earlier Form 7B but which are yet to be accepted/registered by companies.

Clarification issued

The Ministry of Corporate Affairs vide its Circular No 19/2014 dated June 12, 2014 clarified that since transaction relating to transfer of shares is a contract between two or more persons/shareholders, any share transfer form executed before 1st April, 2014 and submitted to the company concerned within the period prescribed under relevant section of the Companies Act, 1956 needs to be accepted by the companies for registration of transfers. In case any such share transfer form, executed prior to 1st April, 2014, is not submitted within the prescribed period under the Companies Act, 1956, the concerned company may get itself satisfied suitably with regard to justification of delay in submission etc. In case a company decides not to accept the share transfer form, it shall convey the reasons for such non-acceptance within time provided under section 56(4) (c) of the Act.

II. Issue of Duplicate Share Certificates by Committee of Directors

Issue involved

Whether the powers of the Board provided under rule 6(2)(a) of Companies (Share Capital and Debentures) Rules, 2014 with regard to issue of duplicate share certificates can be exercised by a Committee of Directors?

Clarification issued

The matter has been examined in light of the relevant provisions of the Act, particularly sections 179 & 180 and regulation 71 of Table "F" of Schedule I and it was clarified vide MCA circular no 19/2014 dated June 12, 2014 that a committee of directors may exercise such powers, subject to any regulations imposed by the Board in this regard.

III. Equity shares with differential voting rights

Amendment to explanation provided under Rule 4(6)

Rule 4(6) of Companies (Share Capital and Debentures) Rules 2014 reads as under:

Where a company issues equity shares with differential rights, the Register of Members maintained under section 88 shall contain all the relevant particulars of the shares so issued along with details of the shareholders.

"Explanation.- For the purposes of this rule, it is hereby clarified that differential rights attached to such shares issued by any company under the provisions of Companies Act, 1956, shall continue till such rights are converted with the differential rights in accordance with the provisions of the Companies Act, 2013."

Companies (Share Capital and Debentures) Amendment Rules 2014 has stated that the following explanation shall be substituted in the place of explanation given under Rule 4(6)

Explanation.- For the purposes of this rule it is hereby clarified that equity shares with differential rights issued by any company under the provisions of the Companies Act, 1956 (1 of 1956) and the rules made there under, shall continue to be regulated under such provisions and rules.

After amendment Rule 4(6) read as under

Where a company issues equity shares with differential rights, the Register of Members

maintained under section 88 shall contain all the relevant particulars of the shares so issued along with details of the shareholders.

Explanation.- For the purposes of this rule it is hereby clarified that equity shares with differential rights issued by any company under the provisions of the Companies Act, 1956 (1 of 1956) and the rules made there under, shall continue to be regulated under such provisions and rules.

IV. Valuation Report/Price

Issue involved

How to make Valuation report in case of preferential offer of shares and other securities?

Rule 13(2) states that when the preferential offer of shares or other securities is made by a company whose share or other securities are listed on a recognized stock exchange, such preferential offer shall be made in accordance with the provisions of the Act and regulations made by the Securities and Exchange Board, and if they are not listed, the preferential offer shall be made in accordance with the provisions of the Act and rules made hereunder and subject to compliance with the certain requirements, which includes valuation report by registered valuer.

Clarification issued

The Ministry of Corporate Affairs vide Companies (Share Capital and Debentures) Amendment Rules 2014 dated June 18, 2014 added the following explanation to the Rule 13 as under:

For the purposes of these rules, it is hereby clarified that, till a registered valuer is appointed in accordance with the provisions of the Act, the valuation report shall be made by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent Chartered Accountant in practice having a minimum experience of ten years.

Further the price of shares or other securities to be issued on preferential basis shall not be less than the price determined on the basis of valuation report of a registered valuer.

After amendment Rule 13 read as under

- (1) For the purposes of clause (c) of sub-section (1) of section 62, If authorized by a special resolution passed in a general meeting, shares may be issued by any company in any manner whatsoever including by way of a preferential offer, to any persons whether or not those persons include the persons referred to in clause (a) or clause (b) of sub-section (1) of section 62 and such issue on preferential basis should also comply with conditions laid down in section 42 of the Act:

Provided that the price of shares to be issued on a preferential basis by a listed company shall not be required to be determined by the valuation report of a registered valuer.

Explanation.- For the purposes of this rule, (i) the expression 'Preferential Offer' means an issue of shares or other securities, by a company to any select person or group of persons on a preferential basis and does not include shares or other securities offered through a public issue, rights issue, employee stock option scheme, employee stock purchase scheme or an issue of sweat equity shares or bonus shares or depository receipts issued in a country outside India or foreign securities;

- (ii) the expression, "shares or other securities" means equity shares, fully convertible debentures, partly convertible debentures or any other securities, which would be convertible into or exchanged with equity shares at a later date.

- (2) Where the preferential offer of shares or other securities is made by a company whose share or other securities are listed on a recognized stock exchange, such preferential offer shall be made in accordance with the provisions of the Act and regulations made by the Securities and Exchange Board, and if they are not listed, the preferential offer shall be made in accordance with the provisions of the Act and rules made hereunder and subject to compliance with the following requirements, namely:-
- (a) the issue is authorized by its articles of association;
 - (b) the issue has been authorized by a special resolution of the members;
 - (c) the securities allotted by way of preferential offer shall be made fully paid up at the time of their allotment.
 - (d) The company shall make the following disclosures in the explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 of the Act:
 - (i) the objects of the issue;
 - (ii) the total number of shares or other securities to be issued;
 - (iii) the price or price band at/within which the allotment is proposed;
 - (iv) basis on which the price has been arrived at along with report of the registered valuer;
 - (v) relevant date with reference to which the price has been arrived at;
 - (vi) the class or classes of persons to whom the allotment is proposed to be made;
 - (vii) intention of promoters, directors or key managerial personnel to subscribe to the offer;
 - (viii) the proposed time within which the allotment shall be completed;
 - (ix) the names of the proposed allottees and the percentage of post preferential offer capital that may be held by them;
 - (x) the change in control, if any, in the company that would occur consequent to the preferential offer;
 - (xi) the number of persons to whom allotment on preferential basis have already been made during the year, in terms of number of securities as well as price;
 - (xii) the justification for the allotment proposed to be made for consideration other than cash together with valuation report of the registered valuer.
 - (xiii) The pre issue and post issue shareholding pattern of the company in the following format-
 - (e) the allotment of securities on a preferential basis made pursuant to the special resolution passed pursuant to sub-rule (2)(b) shall be completed within a period of twelve months from the date of passing of the special resolution.
 - (f) if the allotment of securities is not completed within twelve months from the date of passing of the special resolution, another special resolution shall be passed for the company to complete such allotment thereafter.
 - (g) the price of the shares or other securities to be issued on a preferential basis, either for cash or for consideration other than cash, shall be determined on the basis of valuation report of a registered valuer;

- (h) where convertible securities are offered on a preferential basis with an option to apply for and get equity shares allotted, the price of the resultant shares shall be determined beforehand on the basis of a valuation report of a registered valuer and also complied with the provisions of section 62 of the Act;
- (i) where shares or other securities are to be allotted for consideration other than cash, the valuation of such consideration shall be done by a registered valuer who shall submit a valuation report to the company giving justification for the valuation;
- (j) where the preferential offer of shares is made for a non-cash consideration, such non-cash consideration shall be treated in the following manner in the books of account of the company-
 - (i) where the non-cash consideration takes the form of a depreciable or amortizable asset, it shall be carried to the balance sheet of the company in accordance with the accounting standards; or
 - (ii) where clause (i) is not applicable, it shall be expensed as provided in the accounting standards.

Explanation.- For the purposes of these rules, it is hereby clarified that, till a registered valuer is appointed in accordance with the provisions of the Act, the valuation report shall be made by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent Chartered Accountant in practice having a minimum experience of ten years.

(3) The price of shares or other securities to be issued on preferential basis shall not be less than the price determined on the basis of valuation report of a registered valuer.

V. Issue of debentures by infrastructure companies

Rule 18(1)(a) of the Companies (Share Capital and Debentures) Rules 2014 has stated :

- (1) The company shall not issue secured debentures, unless it complies with the following conditions, namely:-
 - (a) An issue of secured debentures may be made, provided the date of its redemption shall not exceed ten years from the date of issue.

Provided that a company engaged in the setting up of infrastructure projects may issue secured debentures for a period exceeding ten years but not exceeding thirty years;

The Ministry vide its Companies (Share Capital and Debentures) Amendment Rules 2014 dated June 18, 2014 has clarified that the following classes of companies may issue secured debentures for a period exceeding ten years but not exceeding thirty years, (i) Companies engaged in setting up of infrastructure projects; (ii) 'Infrastructure Finance Companies' as defined in clause (viia) of sub-direction (1) of direction 2 of Non-Banking Financial (Non-deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2007; (iii) 'Infrastructure Debt Fund Non-Banking Financial companies' as defined in clause of (b) direction 3 of Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011".

After amendment Rule 18 (1)(a) read as under:

- (1) The company shall not issue secured debentures, unless it complies with the following conditions, namely:-
 - (a) An issue of secured debentures may be made, provided the date of its redemption shall not exceed ten years from the date of issue.

Provided that the following classes of companies may issue secured debentures for a period exceeding ten years but not exceeding thirty years,

- (i) Companies engaged in setting up of infrastructure projects;
- (ii) 'Infrastructure Finance Companies' as defined in clause (viia) of sub-direction (1) of direction 2 of Non-Banking Financial (Non-deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2007;
- (iii) 'Infrastructure Debt Fund Non-Banking Financial companies' as defined in clause of (b) direction 3 of Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011 .

VI. The Ministry vide its Companies (Share Capital and Debentures) Amendment Rules 2014 dated June 18, 2014 has amended the sub-rule 7 clause (b)

After amendment Rule 18 (7)(b) read as under:

(7) The company shall create a Debenture Redemption Reserve for the purpose of redemption of debentures, in accordance with the conditions given below-

- (a) the Debenture Redemption Reserve shall be created out of the profits of the company available for payment of dividend;
- (b) the company shall create Debenture Redemption Reserve (DRR) in accordance with following conditions:-
 - (i) No DRR is required for debentures issued by All India Financial Institutions (AIFIs) regulated by Reserve Bank of India and Banking Companies for both public as well as privately placed debentures. For other Financial Institutions (FIs) within the meaning of clause (72) of section 2 of the Companies Act, 2013, DRR will be as applicable to NBFCs registered with RBI.
 - (ii) For NBFCs registered with the RBI under Section 45-IA of the RBI (Amendment) Act, 1997 **and for Housing Finance Companies registered with the National Housing Bank**, the adequacy' of DRR will be 25% of the value of debentures issued through public issue as per present SEBI (Issue and Listing of Debt Securities) Regulations, 2008, and no DRR is required in the case of privately placed debentures.
 - (iii) For other companies including manufacturing and infrastructure companies, the adequacy of DRR will be 25% of the value of debentures issued through public issue as per present SEBI (Issue and Listing of Debt Securities), Regulations 2008 and also 25% DRR is required in the case of privately placed debentures by listed companies. For unlisted companies issuing debentures on private placement basis, the DRR will be 25% of the value of debentures.

VII. Amendment relating to applicability of Companies (Share Capital and Debentures)Rules, 2014

Rule 3 of Companies (Share Capital and Debentures)Rules, 2014 reads as under:

3. Application.- The provisions of these rules shall apply to

- (a) all unlisted public companies;
- (b) all private companies; and
- (c) listed companies,

so far as they do not contradict or conflict with any other provision framed in this regard by the Securities and Exchange Board of India.

The Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 substituted Rule 3 as under:

3. Application.- The provisions of these rules shall apply to
 - (a) all unlisted public companies;
 - (b) all private companies; and
 - (c) listed companies so far as they do not contradict or conflict with any other regulation framed in this regard by the Securities and Exchange Board of India.

VIII. Signatory in Share Certificates

Rule 5(3)(b) of Companies (Share Capital and Debentures) Rules, 2014 reads as under:

(3) Every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of, and signed by-

- (b) the secretary or any person authorised by the Board for the purpose:

Provided that, in companies wherein a Company Secretary is appointed under the provisions of the Act, he shall be deemed to be authorised for the purpose of this rule:

Provided further that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than the managing or whole-time director:

Provided also that, in case of a One Person Company, every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of and signed by one director or a person authorized by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorized by the Board for the purpose.

Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 omitted the first proviso which states that in companies wherein a company secretary is appointed under the provisions of the Act, he shall be deemed to be authorised for the purpose of this Rule.

Accordingly Rule 5(3) reads as under:

(3) Every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of, and signed by-

- (b) the secretary or any person authorised by the Board for the purpose:

Provided that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than the managing or whole-time director:

Provided further that, in case of a One Person Company, every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of and signed by one director or a person authorized by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorized by the Board for the purpose.

IX. Time limit for issue of Duplicate Share Certificates

Rule 6(2)(c) of Companies (Share Capital and Debentures) Rules, 2014 reads as under:

6(2)(c) In case unlisted companies, the duplicate share certificates shall be issued within a period

of three months and in case of listed companies such certificate shall be issued within fifteen days, from the date of submission of complete documents with the company respectively.

Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 amended the time limit for issue of duplicate share certificates to 45 days instead of 15 days. Accordingly, the revised rules read as under:

6(2)(c) In case unlisted companies, the duplicate share certificates shall be issued within a period of three months and in case of listed companies such certificate shall be issued within forty five days, from the date of submission of complete documents with the company respectively.

X. Reference to Employee under issue of Employee Stock Option

Explanation to Rule 12(1) clause (c) of Companies (Share Capital and Debentures) Rules, 2014 reads as under:

Explanation : For the purposes of clause (b) of sub-section (1) of section 62 and this rule "Employee" means-

- (c) an employee as defined in clauses (a) or (b) of a subsidiary, in India or outside India, or of a holding company of the company or of an associate company but does not include-
 - (i) an employee who is a promoter or a person belonging to the promoter group; or
 - (ii) a director who either himself or through his relative or through any body corporate, directly or indirectly, holds more than ten percent of the outstanding equity shares of the company.

Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 amended the explanation by removing the employee of an associate company. The amended clause (c) of the explanation reads as under:

- (c) an employee as defined in clauses (a) or (b) of a subsidiary, in India or outside India, or of a holding company of the company but does not include-
 - (i) an employee who is a promoter or a person belonging to the promoter group; or
 - (ii) a director who either himself or through his relative or through any body corporate, directly or indirectly, holds more than ten percent of the outstanding equity shares of the company.

XI. Preferential offer made to existing members

Rule 13(1) of Companies (Share Capital and Debentures) Rules, 2014 reads as under:

- (1) For the purposes of clause (c) of sub-section (1) of section 62, If authorized by a special resolution passed in a general meeting, shares may be issued by any company in any manner whatsoever including by way of a preferential offer, to any persons whether or not those persons include the persons referred to in clause (a) or clause (b) of sub-section (1) of section 62 and such issue on preferential basis should also comply with conditions laid down in section 42 of the Act:

Provided that the price of shares to be issued on a preferential basis by a listed company shall not be required to be determined by the valuation report of a registered valuer.

The ministry has made the provisions relating to private placement offer letter not applicable to preferential offer made to existing members. Accordingly, the Amended Rule 13(1) reads as follows:

- (1) For the purposes of clause (c) of sub-section (1) of section 62, If authorized by a special

resolution passed in a general meeting, shares may be issued by any company in any manner whatsoever including by way of a preferential offer, to any persons whether or not those persons include the persons referred to in clause (a) or clause (b) of sub-section (1) of section 62 and such issue on preferential basis should also comply with conditions laid down in section 42 of the Act:

Provided that in case of any preferential offer made by a company to one or more existing members only, the provisions of sub-rule (1) and proviso to sub-rule (3) of rule 14 of Companies (Prospectus and Allotment of Securities) Rules, 2014 shall not apply:

Provided further that the price of shares to be issued on a preferential basis by a listed company shall not be required to be determined by the valuation report of a registered valuer.

XII. Debentures

(i) The Rule 18 of Companies (Share Capital and Debentures) Rules, 2014 reads as under:

18.(1) The company shall not issue secured debentures, unless it complies with the following conditions, namely:-

(d) the security for the debentures by way of a charge or mortgage shall be created in favour of the debenture trustee on-

- (i) any specific movable property of the company (not being in the nature of pledge); or
- (ii) any specific immovable property wherever situate, or any interest therein.

Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 amended Rule 18(d) which is as under:

(d) the security for the debentures by way of a charge or mortgage shall be created in favour of the debenture trustee on-

- (i) any specific movable property of the company ; or
- (ii) any specific immovable property wherever situate, or any interest therein

Provided that in case of a non-banking financial company, the charge or mortgage under sub-clause (i) may be created on any movable property.

Provided further that in case of any issue of debentures by a Government company which is fully secured by the guarantee given by the Central Government or one or more State Government or by both, the requirement for creation of charge under this sub-rule shall not apply."

Provided also that in case of any loan taken by a subsidiary company from any bank or financial institution the charge or mortgage under this sub-rule may also be created on the properties or assets of the holding company.

(ii) Rule (5) of Companies (Share Capital and Debentures) Rules, 2014 reads as under:

For the purposes of sub-section (13) of section 71 and sub-rule (1) a trust deed in **Form No. SH-12** or as near thereto as possible shall be executed by the company issuing debentures in favour of the debenture trustees within sixty days of allotment of debentures.

Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 amended Rule 5 as under:

For the purposes of sub-section (13) of section 71 and sub-rule (1) a trust deed in **Form**

No.SH.12 or as near thereto as possible shall be executed by the company issuing debentures in favour of the debenture trustees within three months of closure of the issue or offer.

(iii) Insertion of sub-clause (9) & (10) after clause (8) as under:

(9) Nothing contained in this rule shall apply to any amount received by a company against issue of commercial paper or any other similar instrument issued in accordance with the guidelines or regulations or notification issued by the Reserve Bank of India.

(10) In case of any offer of foreign currency convertible bonds or foreign currency bonds issued in accordance with the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 or regulations or directions issued by the Reserve Bank of India, the provisions of this rule shall not apply unless otherwise provided in such Scheme or regulations or directions.

XIII. Replacement of Form SH 13

Rule 19(11) read as under:

(11) Where the nominee is a minor, the holder of the securities, making the nomination, may appoint a person in **Form No. SH.14** specified under sub-rule (1), who shall become entitled to the securities of the company, in the event of death of the nominee during his minority.

The Ministry vide Companies (Share Capital and Debentures) Amendment Rules, 2015 substituted SH.14 with SH.13.

The revised form is available at www.mca.gov.in

XIV. Companies (Share Capital and Debentures) Second Amendment Rules, 2015

In rule 5, in sub-rule (3), for the words "issued under the seal of the company", the words "issued under the seal, if any, of the company" have been substituted and accordingly, provisos have been inserted. The amended rule will be read as under.

3. Every share certificate shall be issued under the seal, if any, of the company which shall be affixed in the presence of, and signed by –

“(b) the secretary or any person authorised by the Board for the purpose:

Provided that in case a company does not have a common seal, the share certificate shall be signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary:

Provided further that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than a managing director or a whole-time director:

Provided also that, in case of a One Person Company, every share certificate shall be issued under the seal, if any, of the company, which shall be affixed in the presence of and signed by one director or a person authorised by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorised by the Board for the purpose, and in case the One Person Company does not have a common seal, the share certificate shall be signed by the persons in the presence of whom the seal is required to be affixed in this proviso”.

The text of the Circulars, Orders and Amended Rules issued under this Chapter appended as under:

1

General Circular No. 19 /2014

**No. 1/4/2013-CL-V
Government of India
Ministry of Corporate Affairs**

5th Floor, 'A' Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi

Dated 12th June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject: Clarifications on Rules prescribed under the Companies Act, 2013 -Matters relating to share capital and debentures- reg.

Sir,

Government has received representations from Industry Chambers, Professional Institutes and other stakeholders seeking clarifications on matters relating to 'share capital and debentures' under the relevant provisions of the Companies Act, 2013 (Act) read with relevant rules, which have come into force with effect from 1st April, 2014. The representations have been examined and clarifications on the following points are hereby given:-

- (i) Share Transfer Forms executed before 1st April, 2014 - In view of prescription of new Securities Transfer Form as per Form SH-4 with effect from 1st April, 2014, the companies and other stakeholders have sought clarity with regard to Share Transfer Forms executed before 1st April, 2014 as per earlier Form 7B but which are yet to be accepted/registered by companies.

The matter has been examined and it is clarified that since transaction relating to transfer of shares is a contract between two or more persons/shareholders, any share transfer form executed before 1st April, 2014 and submitted to the company concerned within the period prescribed under relevant section of the Companies Act, 1956 needs to be accepted by the companies for registration of transfers. In case any such share transfer form, executed prior to 1st April, 2014, is not submitted within the prescribed period under the Companies Act, 1956, the concerned company may get itself satisfied suitably with regard to justification of delay in submission etc. In case a company decides not to accept the share transfer form, it shall convey the reasons for such non-acceptance within time provided under section 56(4)(c) of the Act.

- (ii) Delegation of powers by board under rule 6(2)(a): Clarification has been sought whether the powers of the Board provided under rule 6(2)(a) of Companies (Share Capital and Debentures) Rules, 2014 with regard to issue of duplicate share certificates can be exercised by a Committee of Directors.

The matter has been examined in light of the relevant provisions of the Act, particularly sections 179 & 180 and regulation 71 of Table "F" of Schedule I and it is clarified that a committee of directors may exercise such powers, subject to any regulations imposed by the Board in this regard.

These issues with the approval of the competent authority.

Yours faithfully

Sd/-

(Kamna Sharma)

Assistant Director (Policy)

Copy to:-

1. e-Governance Section and Web Contents Officer to place this circular on the Ministry's website
2. Guard File

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 18th June, 2014

G.S.R. 413.(E).— In exercise of the powers conferred under sub-clause (ii) of clause (a) of section 43, sub-clause (d) of sub-section (1) of section 54, sub-section (2) of section 55, sub-section (1) of section 56, subsection (3) of section 56, sub-section (1) of section 62, sub-section (2) of section 42, clause (f) of sub-section (2) of section 63, sub-section (1) of section 64 , clause (b) of sub-section 3 of section 67, sub-section (2) of section 68, sub-section (6) of section 68, sub-section (9) of section 68, sub-section (10) of section 68, sub-section (3) of section 71, sub-section (6) of section 71, sub-section (13) of section 71 and sub-sections (1) and (2) of section 72, 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 to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Share Capital and Debentures) Amendment Rules, 2014.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Companies (Share Capital and Debenture) Rules 2014,-

- (i) in rule 4, after sub-rule (6), for the Explanation, the following Explanation shall be substituted, namely:-

"Explanation.- For the purposes of this rule it is hereby clarified that equity shares with differential rights issued by any company under the provisions of the Companies Act, 1956 (1 of 1956) and the rules made thereunder, shall continue to be regulated under such provisions and rules."*"*

- (ii) in rule 13,

- (a) in sub-rule (2), after clause (j), the following Explanation shall be inserted, namely:-

"Explanation.- For the purposes of these rules, it is hereby clarified that, till a registered valuer is appointed in accordance with the provisions of the Act, the valuation report shall be made by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent Chartered Accountant in practice having a minimum experience of ten years"*;*

- (b) after sub-rule (2), the following sub-rule shall be inserted, namely:-

"(3) The price of shares or other securities to be issued on preferential basis shall not be less than the price determined on the basis of valuation report of a registered valuer."

- (iii) in rule 18,

- (a) in sub-rule (1), in clause (a), for the proviso, the following proviso shall be substituted, namely:-

"Provided that the following classes of companies may issue secured debentures for a period exceeding ten years but not exceeding thirty years,

- (i) Companies engaged in setting up of infrastructure projects;

- (ii) 'Infrastructure Finance Companies' as defined in clause (viia) of sub-direction (1) of direction 2 of Non-Banking Financial (Non-deposit accepting or holding) Companies Prudential Norms (Reserve Bank) Directions, 2007;
 - (iii) 'Infrastructure Debt Fund Non-Banking Financial companies' as defined in clause of (b) direction 3 of Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011".
- (b) in sub-rule (7), in clause (b), in sub-clause (ii), after the letters, brackets, words and figures "RBI (Amendment) Act, 1997", the words "and for Housing Finance Companies registered with the National Housing Bank" shall be inserted.

[F.No. 01/04/2013(Part-I) CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Part II, Section 3, sub-section (i) vide no. G.S.R. 265(E), dated the 31st March, 2014.

Government of India
Ministry of Corporate Affairs
Notification

New Delhi, Dated 18th March, 2015

G.S.R.-210 (E).- In exercise of the powers conferred under sub-clause (ii) of clause (a) of section 43, sub-clause (d) of sub-section (1) of section 54, sub-section (2) of section 55, sub-section (1) of section 56, sub-section (3) of section 56, sub-section (1) of section 62, sub-section (2) of section 42, clause (f) of sub-section (2) of section 63, sub-section (1) of section 64, clause (b) of sub-section (3) of section 67, sub-section (2) of section 68, sub-section (6) of section 68, sub-section (9) of section 68, sub-section (10) of section 68, sub-section (3) of section 71, sub-section (6) of section 71, sub-section (13) of section 71 and sub-sections (1) and (2) of section 72, 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 further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Share Capital and Debentures) Amendment Rules, 2015.
- (2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Share Capital and Debenture) Rules, 2014,-
 - (1) for rule 3, the following rule shall be substituted, namely:-
3. Application - The provisions of these rules shall apply to –
 - (a) all unlisted public companies:
 - (b) all private companies: and
 - (c) listed companies so far as they do not contradict or conflict with any other regulation framed in this regard by the Securities and Exchange Board of India:
 - (2) in rule 5, in sub-rule (3), in clause (b),
 - (a) the first proviso shall be omitted;
 - (b) in the second proviso for the words "provided further that", the words "provided that" shall be substituted:
 - (c) in the third proviso for the words "provided also that" the words "provided further that" shall be substituted;
 - (3) in rule 6, in sub-rule (2), in clause (c), for the words the words "within fifteen days", the words "within forty-five days" shall be substituted;
 - (4) in rule 12, in sub-rule (1), in the Explanation, in clause (c), the words "or of an associate company" shall be omitted;
 - (5) in rule 13, in sub-rule (1), -
 - (a) in the proviso, for the words "provided that" the words "provided further that" shall be substituted and before the proviso as so amended, the following proviso shall be inserted, namely:-

"Provided that in case of any preferential offer made by a company to one or more

existing members only, the provisions of sub-rule (1) and proviso to sub-rule (3) of rule 14 of Companies (prospectus and Allotment of Securities) Rules, 2014 shall not apply.”

(6) in rule 18,-

(a) in sub-rule (1) –

(A) in clause (d), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted , namely:-

“(i) any specific movable property of the company ; or

(ii) any specific immovable property wherever situate, or any interest therein:

Provided that in case of a non-banking financial company, the charge or mortgage under sub-clause (i) may be created on any movable property”

(B) in clause (d), after sub-clause (ii), following proviso shall be inserted, namely:-

“Provided further that in case of any issue of debentures by a Government company which is fully secured by the guarantee given by the Central Government or one or more State Government or by both, the requirement for creation of charge under this sub-rule shall not apply.”

Provided also that in case of any loan taken by a subsidiary company from any bank or financial institution the charge or mortgage under this sub-rule may also be created on the properties or assets of the holding company;

(b) in sub-rule (5), for the words “within sixty days of allotment of debentures”, the words “within three months of closure of the issue or offer” shall be substituted;

(c) after sub-rule (8), following sub-rules shall be inserted, namely:-

“(9) Nothing contained in this rule shall apply to any amount received by a company against issue of commercial paper or any other similar instrument issued in accordance with the guidelines or regulations or notification issued by the Reserve Bank of India.

(10) In case of any offer of foreign currency convertible bonds or foreign currency bonds issued in accordance with the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 or regulations or directions issued by the Reserve Bank of India, the provisions of this rule shall not apply unless otherwise provided in such Scheme or regulations or directions.”

(7) in rule 19, in sub-rule (11), for the word, letters and figures “Form No. SH- 14”, the word, letters and figures “Form SH-13” shall be substituted.

(8) in the Annexure, for “Form SH-13” and “Form SH-14” the following Forms shall respectively, be substituted, namely:-

The forms are available at www.mca.gov.in.

[F. No. 1/4/2013-CL-V (Pt I)]

Amardeep S. Bhatia
(Joint Secretary)

Note. - The principal rules were published in the Gazette of India, part II, section 3, sub-section (i) vide number GSR 265(E) dated 31st March, 2014 and subsequently amended vide GSR Number 413(E) dated 18th June, 2014.

Government of India
Ministry of Corporate Affairs
Notification

New Delhi Dated the 29th May, 2015

G.S.R. __ (E). - In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Share Capital and Debentures) Second Amendment Rules, 2015.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Share Capital and Debentures) Rules, 2014, in rule 5, in sub-rule (3),-
 - (i) for the words "issued under the seal of the company", the words "issued under the seal, if any, of the company" shall be substituted;
 - (ii) for clause (b), the following clause (b) shall be substituted, namely:-

"(b) the secretary or any person authorised by the Board for the purpose:

Provided that in case a company does not have a common seal, the share certificate shall be signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary:

Provided further that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than a managing director or a whole-time director:

Provided also that, in case of a One Person Company, every share certificate shall be issued under the seal, if any, of the company, which shall be affixed in the presence of and signed by one director or a person authorised by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorised by the Board for the purpose, and in case the One Person Company does not have a common seal, the share certificate shall be signed by the persons in the presence of whom the seal is required to be affixed in this proviso."

[File No. 1/4/2013 CL-V]

(Amardeep Singh Bhatia)
Joint Secretary to the Government of India

Chapter V

ACCEPTANCE OF DEPOSITS BY COMPANIES

Chapter Title	Acceptance of Deposits by Companies
Sections Covered	Section-73 to Section-76
Topics Covered	Prohibition on acceptance of deposits from public, Repayments of deposits, etc., accepted before commencement of this Act, Damages for fraud, Acceptance of deposits from public by certain companies
Rules Framed thereunder	Companies (Acceptance of deposits) rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars and Amendment Rules issued by the Ministry under this chapter so far:

1. General Circular No. 27/2014 dated 30th June, 2014
2. General Circular No. 05/2015 dated 30th March, 2015
3. Companies (Acceptance of Deposits) Amendment Rules, 2014 dated 6th June, 2014.
4. Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015.
5. Notification No. S.O. 1459(E) dated 6th June, 2014 regarding commencement of provisions of Sub-section (2) and (3) of section 74.
6. General Circulars No. 09/2015 dated 18th June, 2015.

Broad Topics covered in the Circulars and Amendment Rules are as under :

- Form DPT- 4 (Filing of statement with the Registrar)
- Deposit Insurance
- Return of Deposit

I. Form DPT-4(filing statement with the Registrar)

This Ministry has received reference regarding filing of Form DPT4 under the provisions of the Companies Act, 2013. As per section 74(l)(a) of the Companies Act, 2013 and the companies (Acceptance of Deposits) Rules, 2014 made there under, companies are required to file a statement regarding deposits existing as on date of commencement of the Act within a period of 3 months from such commencement. The time for filing of said statement is expiring on 30-06-2014. After considering the reference, it has been decided to grant extension of time for the period of 2 months i.e. up to 31-08-2014 without any additional fee in terms of section 403 of the Act to enable the companies for filing of statement under Form DPT-4 with the Registrar.

II. Deposit Insurance

The Ministry vide Companies(Acceptance of Deposits) Amendment Rules 2014 clarified that in

the Companies (Acceptance of Deposits) Rules, 2014, in rule 5, in sub-rule (1), the following proviso shall be inserted, namely:-

“Provided that the companies may accept the deposits without deposit insurance contract till the 31st March, 2015”.

However, Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015 further amended the Rule 5 (1) of Companies (Acceptance of Deposit) Rules, 2014 by substituting the above proviso with the following:

“Provided that the companies may accept deposits without deposit insurance contract till the 31st March, 2016 or till the availability of a deposit insurance product, whichever is earlier”

After amendment, Rule 5(1) of Companies (Acceptance of Deposits) Rules, 2014 is read as under:

(1) Every company referred to in sub-section (2) of section 73 and every other eligible company inviting deposits shall enter into a contract for providing deposit insurance at least thirty days before the issue of circular or advertisement or at least thirty days before the date of renewal, as the case may be.

Explanation - For the purposes of this sub-rule, the amount as specified in the deposit insurance contract shall be deemed to be the amount in respect of both principal amount and interest due thereon.

“Provided that the companies may accept deposits without deposit insurance contract till the 31st March, 2016 or till the availability of a deposit insurance product, whichever is earlier”

III. Amounts received by private companies from their members, directors or their relatives before 1st April, 2014

Issues Involved

Whether the amounts received by private companies from their members, directors or their relatives prior to 1st April, 2014 will be treated as deposits?

Clarification Issued

The Ministry of Corporate Affairs vide Circular No. 05/2015 dated 30th March, 2015 in consultation with RBI clarified that amounts received by private companies prior to 1st April, 2014 shall not be treated as ‘deposits’ under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.

Any renewal or acceptance of fresh deposits on or after 1st April, 2014, however, be in accordance with the provisions of Companies Act, 2013 and rules made thereunder.

IV. Definition of Deposits

I. Treatment of Pending Share Application Money under the Definition of Deposits

Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015 further amended the Companies (Acceptance of Deposit) Rules, 2014

The Ministry of Corporate Affairs vide Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015, inserted a proviso to the explanation to sub-clause (vii) of Rule 2(1) of Companies (Acceptance of Deposits) Rules, 2014 which now reads as under (insertion highlighted in bold):

(vii) any amount received and held pursuant to an offer made in accordance with the provisions of the Act towards subscription to any securities, including share application money or advance towards allotment of securities pending allotment, so long as such amount is appropriated only against the amount due on allotment of the securities applied for;

Explanation - For the purposes of this sub-clause, it is hereby clarified that –

- (a) Without prejudice to any other liability or action, if the securities for which application money or advance for such securities was received cannot be allotted within sixty days from the date of receipt of the application money or advance for such securities and such application money or advance is not refunded to the subscribers within fifteen days from the date of completion of sixty days, such amount shall be treated as a deposit under these rules.

The Amendment Rules has added the following proviso.

Provided that unless otherwise required under the Companies Act, 1956 or the Securities and Exchange Board of India Act, 1992 or rules or regulations made thereunder to allot any share, stock, bond, or debenture within a specified period, if a company had received any amount by way of subscriptions to any shares, stock, bonds or debentures before the 1st April, 2014 and disclosed it in the balance sheet for the financial year, ending on or before the 31st March, 2014 against which the allotment is pending on the 31st March, 2015, the company shall, by the 1st June 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules.

- (b) any adjustment of the amount for any other purpose shall not be treated as refund.

II. Rule 2(1)(c)(XII)(b) amended

Rule 2(1)(c)(xii)(b) read as under:

- (b) as advance, accounted for in any manner whatsoever, received in connection with consideration for property under an agreement or arrangement , provided that such advance is adjusted against the property in accordance with the terms of agreement or arrangement; The Ministry vide Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015 substituted the word property with immovable property. Accordingly, the revised sub-clause is read as under:

- (b) as advance, accounted for in any manner whatsoever, received in connection with consideration for immovable property under an agreement or arrangement , provided that such advance is adjusted against the property in accordance with the terms of agreement or arrangement;

The Ministry vide Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015 further amended the explanation to substitute "first proviso" with "proviso", the revised explanation is read as under:

Explanation.- For the purposes of this sub-clause the amount referred to in the proviso shall be deemed to be deposits on the expiry of fifteen days from the date they become due for refund.

III. Copy of Credit rating to be sent alongwith Return of Deposits

The Companies (Acceptance of Deposits) Amendment Rules, 2015 dated 31st March, 2015 has added subrule 8 to Rule 3 which provides that every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it in the manner specified in the rules and a copy of the rating shall be sent to the Registrar of Companies alongwith the return of deposits in Form DPT-3. The amendment rules also issued revised Form DPT-3 (Return of deposit).

V. Clarification on repayment of deposits accepted by the companies before the commencement of the Companies Act, 2013 under section 74 of the said Act dated 18.06.2015**Issue Involved:**

Clarification was sought regarding processing of the deposits related complaints received from investors under section 74 of the Companies Act, 2013 (the said Act) in respect of defaults made by companies in repayment of deposits accepted by them before the commencement of the said Act i.e. before 1st April, 2014 and filing of prosecutions against defaulting companies by the Registrars of Companies/Regional Directors.

Clarification issued

The Ministry while clarifying the issue referred to Removal of Difficulties (Second) Order [S.O. 1428(E)] dated 2nd June, 2014 and Removal of Difficulties (Fourth) Order [S.O. 1460(E)] dated 6th June, 2014, wherein it has been stated that the Company Law Board has been empowered to exercise the powers of National Company Law Tribunal under sub-section (4) of section 73 and sub-section (2) of section 74 of the said Act, till the latter's constitution. Thus, a depositor is free to file an application under section 73(4) of the said Act, with the Company Law Board if the company fails to make repayment of deposits accepted by it. Further the company may also file application under section 74(2) of the said Act with the Company Law Board seeking extension of time in making the repayment of deposits accepted by it before the commencement of the provisions of the said Act.

It was also clarified that the Companies can repay deposits accepted prior to 1st April, 2014 in accordance with terms and conditions for which the deposits had been accepted. It was also clarified that there is no bar on the Registrar of Companies for filing of prosecution against a company if such company fails to make repayment of deposits accepted by it under the provisions of the Companies Act, 1956 or Companies Act, 2013.

General Circular No. 27/2014

F. No. MCA21/123/2014/e-Gov. Cell

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi - 110001

Dated : the 30th June, 2014

To,

All Regional Directors,

All Registrars of Companies,

All Stakeholders.

Sub: - Clarification regarding filing of Form DPT4 under Companies Act, 2013.

Sir,

This Ministry has received reference regarding filing of Form DPT4 under the provisions of the Companies Act, 2013. As per section 74(l)(a) of the Companies Act, 2013 and the companies (Acceptance of Deposits) Rules, 2014 made there under, companies are required to file a statement regarding deposits existing as on date of commencement of the Act within a period of 3 months from such commencement. The time for filing of said statement is expiring on 30-06-2014.

2. After considering the reference, it has been decided to grant extension of time for the period of 2 months i.e. up to 31-08-2014 without any additional fee in terms of section 403 of the Act to enable the companies for filing of statement under Form DPT4 with the Registrar.

Yours faithfully

Sd/-

(M. S. Pachouri)
Deputy Director

Copy to :

1. e-Governance Section and Web contents Officer to place this circular on the Ministry's website.
2. Guard File

General Circular No. 05/2015

**F. No. 1/8/2013-CL-V
Government of India
Ministry of Corporate Affairs**

5th Floor, A Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi.

Dated: 30th March, 2015

To

All Regional Directors,
All Registrars of Companies,
All stakeholders.

Subject: Amounts received by private companies from their members, directors or their relatives before 1st April, 2014 - Clarification regarding applicability of Companies (Acceptance of Deposits) Rules, 2014

Sir,

Stakeholders have sought clarifications as to whether amounts received by private companies from their members, directors or their relatives prior to 1st April, 2014 shall be considered as deposits under the Companies Act, 2013 as such amounts were not treated as 'deposits' under section 58A of the Companies Act, 1956 and rules made thereunder.

2. The matter has been examined in consultation with RBI and it is clarified that such amounts received by private companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.

3. Any renewal or acceptance of fresh deposits on or after 1st April, 2014 shall, however, be in accordance with the provisions of Companies Act, 2013 and rules made thereunder.

4. This issues with the approval of the competent authority.

Yours faithfully,

(K.M.S. Narayanan)
Assistant Director (Policy)

Copy to :

1. e-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File.

THE GAZETTE OF INDIA: EXTRAORDINARY [PART II—SEC. 3(i)]**MINISTRY OF CORPORATE AFFAIRS****NOTIFICATION**

New Delhi, the 6th June, 2014

G.S.R. 386(E).— In exercise of the powers conferred by Sections 73 and 76 read with subsection (1) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Acceptance of Deposits) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Acceptance of Deposits) Amendment Rules, 2014.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Acceptance of Deposits) Rules, 2014, in rule 5, in sub-rule (1), the following proviso shall be inserted, namely:-

“Provided that the companies may accept the deposits without deposit insurance contract till the 31st March, 2015.”

[F. No 1/8/2013-CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Footnote: - The Principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, subsection vide GSR 256(E), dated the 31st March, 2014.

Government of India
Ministry of Corporate Affairs

NOTIFICATION

New Delhi, Dated the 31st March, 2015

G.S.R. 241 (E). - In exercise of the powers conferred by sections 73 and 76 read with sub-section (1) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Acceptance of Deposits) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Acceptance of Deposits) Amendment Rules, 2015.
- (2) They shall come into force from the date of their publication in the official Gazette.

2. In the Companies (Acceptance of Deposits) Rules, 2014, -

- (1) in rule 2, in sub-rule (1), in clause (c), -

- (a) in sub-clause (vii), in Explanation (a), the following proviso shall be inserted, namely:-

“Provided that unless otherwise required under the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or rules or regulations made thereunder to allot any share, stock, bond, or debenture within a specified period, if a Company receives any amount by way of subscriptions to any shares, stock, bonds or Debentures before the 1st April, 2014 and disclosed in the balance sheet for the financial year Ending on or before the 31st March, 2014 against which the allotment is pending on the 31st March, 2015, the company shall, by the 1st June 2015, either return such amounts to the persons from whom these were received or allot shares, stock, bonds or debentures or comply with these rules.”

- (b) in sub-clause (xii), in item (b),

(A) for the words “consideration for property”, the words “consideration for an immovable Property” shall be substituted;

(B) for the words “against the property”, the words “against such property” shall be substituted;

- (c) in sub-clause (xii), in the Explanation, for the words “referred to in the first proviso”, the words “referred to in the proviso” shall be substituted;

- (2) in rule 3, after sub-rule (7), the following sub-rule shall be inserted, namely:-

“(8) Every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it in the manner specified herein below and a copy of the rating shall be sent to the Registrar of companies along with the return of deposits in Form DPT-3;

Name of the agency	Minimum investment Grade Rating
(a) The Credit Rating Information Services of India Ltd.	FA- (FA Minus)
(b) ICRA Ltd.	MA- (MA Minus)
(c) Credit Analysis and Research Ltd.	CARE BBB(FD)
(d) Fitch Ratings India Private Ltd.	tA-(ind)(FD)
(e) Brickwork Ratings India Pvt Ltd.	BWR F A
(f) SME Rating Agency of India Ltd.	SMERA A'

(3) in rule 5, in sub-rule (1), for the proviso, the following proviso shall be substituted, namely:-

“Provided that the companies may accept deposits without deposit insurance contract till the 31st March, 2016 or till the availability of a deposit insurance product, whichever is earlier.”

(4) in Annexure, for Form “DPT-3” the following form shall be substituted, namely:-

The form is available at www.mca.gov.in.

5

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 6th June, 2014

S.O. 1459(E).— In exercise of the powers conferred by sub-section (3) of Section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 6th day of June, 2014 as the date on which the provisions of sub-sections (2) and (3) of Section 74 of the said Act shall come into force.

[F. No. 1/8/2013-CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

General Circular No.09/2015

No. 1/8/2013-CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi

Dated: 18th June, 2015

To,

All Regional Directors,
All Registrars of Companies,
All Stakeholders

Subject : Clarification on repayment of deposits accepted by the companies before the commencement of the Companies Act, 2013 under section 74 of the said Act

Sir,

This Ministry has received representations seeking clarification regarding processing of the deposits related complaints received from investors under section 74 of the Companies Act, 2013 (the said Act) in respect of defaults made by companies in repayment of deposits accepted by them before the commencement of the said Act i.e. before 1st April, 2014 and filing of prosecutions against defaulting companies by the Registrars of Companies/Regional Directors.

2. The matter has been examined in the Ministry and it is clarified that vide Removal of Difficulties (Second) Order [S.O. 1428(E)] dated 2nd June, 2014 and Removal of Difficulties (Fourth) Order [S.O. 1460(E)] dated 6th June, 2014, the Company Law Board has been empowered to exercise the powers of National Company Law Tribunal under sub-section (4) of section 73 and sub-section (2) of section 74 of the said Act, till the latter's constitution. Thus, a depositor is free to file an application under section 73(4) of the said Act, with the Company Law Board if the company fails to make repayment of deposits accepted by it. Further the company may also file application under section 74(2) of the said Act with the Company Law Board seeking extension of time in making the repayment of deposits accepted by it before the commencement of the provisions of the said Act .

3. Further, attention is also drawn to Explanation appearing below Rule 19 of the Companies (Acceptance of Deposits) Rules, 2014 which clarifies the conditions subject to which a company would be deemed to have complied with the requirements laid down in Section 74(l) (b) of the Companies Act, 2013. Companies can repay deposits accepted prior to 1st April, 2014 in accordance with terms and conditions for which the deposits had been accepted.

4. It is also clarified that there is no bar on the Registrar of Companies for filing of prosecution against a company if such company fails to make repayment of deposits accepted by it under the provisions of the Companies Act, 1956 or Companies Act, 2013, subject to the contents of para 3 above.

This issues with the approval of the competent authority.

Yours faithfully

(KMS Narayanan)

Assistant Director (Policy)

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website
 2. Guard File
-

Chapter VI

REGISTRATION OF CHARGES

Chapter Title	Registration of Charges
Sections Covered	Section 77 to Section 87
Topics Covered	Registration of Charges, Satisfaction of Charges, Register of Charge, Punishment on Contravention
Rules Framed there under	Companies(Registration of Charges) Rules, 2014
Rules Notified on and effective from	Rules Notified on 31st March, 2014 and effective from 01st April, 2014

Amendment Rules issued by the Ministry under this chapter

Companies (Registration of Charges) Amendment Rules, 2015 dated 29.05.2015

1. in rule 3, in sub-rule(4), in clause (a), for the words "under the seal of the company", the words "under the seal, if any, of the company" has been substituted.

The Amendment rule shall be read as under-

A copy of every instrument evidencing any creation or modification of charge and required to be filed with the Registrar in pursuance of Section 77, 78 or 79 shall be verified as follows-

- (a) where the instrument or deed relates solely to the property situated outside India, the copy shall be verified by a certificate issued either under the seal, if any, of the company, or under the hand of any director or company secretary of the company or an authorised officer of the charge holder or under the hand of some person other than the company who is interested in the mortgage or charge;
- (b) where the instrument or deed relates, whether wholly or partly, to the property situated in India, the copy shall be verified by a certificate issued under the hand of any director or company secretary of the company or an authorised officer of the charge holder.

1**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY
PART II, SECTION 3, SUB-SECTION (i)]****Government of India
Ministry of Corporate Affairs
Notification**

New Delhi Dated the 29th May, 2015

G.S.R. (E). - In exercise of the powers conferred by sections 77, 78 and 79 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 further to amend the Companies (Registration of Charges) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Registration of Charges) Amendment Rules, 2015.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Registration of Charges) Rules, 2014, in rule 3, in sub-rule (4), in clause (a), for the words "under the seal of the company", the words "under the seal, if any, of the company" shall be substituted;

(Amardeep Singh Bhatia)
Joint Secretary to the Government of India

Chapter VII

MANAGEMENT AND ADMINISTRATION

Chapter Title	Management and Administration
Sections Covered	Section-88 to Section-122
Topics Covered	Register of members, etc., Annual return, Annual general meeting, Resolutions, Maintenance and inspection of documents in electronic form, Report on annual general meeting
Rules Framed thereunder	Companies (Management and administration) Rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars and Amendment Rules issued by the Ministry under this chapter, so far:

1. General Circular No. 17/2014 dated 11th June, 2014.
2. General Circular No. 20/2014 dated 17th June, 2014.
3. General Circular No. 22/2014 dated 25th June, 2014.
4. General Circular 28/2014 dated 9th July, 2014.
5. General Circular No. 45/2014 dated 18th November, 2014.
6. General Circular No. 10 /2015 dated 13th July, 2015.
7. General Circular No. 11/2015 Dated 21st July, 2015.
8. Companies (Management and Administration) Amendment Rules, 2014 dated 23rd June, 2014.
9. Companies (Management and Administration) Second Amendment Rules, 2014 dated 24th July, 2014
10. Companies (Management and Administration) Amendment Rules, 2015 dated 19th March, 2015

Broad Topics covered in Circulars and Amendment Rules are as under :

- Form MGT-10 (Return of changes in shareholding position of promoters and top 10 shareholders)
- Voting through electronic means
- Format of Annual Return for financial year 2013-2014
- Filing return on declaration of beneficial interest in form MGT 6
- Signing of special notice to be given to the company

- Conversion of data from physical mode to electronic mode by existing companies with respect to maintenance of data in electronic mode
- MGT-14 form through Straight Through Process mode
- Extension of time for holding Annual General Meeting for Companies registered in State of Jammu and Kashmir
- Voting through electronic means – Rule 20 substituted.

I. Form MGT-10(Return of changes in shareholding position of promoters and top 10 shareholders)

Rule 13 of Companies (Management and Administration) Rules, 2014 that every listed company shall file with the Registrar, a return in Form No.MGT.10 along with the fee with respect to changes relating to either increase or decrease of two percent, or more in the shareholding position of promoters and top ten shareholders of the company in each case, either value or volume of the shares, within fifteen days of such change.

Explanation. - For the purpose of this sub-rule, the "change" means increase or decrease by two percent or more in the shareholding of each of the promoters and each of the top ten shareholders of the company.

The Ministry has vide its circular no 17/2014 dated June 11, 2014 **clarified** that stakeholders are required to fill Form MGT-10 physically, get it duly signed/certified by a professional and file it alongwith other required enclosures as attachments with the prescribed General E-Form No.GNL-2. This temporary arrangement will continue till an E-Form for MGT-10 is made available. Fee applicable for MGT-10 will be as per the Table of Fees prescribed in Companies (Registration Offices and Fees) Rules, 2014.

Further the ministry has clarified vide its Companies (Management and Administration) Second Amendment Rules, 2014 that in Rule 13 a. The words either value or volume of shares' shall be omitted and the explanation to Rule 13 shall be omitted. Accordingly the revised Rule 13 after the amendment would be as under.

Every listed company shall file with the Registrar, a return in Form No.MGT.10 along with the fee with respect to changes relating to either increase or decrease of two percent, or more in the shareholding position of promoters and top ten shareholders of the company in each case, within fifteen days of such change.

II. Voting through electronic means

Issue involved

Whether the e-voting is required with immediate effect?

Section 108 of the Companies Act, 2013 read with rule 20 of the Companies (Management and Administration.) Rules, 2014 deal with the exercise of right to vote by members by electronic means (e-means). The provisions seek to ensure wider shareholders participation in the decision making process in companies. Corporates and other stakeholders while appreciating the new approach had drawn attention to some practical difficulties in respect of general meetings to be held in the next few months.

Clarification issued

The suggestions received from the stakeholders were examined. It was noticed that compliance with procedural requirements, engagement of Depository Agencies and the need for clarity on

matter like demand for poll/ postal ballot etc will take some more time. Accordingly, it has been decided vide circular no 20/2014 dated June 17, 2014 not to treat the relevant provisions as mandatory till 31st December, 2014. To provide clarity and ensure uniformity in the e-voting procedure, clarifications on certain issues raised by the stakeholders are provided in the Annexure to this circular for guidance of all concerned. The ministry has further clarified vide Companies (Management and Administration) Amendment Rules 2014, dated June 23, 2014 that the company to provide e-voting with effect from 01st January 2015, by adding a proviso to sub rule (1) of Rule 20.

III. Format of Annual Return for financial year 2013-2014

Issue involved

Whether the revised format of Annual Return (MGT-7) is to be filed with immediate effect?

Government has received requests for clarification about the applicability of form of annual return (MGT-7) prescribed under rule 11(1) of the Companies (Management and Administration) Rules, 2014 for financial year(s) commencing earlier than 1st April, 2014.

Clarification issued

The matter has been examined in the light of provisions of section 92(1) of the Act which requires annual return to contain particulars as they stood on the close of the financial year. It is, clarified vide circular no 22/2014 dated June 25, 2014 that Form MGT-7 shall not apply to annual returns in respect of companies whose financial year ended on or before 1st April, 2014 and for annual returns pertaining to earlier years. These companies may file their returns in the relevant Form applicable under the Companies Act, 1956. Companies have also sought clarity about permitting free of cost inspection of records under rule 14(2)(Inspection of Annual return and other registers) and rule 16(copies and registers and annual return) of the rules cited above and till a fee is prescribed for the purpose in the Articles. It is clarified that until the requisite fee is specified by companies, inspections could be allowed without levy of fee.

Amendment to Section 92(2)

Section 92(2) as notified reads as under

“The annual return, filed by a listed company or, by a company having such paid-up capital and turnover as may be prescribed, shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.”

The Ministry vide its Companies (Removal of Difficulties) Second order 2014, dated April 29, 2014 has stated that In sub-section 2 of Section 92 for the words “The annual return, filed by a listed company or, by a company having such paid-up capital and turnover as may be prescribed” the words “The annual return, filed by a listed company or by a company having such paid-up capital or turnover as may be prescribed” shall be substituted.

The revised Section 92(2) reads as under

“The annual return, filed by a listed company or, by a company having such paid-up capital or turnover as may be prescribed, shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.”

IV. Filing return on declaration of beneficial interest in form MGT 6

Rule 9(3) of companies (Management and Administration) Rules reads as under:

“Where any declaration under section 89 is received by the company, the company shall make a note of such declaration in the register of members and shall file, within a period of thirty days

from the date of receipt of declaration by it, a return in Form No.MGT.6 with the Registrar in respect of such declaration with fee.”

The Ministry vide its Companies (Management and Administration) Second Amendment Rules, 2014 dated July 24, 2014 has made the following amendments.

In rule 9, after the sub-rule (3) the following proviso shall be inserted namely-

“Provided that nothing contained in this rule shall apply in relation to a trust which is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India”.

Accordingly the revised Rule 9(3) would read as under:

“Where any declaration under section 89 is received by the company, the company shall make a note of such declaration in the register of members and shall file, within a period of thirty days from the date of receipt of declaration by it, a return in Form No.MGT.6 with the Registrar in respect of such declaration with fee.”

“Provided that nothing contained in this rule shall apply in relation to a trust which is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India”.

V. Signing of special notice to be given to the company

Rule 23(1) of Companies (Management and Administration) Rules reads as under:

A special notice required to be given to the company shall be signed, either individually or collectively by such number of members holding not less than one percent of total voting power or holding shares on which an aggregate sum of not less than five lakh rupees has been paid up on the date of the notice.

The ministry vide Companies (Management and Administration) Second Amendment Rules 2014 dated July 24, 2014 has made the following amendments:

iii) in rule 23, in sub-rule (1), for the words “not less than five lakh rupees”, the words “not more than five lakh rupees” shall be substituted;

Accordingly the revised Rule 23(1) is read as

A special notice required to be given to the company shall be signed, either individually or collectively by such number of members holding not less than one percent of total voting power or holding shares on which an aggregate sum of not more than five lakh rupees has been paid up on the date of the notice.

VI. Conversion of data from physical mode to electronic mode by existing companies with respect to maintenance of data in electronic mode

Rule 27(1) of Companies (Management and Administration) Rules 2014 as under

Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, shall maintain its records, as required to be maintained under the Act or rules made there under, in electronic form.

Explanation.- For the purposes of this sub-rule, it is hereby clarified that in case of existing companies, data shall be converted from physical mode to electronic mode within six months from the date of notification of provisions of section 120 of the Act.

The ministry vide Companies (Management and Administration) Second amendment Rules 2014 dated July 24, 2014 has made the following amendments.

“in rule 27, in sub-rule (1) and in the Explanation, for the word “shall”, the word “may” shall be substituted.”

Accordingly the revised Rule 27(1) is read as under

Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, shall maintain its records, as required to be maintained under the Act or rules made there under, in electronic form.

Explanation.- For the purposes of this sub-rule, it is hereby clarified that in case of existing companies, data may be converted from physical mode to electronic mode within six months from the date of notification of provisions of section 120 of the Act.

VII. Simplification of procedures and to ensure timely disposal of MGT-14 in the office of ROCs.

In order to simplify procedures and with a view to ensure timely disposal of E-Forms in the office of Registrars of Companies and keeping in view the penal provisions for false declaration as contained in section 448 read with section 447, Ministry of Corporate Affairs clarified vide Circular No. 28/2014 dated July 09, 2014 that form no. MGT-14 will be processed and taken on record using the Straight through Process mode, in all cases except for change of Name, Change of objects, resolution for further issue of capital and conversion of companies

VIII. Convening of Annual General Meetings in the State of Jammu & Kashmir

Representations were received by the Ministry of Corporate Affairs from Kashmir Chamber of Commerce and Industry and others that due to the devastation caused by the floods, companies registered in the State could not convene AGMs for the financial year 2013-2014 within the stipulated time as required under the provisions of Companies Act, 2013. Considering this the Ministry advised Registrar of Companies Jammu and Kashmir vide Circular No. 45/14 dated November 18, 2014 to exercise powers conferred on him under the third proviso to section 96(1) of the Companies Act, 2013 to grant extension of time upto 31/12/2014 to those companies registered in the State of Jammu and Kashmir who could not hold their AGMs (other than first AGM) for the financial year 2013-14 within the stipulated time.

IX. Voting through Electronic Means - Rule 20 of Companies (Management and Administration) Rules, 2014 - New Rule 20 substituted

The Ministry vide notification dated March 19, 2015 issued the Companies Management and Administration (Amendment) Rules, 2015 replacing the existing Rule 20 with New Rule 20. The provisions of this rule shall apply in respect of the general meetings for which notices are issued on or after the date of commencement of this rule.

Every company other than a company referred to in Chapter XB or Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 having its equity shares listed on a recognised stock exchange or a company having not less than one thousand members, is required to provide to its members facility to exercise their right to vote on resolutions proposed to be considered at general meetings by electronic means. This means that all listed companies, except for Small Medium Enterprises (SME) and Institutional Trading Platform (ITP) listed companies, and companies having not less than 1000 members shall have to provide facility for electronic voting.

Electronic voting system has been defined to mean 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.

The major amendments include:

- introduction of remote voting and
- changes in provisions relating to public advertisement
- extension of electronic voting period.

X. Non - Availability of E form AOC-4, AOC-4 XBRL, AOC-4 CFS and MGT-7 and relaxation of additional fees

The Ministry clarified that electronic version of Forms AOC-4, AOC-4 XBRL and MGT-7 are being developed and shall be made available for electronic filing latest by 30th September 2015. In addition, a separate form for filing of Consolidated Financial Statement (CFS) with the nomenclature AOC-4 CFS will be made available latest by October 2015. MGT-7 has been notified while AOC-4, AOC-4 XBRL and AOC-4 CFS will be notified shortly.

With respect to filing of financial statements, auditors report and board's report in respect of Financial Years commencing on or after 1st April, 2014, the Ministry has decided to relax the additional fee payable on Forms AOC-4, AOC-4 XBRL and Form MGT-7 upto 31/10/2015. Further, a company which is not required to file its financial statement in XBRL format and is required to file its CFS would be able to do so in the separate form for CFS i.e. AOC-4 CFS without any additional fees upto 30/11/2015.

XI. Sending of Financial Statements at a shorter notice

Issue Involved

Whether the financial statement can be sent at a shorter notice pursuant to Section 101 and 136 of Companies Act, 2013?

The Ministry clarified that a company holding a general meeting after giving shorter notice as provided under section 101 of the Act may also circulate financial statement (to be laid/considered in the same general meeting) at such shorter notice.

Further it is clarified that in case of a foreign subsidiary, which is not required to get its accounts audited as per legal requirement prevalent in the country of its incorporation and which does not get such accounts audited, the holding/parent Indian may place/ file such unaudited accounts to comply with requirement of Section 136(1) and 137(1) as applicable. These financials need to be translated in English, if the original accounts are not in English. Further the format of accounts of foreign subsidiaries should be as far as possible, in accordance with requirements under Companies Act, 2013. In case this is not possible, a statement indicating the reasons for deviation may be placed /filed along with such accounts.

The text of the Circulars and Amendment Rules issued under this Chapter appended as under:

1

General Circular No. 17/2014

No. MCA21/72/2014-e.Gov.

Government of India

Ministry of Corporate Affairs

'A' Wing, 5th floor, Shastri Bhawan
Dr. Rajendra Prasad, New Delhi-110001

Dated : 11 June, 2014

To

All Regional Directors

All Registrars of Companies

All Stakeholders

Subject : Filing of MGT-10- clarification-regarding.

Sir,

In continuation of General Circular No. 06/2014 dated 29.03.2014 and 09/2014 dated 25.04.2014, I am directed to inform you that stakeholders are required to fill Form MGT-10 physically, get it duly signed/certified by a professional and file it alongwith other required enclosures as attachments with the prescribed General E-Form No. GNL-2. This temporary arrangement will continue till an E-Form for MGT-10 is made available. Fee applicable for MGT-10 will be as per the Table of Fees prescribed in Companies (Registration Offices and Fees) Rules, 2014.

2. This issues with the approval of the Competent Authority.

Sd/-

(Sanjay Kumar Gupta)

Deputy Director

Ph: 23384657

Copy to :

1. PSO to Secretary
2. PPS to Addl. Secretary
3. PS to JS(M)/ PS to JS(B)/ PPS to JS(SP)
4. DIR(AK) / DIR(AB) / DIR(NC) / DIR(PS)
5. AD(MKS)

General Circular No. 20/2014

No. 1/34/2013-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr R.P. Road, New Delhi

Dated 17th June, 2014

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

Subject: Clarification with regard to voting through electronic means - reg.

Sir,

Section 108 of the Companies Act, 2013 read with rule 20 of the Companies (Management and Administration.) Rules, 2014 deal with the exercise of right to vote by members by electronic means (e-means). The provisions seek to ensure wider shareholders participation in the decision making process in companies. Corporates and other stakeholders while appreciating the new approach have drawn attention to some practical difficulties in respect of general meetings to be held in the next few months.

2. The suggestions received from the stakeholders have been examined. It is noticed that compliance with procedural requirements, engagement of Depository Agencies and the need for clarity on matter like demand for poll/ postal ballot etc will take some more time. Accordingly, it has been decided not to treat the relevant provisions as mandatory till 31st December, 2014. The relevant notification in this regard is being issued separately.

3. To provide clarity and ensure uniformity in the e-voting procedure, clarifications on certain issues raised by the stakeholders are provided in the Annexure to this circular for guidance of all concerned.

This issues with, the approval of the competent authority.

Yours faithfully

Sd/-

(KMS Narayanan)
Assistant Director
23387263

Copy to :-

1. e-Governance Section and Web Contents Officer to place this circular on the Ministry's website
2. Guard File

Clarifications on issues associated with e- voting procedure

- (i) *Show of hands not to be allowed in case of e-voting* :- In view of clear provisions of section 107, voting by show of hands would not be allowable in cases where rule 20 of Companies (Management and Administration) Rules, 2014 is applicable.
- (ii) *Participation in the general meeting after voting by e-means* : - It is clarified that a person who has voted through e-voting mechanism in accordance with rule 20 shall not be debarred from participation in the general meeting physically. But he shall not be able to vote in the meeting again, and his earlier vote (cast through e-means) shall be treated as final.
- (iii) *Applicability of rule 20 for matters specified under rule 22(16)* :- Stakeholders have asked whether matters specified under rule 22(16) (transactions of certain items only through postal ballot) can be considered in a general meeting where e-voting facility is available. It has been examined and it is stated that in view of clear provisions of section 110(l)(a) read with such rule 22(16) it would be necessary to transact items specified in rule 22(16) only through postal ballot and not at the general meeting.
- (iv) *Relevance of provisions relating to demand for poll* :- In case of companies having share capital, voting through e-means takes into account 'Proportion principle' [i.e. 'one share - one vote] unlike 'one person - one vote' principle under 'show of hands'. This alongwith provisions of section 107 make it clear that in case of companies which are covered under section 108 read with rule 20 of Companies (Management and Administration) Rules, the provisions relating to demand for poll would not be relevant.
- (v) *Permissibility of voting by posted ballot under rule 20* :- Stakeholders have sought a clarification that in cases (covered under rule 20) where a shareholder who is not able to participate in the general meeting personally and who is also not exercising voting through e-means whether such a person shall have the option to vote through postal ballot. The matter has been examined and it is felt that keeping in view the provisions of the Act such an option would not be available.
- (vi) *Manner of voting in case of shareholders present in the meeting*:-Stakeholders have sought clarity about manner of voting for shareholders (of a company covered under rule 20) who are present in the general meeting. It is hereby clarified that since voting through e-means would be on the basis of proportion of share in the paid-up capital or 'one-share one-vote', the Chairperson of the meeting shall regulate the meeting accordingly.
- (vii) *Applying rule 20 voluntarily* :- Stakeholders have referred to words 'A company which opts to' appearing in rule 20(3) and have raised a query whether rule 20 is applicable to companies not covered in rule 20(1). It is clarified that rule 20(3) is being amended to align it with rule 20(1). Regarding voluntary application of rule 20, it is clarified that in case a company not mandated under rule 20(1) opts or decided to give its shareholders the e-voting facility, in such a case, the whole of procedure specified in rule 20 shall be applicable to such a company. This is necessary so that any piece-meal application does not prejudice the interest of shareholders.

General Circular No. 22/2014

No. 1/34/2013-CL-V(Part-I)

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr R.P. Road, New Delhi.

Dated: 25th June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject: Clarification with regard to format of annual return applicable for Financial Year 2013-14 and fees to be charged by companies for allowing inspection of records

Sir,

Government has received requests for clarification about the applicability of form of annual return (MGT-7) prescribed under rule 11(1) of the Companies (Management and Administration) Rules, 2014 for financial year(s) commencing earlier than 1st April, 2014. The matter has been examined in the light of provisions of section 92(1) of the Act which requires annual return to contain particulars as they stood on the close of the financial year. It is clarified that Form MGT-7 shall not apply to annual returns in respect of companies whose financial year ended on or before 1st April, 2014 and for annual returns pertaining to earlier years. These companies may file their returns in the relevant Form applicable under the Companies Act, 1956.

2. Companies have also sought clarity about permitting free of cost inspection of records under rule 14(2) and rule 16 of the rules cited above and till a fee is prescribed for the purpose in the Articles. It is clarified that until the requisite fee is specified by companies, inspections could be allowed without levy of fee.

3. This issues with the approval of the competent authority.

Yours faithfully,

Sd/-

(KMS /Narayanan)

Assistant Director (Policy)

23387263

Copy to :

1. e-Governance Section and Web Contents Officer to place this circular on the Ministry's website
2. Guard File

General Circular 28/2014

File No.1/9/2013-CL-V
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan
Rajendra Prasad Road, New Delhi- 110001

Dated: 9th July, 2014

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

Subject : Clarification on form MGT – 14 through STP mode.

Sir,

In order to simplify procedures and with a view to ensure timely disposal of E- Forms in the office of Registrars of Companies and keeping in view the penal provisions for false declaration as contained in section 448 read with section 447, the following E-Forms with the conditions mentioned along with will be processed and taken on record using the Straight Through Process mode.

S.NO.	E-Form	Conditions
1	MGT-14	All cases except for change of Name, change of object, resolution for further issue of capital and conversion of companies will be STP Mode.

This circular will be effective from 21.07.2014.

Yours faithfully,

(KMS Narayanan)
Assistant Director
Tel: 23387263

Copy to :

1. PSO to Secretary
2. PPS to AS
3. PS to JS(M)/PS to JS(B)/PS to JS(SP)

General Circular No. 45/2014

F.No. 02/13/2014 CL-V
Government of India
Ministry of Corporate Affairs

A' Wing, 5th Floor, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi -110001.

Dated: 18.11.2014

To,

All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Subject: Extension of time for holding Annual General Meeting (AGM) under section 96(1) of the Companies Act, 2013-Companies registered in State of Jammu and Kashmir.

Sir,

The State of Jammu and Kashmir faced unprecedented floods, particularly in the Kashmir valley in September 2014. Kashmir Chamber of Commerce and Industry and others have represented that due to the devastation caused by the floods, companies registered in the State could not convene AGMs for the financial year 2013-2014 within the stipulated time as required under the provisions of Companies Act, 2013.

2. In view of the exceptional circumstances, Registrar of Companies Jammu and Kashmir is advised to exercise powers conferred on him under the third proviso to section 96(1) of the Companies Act, 2013 to grant extension of time upto 31/12/2014 to those companies registered in the State of Jammu and Kashmir who could not hold their AGMs (other than first AGM) for the financial year 2013-14 within the stipulated time.

3. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Narayanan)
Assistant Director
23387263

Copy to:

1. ROC Jammu and Kashmir
2. E-Governance Section and Web Contents Officer to place this circular on the Ministry's website.
3. Guard File.

General Circular No. 10/2015

F.No. 01/34/2013 CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi-1

Dated: 13/072015

To,

All Regional Directors,
All Registrars of Companies,
All Stakeholders .

Subject: Relaxation of additional fees and extension of last date of in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013-reg.

Sir,

This Ministry has clarified vide General Circular 8/2014 dated 04/04/2014 that provisions of the Companies Act, 2013 relating to financial statements, auditors report and board s report shall apply in respect of financial years commencing on or after 1st April, 2014. Form AOC-4 or Form AOC-4 XBRL (Format of filing of financial statement) shall, as applicable, have to be used for filing of such statement for financial years commencing on or after 1st April, 2014. Attention is also invited to this Ministry's General Circular 22/2014 dated 25/06/2014 wherein it has been clarified that MGT-7 (Form of Annual Return) shall apply to annual returns in respect of financial years ending after 1st April, 2014.

2. The electronic versions of Forms AOC-4, AOC-4 XBRL and MGT-7 are being developed and shall be made available for electronic filing latest by 30th September 2015. In addition, a separate form for filing of Consolidated Financial Statement (CFS) with the nomenclature AOC-4 CFS will be made available latest by October 2015. MGT-7 has been notified while AOC-4, AOC-4 XBRL and AOC-4 CFS will be notified shortly.

3. In view of this, it has been decided to relax the additional fee payable on Forms AOC-4, AOC-4 XBRL and Form MGT-7 upto 31/10/2015. Further, a company which is not required to file its financial statement in XBRL format and is required to file its CFS would be able to do so in the separate form for CFS without any additional fees upto 30/11/2015.

4. This issues with the approval of the competent authority.

Yours faithfully

(Kamna Sharma)
Assistant Director

Copy to:-

1. E- Governance Section

General Circular No. 11/2015

No. 1/ 19/2013-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi

Dated 21st July 2015

To,

All Regional Directors,

All Registrars of Companies,

All Stakeholders

Subject: Clarification with regard to circulation and filing of financial statement under relevant provisions of the Companies Act, 2013-reg.

Sir,

Stakeholders have drawn attention to the proviso to section 101(1) of the Companies Act, 2013 (Act) which allows general meetings to be called at a shorter notice than twenty one days, and sought clarification as to whether provisions of section 136 would also allow circulation of financial statements at a shorter notice if conditions under section 101 are fulfilled.

1.2 The matter has been examined and it is clarified that a company holding a general meeting after giving a shorter notice as provided under section 101 of the Act may also circulate financial statements (to be laid/considered in the same general meeting) at such shorter notice.

2.1 Attention has also been drawn to the provisions of clause (a) of fourth proviso to section 136(1) which require every company having a subsidiary or subsidiaries to place on its website, if any, separate audited accounts in respect of each of its subsidiary. Further, fourth proviso to section 137(l) requires that a company shall attach along with its financial statements to be filed with the Registrar, the accounts of its subsidiary(ies) which have been incorporated outside India and which have not established their place of business in India. Clarification has been sought on -

- (a) Whether a company covered under above provisions can place/file unaudited accounts of a foreign subsidiary if the audit of such foreign subsidiary is not a mandatory legal requirement in the country where such foreign subsidiary has been incorporated and such audit has not been conducted, and;
- (b) Whether accounts of such foreign subsidiary would need to be as per format under Schedule III/Accounting Standards or the format as per country of incorporation of the foreign subsidiary would be sufficient.

2.2 The matter has been examined in the Ministry in consultation with 1CAI and it is clarified that in case of a foreign subsidiary, which is not required to get its accounts audited as per legal

requirements prevalent in the country of its incorporation and which does not get such accounts audited, the holding/parent Indian may place/file such unaudited accounts to comply with requirements of Section 136(1) and 137(1) as applicable. These, however, would need to be translated in English, if the original accounts are not in English. Further, the format of accounts of foreign subsidiaries should be, as far as possible, in accordance with requirements under Companies Act, 2013. In case this is not possible, a statement indicating the reasons for deviation may be placed/filed along with such accounts.

This issues with the approval of the competent authority.

Yours faithfully

(K.M.S Narayanan)
Assistant Director

Copy to:-

1. e-Governance Section and Web Contents Officer to place this circular on the Ministry's website
2. Guard File

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION****New Delhi, the 23rd June, 2014**

G.S.R. 415(E).-In exercise of the powers conferred under sub-section (1) of section 88, sub-section (4) of section 88, sub-section (1) of section 89, sub-section (2) section 89, sub-section (6) of section 89, sub-section (1) of section 91, sub-section (2) of section 92, sub-section (3) of section 92, section 93, sub-section (1) of section 94, subsection (4) of section 100, sub-section (2) of section 114, sections 102, 101, 105, 108, sub-section (5) of section 109, sections 112, 113, 110, sub-section (3) of section 186, section 115, sub-section (1) of section 117, sub-section (1) of section 118, sub-section (2) of section 119, section 120 and sub-section (1) of section 121, 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 to amend the Companies (Management and Administration) Rules, 2014, namely: -

1. (1) These rules may be called the Companies (Management and Administration) Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Management and Administration) Rules, 2014, in rule 20,
 - (i) in sub-rule (1), the following shall be inserted, namely:-
"Provided that the Company may provide the facility referred to in this sub-rule on or before the 1st day of January 2015."
 - (ii) in sub-rule (3), for the words "which opts to provide", the words "which provides" shall be substituted.

[F.No. 01/34/2013-CL-V]

AMARDEEP SINGH BHATIA*Jt. Secy.*

Note.- The principal rules were published in the Gazette of India vide notification number G.S.R. 260(E), dated the 31st March, 2014.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 24th July, 2014

G.S.R. 537(E).—In exercise of the powers conferred under sub-section (1) of section 88, sub-section (4) of section 88, sub-section (1) of section 89, sub-section (2) of section 89, sub-section (6) of section 89, sub-section (1) of section 91, sub-section (2) of section 92, sub-section (3) of section 92, section 93, sub-section (1) of section 94, sub-section (4) of section 100, Sections 101, 102, 105, 108, sub-section (5) of Section 109, Sections 110, 112, 113 sub-section (2) of Section 114, section 115, sub-section (1) of section 117, sub-section (1) of section 118, sub-section (2) of section 119, section 120 and sub-section (1) of section 121 and sub-section (3) of section 186, 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 further to amend the Companies (Management and Administration) Rules, 2014, namely:—

1. Short title and commencement.—(1) These rules may be called the Companies (Management and Administration) Second Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Management and Administration) Rules, 2014,—
 - (i) in rule 9, after sub-rule (3), the following proviso shall be inserted namely:—
"Provided that nothing contained in this rule shall apply in relation to a trust which is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India".
 - (ii) in rule 13,—
 - (a) the words "either value or volume of the shares" shall be omitted;
 - (b) the Explanation shall be omitted.
 - (iii) in rule 23, in sub-rule (1), for the words "not less than five lakh rupees", the words "not more than five lakh rupees" shall be substituted;
 - (iv) in rule 27, in sub-rule (1) and in the Explanation, for the word "shall", the word "may" shall be substituted.

[F. No. 01/34/2013-CL-V- Part-I]

AMARDEEP S. BHATIA

Jt. Secy.

Note :—The principal notification was published in the Gazette of India, vide No. G.S.R. 260(E), dated the

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 19th March, 2015

G.S.R. 207(E).- In exercise of the powers conferred by section 108 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 further to amend the Companies (Management and Administration) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Management and Administration) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Management and Administration) Rules, 2014, for rule 20 the following rule shall be substituted, namely:-

"20. Voting through electronic means.- (1) The provisions of this rule shall apply in respect of the general meetings for which notices are issued on or after the date of commencement of this rule.

(2) Every company other than a company referred to in Chapter XB or Chapter XC of the Securities and Exchange Board of India (issue of Capital and Disclosure Requirements) Regulations, 2009 having its equity shares listed on a recognised stock exchange or a company having not less than one thousand members, shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at general meetings by electronic means.

Explanation.- 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 the 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 specified 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 a 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 .
- (3) A member may exercise his right to vote through voting by electronic means on resolutions referred to in sub-rule (2) and the company shall pass such resolutions in accordance with the provisions of this rule.
- (4) A company which provides the facility to its members to exercise voting by electronic means shall comply with the following procedure, namely:-
- (i) the notice of the meeting shall be sent to all the members, directors and auditors of the company either –
 - (a) by registered post or speed post ; or
 - (b) through electronic means, namely, registered e-mail ID of the recipient; or
 - (c) by courier service;
 - (ii) the notice shall also be placed on the website, if any, of the company and of the agency forthwith after it is sent to the members;
 - (iii) the notice of the meeting shall clearly state –
 - (A) that the company is providing facility for voting by electronic means and the business may be transacted through such voting;
 - (B) that the facility for voting, either through electronic voting system or ballot or polling paper shall also be made available at the meeting and members attending the meeting who have not already cast their vote by remote e-voting shall be able to exercise their right at the meeting;
 - (C) that the members who have cast their vote by remote e-voting prior to the meeting may also attend the meeting but shall not be entitled to cast their vote again;
 - (iv) the notice shall –
 - (A) indicate the process and manner for voting by electronic means;
 - (B) indicate the time schedule including the time period during which the votes may be cast by remote e-voting;
 - (C) provide the details about the login ID;
 - (D) specify the process and manner for generating or receiving the password and for casting of vote in a secure manner.
 - (v) the company shall cause a public notice by way of an advertisement to be published,

immediately on completion of despatch of notices for the meeting under clause (i) of sub-rule (4) but at least twenty-one days before the date of general meeting, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having country-wide circulation, and specifying in the said advertisement, *inter alia*, the following matters namely :-

- (a) statement that the business may be transacted through voting by electronic means;
- (b) the date and time of commencement of remote e-voting;
- (c) the date and time of end of remote e-voting;
- (d) cut-off date;
- (e) the manner in which persons who have acquired shares and become members of the company after the despatch of notice may obtain the login ID and password;
- (f) the statement that –
 - (A) remote e-voting shall not be allowed beyond the said date and time;
 - (B) the manner in which the company shall provide for voting by members present at the meeting; and
 - (C) a member may participate in the general meeting even after exercising his right to vote through remote e-voting but shall not be allowed to vote again in the meeting; and
 - (D) a person whose name is recorded in the register of members or in the register of beneficial owners maintained by the depositories as on the cut-off date only shall be entitled to avail the facility of remote e-voting as well as voting in the general meeting;
- (g) website address of the company, if any, and of the agency where notice of the meeting is displayed; and
- (h) name, designation, address, email id and phone number of the person responsible to address the grievances connected with facility for voting by electronic means:

Provided that the public notice shall be placed on the website of the company, if any, and of the agency;

- (vi) the facility for remote e-voting shall remain open for not less than three days and shall close at 5.00 p.m. on the date preceding the date of the general meeting;
- (vii) during the period when facility for remote e-voting is provided, the members of the company, holding shares either in physical form or in dematerialised form, as on the cut-off date, may opt for remote e-voting:

Provided that once the vote on a resolution is cast by the member, he shall not be allowed to change it subsequently or cast the vote again;

Provided further that a member may participate in the general meeting even after exercising his right to vote through remote e-voting but shall not be allowed to vote again;

- (viii) at the end of the remote e-voting period, the facility shall forthwith be blocked:

Provided that if a company opts to provide the same electronic voting system as used during remote e-voting during the general meeting, the said facility shall be in operation till

all the resolutions are considered and voted upon in the meeting and may be used for voting only by the members attending the meeting and who have not exercised their right to vote through remote e-voting.

- (ix) the Board of Directors shall appoint one or more scrutiner, who may be Chartered Accountant in practice, Cost Accountant in practice, or Company Secretary in practice or an Advocate, or any other person who is not in employment of the company and is a person of repute who, in the opinion of the Board can scrutinise the voting and remote e-voting process in a fair and transparent manner:

Provided that the scrutiner so appointed may take assistance of a person who is not in employment of the company and who is well-versed with the electronic voting system;

- (x) the scrutiner shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority;
- (xi) the Chairman shall, at the general meeting, at the end of discussion on the resolutions on which voting is to be held, allow voting, as provided in clauses (a) to (h) of sub-rule (1) of rule 21, as applicable, with the assistance of scrutiner, by use of ballot or polling paper or by using an electronic voting system for all those members who are present at the general meeting but have not cast their votes by availing the remote e-voting facility.
- (xii) the scrutiner shall, immediately after the conclusion of voting at the general meeting, first count the votes cast at the meeting, thereafter unblock the votes cast through remote e-voting in the presence of at least two witnesses not in the employment of the company and make, not later than three days of conclusion of the meeting, a consolidated scrutiner's report of the total votes cast in favour or against, if any, to the Chairman or a person authorised by him in writing who shall countersign the same:

Provided that the Chairman or a person authorised by him in writing shall declare the result of the voting forthwith;

Explanation.- It is here by clarified that the manner in which members have cast their votes, that is, affirming or negating the resolution, shall remain secret and not available to the Chairman, Scrutiner or any other person till the votes are cast in the meeting.

- (xiii) For the purpose of ensuring that members who have cast their votes through remote e-voting do not vote again at the general meeting, the scrutiner shall have access, after the closure of period for remote e-voting and before the start of general meeting, to details relating to members, such as their names, folios, number of shares held and such other information that the scrutiner may require, who have cast votes through remote e-voting but not the manner in which they have cast their votes:
- (xiv) the scrutiner shall maintain a register either manually or electronically to record the assent or dissent received, mentioning the particulars of name, address, folio number or client ID of the members, number of shares held by them, nominal value of such shares and whether the shares have differential voting rights;
- (xv) the register and all other papers relating to voting by electronic means shall remain in the safe custody of the scrutiner until the Chairman considers, approves and signs the minutes and thereafter, the scrutiner shall hand over the register and other related papers to the company;
- (xvi) the results declared along with the report of the scrutiner shall be placed on the website of the company, if any, and on the website of the agency immediately after the result is declared by the Chairman :

Provided that in case of companies whose equity shares are listed on a recognised stock exchange, the company shall, simultaneously, forward the results to the concerned stock exchange or exchanges where its equity shares are listed and such stock exchange or exchanges shall place the results on its or their website.

- (xvii) subject to receipt of requisite number of votes, the resolution shall be deemed to be passed on the date of the relevant general meeting.

Explanation.- For the purposes of this clause, the requisite number of votes shall be the votes required to pass the resolution as the 'ordinary resolution' or the 'special resolution', as the case may be, under section 114 of the Act.

- (xviii) a resolution proposed to be considered through voting by electronic means shall not be withdrawn."

[F. No. 01/34/2013-CL-V- Part-I]

AMARDEEP S. BHATIA

Joint Secretary

Note.- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R.260(E), dated the 31st March,2014 and subsequently amended *vide* number G.S.R.415(E), dated the 23rd June,2014 and *vide* number G.S.R 537(E), dated the 24th July,2014.

Chapter VIII

DECLARATION AND PAYMENT OF DIVIDEND

Chapter Title	Declaration and Payment of Dividend
Sections Covered	Section-123 to Section-127
Topics Covered	Declaration of dividend, Unpaid Dividend Account, Investor Education and Protection Fund
Rules Framed thereunder	Companies (Declaration and Payment of Dividend) rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Amendment in Rules by the Ministry under this Chapter, so far :

1. Companies (Declaration and Payment of Dividend) Amendment Rules, 2014, dated 12th June, 2014
2. Companies (Declaration and Payment of Dividend) (Amendment) Rules, 2015 dated 24th February, 2015
3. Companies (Declaration and Payment of Dividend) Second Amendment Rules, 2015 dated 29th May, 2015

Brief topics covered in Amendment Rules are discussed as under :

I. Rule 3(5) of Companies (Declaration and Payment of Dividend) Rules, 2014 substituted with new Rule 3(5)

The Rule 3(5) Companies (Declaration and Payment of Dividend) Rules, 2014 as notified was read as under:

No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year are set off against profit of the company of the current year the loss or depreciation, whichever is less, in previous years is set off against the profit of the company for the year for which dividend is declared or paid.

The Ministry vide Companies (Declaration and Payment of Dividend) Amendment Rules 2014 has made following amendments.

In companies (Declaration and Payment of Dividend) Rules 2014, in rule 3, for sub-rule 5, the following shall be substituted.

5. No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company of the current year.

After amendment the Rule 3(5) Companies (Declaration and Payment of Dividend) Rules, 2014 read as under:

5. No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company of the current year.

II. Insertion of Footnote

The Ministry of Corporate Affairs inserted a footnote in Companies (Declaration and Payment of Dividend) Amendment Rules, 2014 dated 12-06-2014. The footnote is as under:

“The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 241(E), dated the 31st March, 2014.”

III. The sub-rule 5 of rule (3) of Companies (Declaration and Payment of Dividend) Rules, 2014 has been omitted.

The text of the Amendment Rules issued under this Chapter appended as under :

1

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi : the 12th June, 2014

G.S.R 397(E).- In exercise of the power conferred under sub-section (1) of section 123 read with section 469 of the Companies Act, 2013(18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Declaration and Payment of Dividend) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Declaration and Payment of Dividend) Amendment Rules 2014.

(2) They shall come in to force on the date of their publication on official Gazette.

2. In the Companies (Declaration and Payment of Dividend) Rules, 2014, in rule 3, for sub-rule 5, the following shall be substituted namely:-

“(5). No company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company of the current year.”

[F.No. 1/31/2013-CL-V]

AMARDEEP SINCH BHATIA

Jt. Secy

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 24th February, 2015

G.S.R. 121(E).—In exercise of the powers conferred under sub-section (1) of Section 123 read with Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Declaration and Payment of Dividend) Rules, 2014, namely :—

1. (1) These rules may be called the Companies (Declaration and Payment of Dividend) (Amendment) Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Declaration and Payment of Dividend) Amendment Rules, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* G.S.R. No. 397(E), dated the 12th June, 2014, after the words "AMARDEEP SINGH BHATIA, Jt. Secy.", the following Foot Note shall be inserted, namely :—

"Foot Note.—The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 241(E), dated the 31st March, 2014."

[F. No. 1/31/2013-CL-V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note. – The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number G.S.R. 241(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 397(E), dated the 12th June, 2014.

3

Government of India
Ministry of Corporate Affairs
Notification
New Delhi, the 29th May, 2015

G.S.R. 441(E). - In exercise of the powers conferred under sub-section (1) of section 123 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Declaration and Payment of Dividend) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Declaration and Payment of Dividend) Second Amendment Rules, 2015.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Declaration and Payment of Dividend) Rules, 2014, in rule 3, sub-rule (5) shall be omitted.

[F. No. 1/31/2013-CL-V-Part]

Amardeep Singh Bhatia
Joint Secretary to the Government of India

Chapter IX

ACCOUNTS OF COMPANIES

Chapter Title	Accounts of Companies
Sections Covered	Section-128 to Section-138
Topics Covered	Books of accounts, etc., to be kept by company, Constitution of National Financial Reporting Authority, Financial statement, Board's report, etc., Corporate Social Responsibility, Internal Audit
Rules Framed thereunder	The Companies (Accounts) rules, 2014 The Companies (CSR policy) rules, 2014
Rules Notified on and effective from	Companies (Accounts) Rules notified on 31st March, 2014 and is effective from 01st April, 2014 Companies (CSR policy) Rules notified on 27th Feb, 2014 and is effective from 01st April, 2014

Circulars, notifications and amendment rules issued by the Ministry under this chapter so far:

1. General Circular No. 8/2014 dated 4th April, 2014
2. General Circular No. 21/2014 dated 18th June, 2014
3. General Circular No. 35/2014 dated 27th August, 2014
4. General Circular No. 36/2014 dated 17th September, 2014
5. General Circular No. 39/2014 dated 14th October, 2014
6. General Circular No. 01/2015 dated 3rd February, 2015
7. The Companies (CSR policy) Amendment Rules, 2014 dated 12th September, 2014
8. The Companies (Accounts) Amendment Rules, 2014 dated 14th October, 2014
9. The Companies (Accounts) Amendment Rules, 2015 dated 16th January, 2015
10. The Companies (CSR policy) Amendment Rules, 2015 dated 19th January, 2015
11. The Companies (Indian Accounting Standards) Rules, 2015. Notification dated 16th February, 2015

Broad Topics covered in Circulars and Amendment Rules are as under :

- Corporate Social Responsibility
- Applicability of relevant financial year with respect to financial statements
- Consolidated Financial Statement
- Indian Accounting Standards.

I. Corporate Social Responsibility

This Ministry has received several references and representation from stakeholders seeking clarifications on the provisions under Section 135 of the Companies Act, 2013 (herein after referred as 'the Act') and the Companies (Corporate Social Responsibility Policy) Rules, 2014, as well as activities to be undertaken as per Schedule VII of the Companies Act, 2013. Clarifications with respect to representations received in the Ministry on Corporate Social Responsibility (herein after referred as ('CSR')) are as under-

- (i) The statutory provision and provisions of CSR Rules, 2014, is to ensure that while activities undertaken in pursuance of the CSR policy must be relatable to Schedule VII of the Companies Act 2013, the entries in the said Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said Schedule. The items enlisted in the amended Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities.
- (ii) It is further clarified that CSR activities should be undertaken by the companies in project/ programme mode [as referred in Rule 4 (1) of Companies CSR Rules, 2014]. One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. would not be qualified as part of CSR expenditure.
- (iii) Expenses incurred by companies for the fulfillment of any Act/ Statute of regulations (such as Labour Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act.
- (iv) Salaries paid by the companies to regular CSR staff as well as to volunteers of the companies (in proportion to company's time/hours spent specifically on CSR) can be factored into CSR project cost as part of the CSR expenditure.
- (v) "Any financial year" referred under Sub-Section (1) of Section 135 of the Act read with Rule 3(2) of Companies CSR Rule, 2014, implies 'any of the three preceding financial years'.
- (vi) Expenditure incurred by Foreign Holding Company for CSR activities in India will qualify as CSR spend of the Indian subsidiary if, the CSR expenditures are routed through Indian subsidiaries and if the Indian subsidiary is required to do so as per section 135 of the Act.
- (vii) 'Registered Trust' (as referred in Rule 4(2) of the Companies CSR Rules, 2014) would include Trusts registered under Income Tax Act 1956, for those States where registration of Trust is not mandatory.
- (viii) Contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure as long as (a) the Trust/ society/ section 8 companies etc. is created exclusively for undertaking CSR activities or (b) where the corpus is created exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Act.

Further modifications under Corporate Social Responsibility

Vide Companies (**Corporate Social Responsibility Policy**) Amendment Rules, 2014 dated 12th September, 2014, after the words "but such expenditure" the words and comma "including expenditure on administrative overheads," in rule 4, sub-rule (6) of Companies (Corporate Social Responsibility Policy) Rules, 2014, has been inserted.

The amended rule is read as under:

Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years but such expenditure *including expenditure on administrative overheads*, shall not exceed five percent of total CSR expenditure of the company in one financial year.

Consequent to this amendment the Ministry vide Circular 36/2014 dated 17th September, 2014 omitted clarification (iv) in General Circular no. 21 of 2014 dated 18th June, 2014, which provided that "Salaries paid by companies to regular staff as well as to volunteers of the companies (in proportion to company's time/hours spent specifically on CSR) can be factored into CSR project cost as part of CSR expenditure.

- Vide Companies (**Corporate Social Responsibility Policy**) Amendment Rules, 2015 substitution have been made in Rule 4 sub-rule-2 of the Companies (**Corporate Social Responsibility Policy**) Rules, 2014.

The amended sub-rule is read as under:

- The Board of a company may decide to undertake its CSR activities approved by the CSR committee, through a registered trust or a registered society or a company *established under section 8 of the Act by the company, either singly or alongwith its holding or subsidiary or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company, or otherwise:*

Provided that -

- (i) if such trust, society or company is *not established by the company, either singly or alongwith its holding or subsidiary or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company* shall have an established track record of three years in undertaking similar programs or projects;

II. Applicability of relevant financial year with respect to financial statements

Issue involved

From which financial year the provisions of Companies Act, 2013 would apply with respect to maintenance, filing of financial statements?

Clarification issued

A number of provisions of the Companies Act, 2013 Including those relating to maintenance of books of account, preparation, adoption & filing of financial statements (and documents required to be attached thereto), Auditors reports and the Board of Directors report (Board's report) have been brought into force with effect from 1st April, 2014. Provisions of Schedule II (Useful lives to compute depreciation) and Schedule III (Format of financial statements) have also been brought into force from that date. The relevant Rules pertaining to these provisions have also been notified, placed on the website of the Ministry and have come into force from the same date,

The Ministry has received requests for clarification with regard to the relevant financial year with effect from which such provisions of the new Act relating to maintenance of books of account, preparation, adoption and filing of financial statements (and attachments thereto), auditor's report and Board's report will be applicable. Although the position In this behalf is quite clear, to make things absolutely clear it is hereby notified that the financial statements (and documents required to be attached thereto), auditor's report and Board's report In respect of financial years that commenced earlier than 1st April, 2014 shall be governed by the relevant provisions/ Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing on or after 1st April, 2014, the provisions of the new Act shall apply.

III. Consolidated Financial Statements

Various stakeholders' representations were received by the Ministry of Corporate Affairs seeking

clarifications on the manner of presentation of notes in Consolidated Financial statement (CFS) to be prepared under Schedule III to the Act.

The Ministry of Corporate Affairs after consultation with the Institute of Chartered Accountants of India clarified vide its circular No. 39/2014 dated 14th October, 2014 clarified that Schedule III to the Act read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.

IV. Amendments in the Companies (Accounts) Rules, 2014, with respect to manner of consolidation

The amendment vide Companies (Accounts) Amendment Rules, 2014 dated 14th October, 2014 has inserted proviso to Rule 6 relating to Manner of consolidation of Accounts.

Rule 6 provides that the consolidation of Financial Statements of the company shall be made in accordance with the provisions of schedule III of the Act and applicable accounting standards.

The amendment exempts preparation of consolidated financial statement by an intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company incorporated outside India from the applicability of the Rule.

Further it is provided that nothing contained in this rule shall, subject to any other law or regulation, apply for the financial year commencing from the 1st day of April, 2014 and ending on the 31st March, 2015, in case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, as the case may be."

Further, Ministry vide Companies (Accounts) Amendment Rules, 2015 dated 16th January, 2015 inserted third proviso stating that Rule 6 shall not apply in respect of consolidation of financial statement by a company having subsidiaries incorporated outside India only for the financial year commencing on or after 1st April, 2014.

V. Capitalization of Costs – Clarification on AS-10 and AS-16

Representations were received by the Ministry seeking clarification on capitalization of costs in cases of Competitive Bid Power Projects. The clarifications sought were with regard to capitalization of borrowing costs incurred during extended delay in commercial production for reasons beyond the developer's control, and whether capitalization of power plant should be unit-wise or project-wise.

The Ministry after consultation with Accounting Standards Board of the Institute of Chartered Accountants of India clarified vide General Circular no. 35/2014 dated 27th August, 2014 that Accounting Standards AS-10 and AS-16 prescribe the principles of capitalization of various costs based on the underlying concept that only such expenditure should be capitalized as form a part of the cost of fixed assets which increase the worth of the assets. Cost incurred during the extended delay in commencement of commercial production after the plant is otherwise ready does not increase the worth of fixed assets. Such costs cannot, therefore, be capitalized.

Accounting Standard AS 16, inter alia provides guidance with regard to part capitalization where some units of a project are complete. In case one of the units of the project is ready for commercial production and is capable of being used while construction continues for the other units, costs should be capitalized in relation to that part once the part is ready for commercial production.

Further it has been clarified that AS 10 and AS 16 are applicable irrespective of whether the power projects are 'Cost Plus projects' or 'Competitive Bid projects'.

VI. Notice of address to the Registrar at which books of account are to be maintained in Form AOC 5

First proviso to sub-section (1) of Section 128 provides that the books of Accounts and other relevant papers may be kept at such place in India as the Board of Directors decide and where such a decision is taken, the company shall within seven days thereof, file with the registrar a notice in writing giving the full address of that other place.

The Ministry vide Companies (Accounts) Amendment Rules, 2015, dated 16th January inserted that notice regarding address at which books of account may be kept shall be in Form AOC-5.

VII. Companies (Indian Accounting Standards) Rules, 2015

The Ministry in exercise of the powers conferred by section 133 read with 469 of the Companies Act, 2013 and sub-section 210A of the Companies Act, 1956, the Central Government, in consultation with the National Advisory Committee on Accounting Standards, issued Companies (Indian Accounting Standards) Rules, 2015 on 16.02.2015.

The rules are applicable from 01.04.2015.

Any company may comply with the Indian Accounting Standards (Ind AS) for financial statements for accounting periods beginning on or after 1st April, 2015, with the comparatives for the periods ending on 31st March, 2015, or thereafter.

Transition Period

- I. The following companies shall comply with the Indian Accounting Standards (Ind AS) for the accounting periods beginning on or after 1st April, 2016, with the comparatives for the periods ending on 31st March, 2016, or thereafter, namely:-
 - (a) companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of rupees five hundred crore or more;
 - (b) companies other than those covered by sub-clause (a) of clause (ii) of sub rule (1) and having net worth of rupees five hundred crore or more;
 - (c) holding, subsidiary, joint venture or associate companies of companies covered by sub-clause (a) of clause (ii) of sub- rule (1) and sub-clause (b) of clause (ii) of sub- rule (1) as the case may be; and
- II. The following companies shall comply with the Indian Accounting Standards (Ind AS) for the accounting periods beginning on or after 1st April, 2017, with the comparatives for the periods ending on 31st March, 2017, or thereafter, namely:-
 - (a) companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of less than rupees five hundred crore;
 - (b) companies other than those covered in clause (ii) of sub - rule (1) and sub clause (a) of clause (iii) of sub-rule (1), that is, unlisted companies having net worth of rupees two hundred and fifty crore or more but less than rupees five hundred crore.
 - (c) holding, subsidiary, joint venture or associate companies of companies covered under sub-clause (a) of clause (iii) of sub- rule (1) and sub-clause (b) of clause (iii) of sub - rule (1), as the case may be.

The exemption has been given from mandatory compliance of Indian Accounting Standards to companies whose securities are listed or are in the process of being listed on SME Exchange as referred to in Chapter XB or on the Institutional Trading Platform without initial public offering in accordance with the provisions of Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

Detailed Rules are available at www.mca.gov.in

The text of the Circulars issued under this Chapter appended as under:

1

General Circular 08/2014

**No. 1/19/2013-CL-V
Government of India
Ministry of Corporate Affairs**

5th Floor, TV Wing
Shastri Bhavan, Dr. R P Road
New Delhi-110 001
Dated 04.04.2014

To

All Regional Directors
All Registrar of Companies
All Stakeholders

Subject: Commencement of provisions of the Companies Act, 2013 with regard to maintenance of books of accounts and preparations/adoption/filing of financial statements, auditor's report, Board's report and attachments to such statements and reports - Applicability with regard to relevant financial year.

Sir,

A number of provisions of the Companies Act, 2013 including those relating to maintenance of books of account, preparation, adoption & filing of financial statements (and documents required to be attached thereto), Auditors reports and the Board of Directors report (Board's report) have been brought into force with effect from 1st April, 2014. Provisions of Schedule II (Useful lives to compute depreciation) and Schedule III (Format of financial statements) have also been brought into force from that date. The relevant Rules pertaining to these provisions have also been notified, placed on the website of the Ministry and have come into force from the same date,

The Ministry has received requests for clarification with regard to the relevant financial year with effect from which such provisions of the new Act relating to maintenance of books of account, preparation, adoption and filing of financial statements (and attachments thereto), auditor's report and Board's report will be applicable.

Although the position In this behalf is quite clear, to make things absolutely clear it is hereby notified that the financial statements (and documents required to be attached thereto), auditor's report and Board's report In respect of financial years that commenced earlier than 1st April, 2014 shall be governed by the relevant provisions/ Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing on or after 1st April, 2014, the provisions of the new Act shall apply-

Yours faithfully,

Sd/-

(KMS Narayanan)

Assistant Director (Policy)

Ph: 23387263

Copy to :

- (i) e-governance section and web contents officer to place this circular on the website
- (ii) Guard File

General Circular No. 21/2014

**No. 05/01/2014-CSR
Government of India
Ministry of Corporate Affairs**

5th Floor, 'A' Wing,
Shastri Bhawan, Dr. R. P. Marg
New Delhi-110 001

Dated: 18th June, 2014

To,

All Regional Director
All Registrar of Companies
All Stakeholders

**Subject: - Clarifications with regard to provisions of Corporate Social Responsibility
under section 135 of the Companies Act, 2013.**

Sir,

This Ministry has received several references and representation from stakeholders seeking clarifications on the provisions under Section 135 of the Companies Act, 2013 (herein after referred as 'the Act') and the Companies (Corporate Social Responsibility Policy) Rules, 2014, as well as activities to be undertaken as per Schedule VII of the Companies Act, 2013. Clarifications with respect to representations received in the Ministry on Corporate Social Responsibility (herein after referred as ('CSR')) are as under-

- (i) The statutory provision and provisions of CSR Rules, 2014, is to ensure that while activities undertaken in pursuance of the CSR policy must be relatable to Schedule VII of the Companies Act 2013, the entries in the said Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said Schedule. The items enlisted in the amended Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities as illustratively mentioned in the Annexure.
- (ii) It is further clarified that CSR activities should be undertaken by the companies in project/ programme mode [as referred in Rule 4 (1) of Companies CSR Rules, 2014]. One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. would not be qualified as part of CSR expenditure.
- (iii) Expenses incurred by companies for the fulfillment of any Act/ Statute of regulations (such as Labour Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act.
- (iv) Salaries paid by the companies to regular CSR staff as well as to volunteers of the companies (in proportion to company's time/hours spent specifically on CSR) can be factored into CSR project cost as part of the CSR expenditure.
- (v) "Any financial year" referred under Sub-Section (1) of Section 135 of the Act read with Rule

3(2) of Companies CSR Rule, 2014, implies 'any of the three preceding financial years'.

- (vi) Expenditure incurred by Foreign Holding Company for CSR activities in India will qualify as CSR spend of the Indian subsidiary if, the CSR expenditures are routed through Indian subsidiaries and if the Indian subsidiary is required to do so as per section 135 of the Act.
 - (vii) 'Registered Trust' (as referred in Rule 4(2) of the Companies CSR Rules, 2014) would include Trusts registered under Income Tax Act 1956, for those States where registration of Trust is not mandatory.
 - (viii) Contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure as long as (a) the Trust/ society/ section 8 companies etc. is created exclusively for undertaking CSR activities or (b) where the corpus is created exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Act.
2. This issues with the approval of Competent Authority.

Yours faithfully,

Sd/-

(Seema Rath)

Assistant Director (CSR)

Phone No. 23389622

Copy to:

1. PSO to Secretary
2. PPS to Additional Secretary
3. PS to DG (IICA)/JS (M) /JS(B)/JS(SP)/DII (UCN)/EA/DII(POLICY)
4. DIR (AK)/DIR (AB)/DIR(NC)/DIR(PS)
5. e-Governance Cell for uploading on website of MCA

Annexure referred to at para (i) of General Circular No. 21/2014 dated 18.06.2014

SI. No.	Additional items requested to be included in Schedule VII or to be clarified as already being covered under Schedule VII of the Act	Whether covered under Schedule VII of the Act
1.	<p>Promotion of Road Safety through CSR:</p> <p>(i) (a) Promotions of Education, "Educating the Masses and Promotion of Road Safety awareness in all facets of road usage</p> <p>(b) Drivers' training</p> <p>(c) Training to enforcement personnel</p> <p>(d) Safety traffic engineering and awareness through print, audio and visual media" should be included.</p> <p>(ii) Social Business Projects : "giving medical and Legal aid, treatment to road accident victims" should be included.</p>	<p>(a) Schedule VII (ii) under "promoting education"</p> <p>(b) For drivers training etc. Schedule VII (ii) under "vocational skills"</p> <p>(c) It is establishment functions of Government (cannot be covered)</p> <p>(d) Schedule VII (ii) under "promoting education".</p> <p>(ii) Schedule VII (i) under 'promoting health care including preventive health care.'</p>
2.	Provisions for aids and appliances to the differently- able persons-'Request for inclusion	Schedule VII (i) under 'promoting health care including preventive health care.'
3.	<p>The company contemplates of setting up ARTIIC (Applied Research Training and Innovation Centre) at Nasik. Centre will cover the following aspects as CSR initiatives for the benefit of the predominately rural farming community:</p> <p>(a) Capacity building for farmers covering best sustainable farm management practices.</p> <p>(b) Training Agriculture Labour on skill development.</p> <p>(c) Doing our own research on the field for individual crops to find out the most cost optimum and Agri - ecological sustainable farm practices. (Applied research) with a focus on water management.</p>	<p>Item no. (ii) of Schedule VII under the head of "promoting education" and "vocational skills" and "rural development".</p> <p>(a) "Vocational skill" livelihood enhancement projects.</p> <p>(b) "Vocational skill"</p> <p>(c) 'Ecological balance', 'maintaining quality of soil, air and water'.</p>

SI. No.	Additional items requested to be included in Schedule VII or to be clarified as already being covered under Schedule VII of the Act	Whether covered under Schedule VII of the Act
4.	<p>(d) To do Product Life Cycle analysis from the soil conservation point of view.</p> <p>To make "Consumer Protection Services" eligible under CSR. (Reference received by Dr. V.G. Patel, Chairman of Consumer Education and Research Centre).</p> <p>(i) Providing effective consumer grievance redressal mechanism.</p> <p>(ii) Protecting consumer's health and safety, sustainable consumption, consumer service, support and complaint resolution.</p> <p>(iii) Consumer protection activities.</p> <p>(iv) Consumer Rights to be mandated,</p> <p>(v) All consumer protection programs and activities" on the same lines as Rural Development, Education etc.</p>	<p>(d) "Conservation of natural resource" and 'maintaining quality of soil, air and water's.</p> <p>Consumer education and awareness can be covered under Schedule VII (ii) "promoting education".</p>
5.	<p>(a) Donations to MM [A] for conservation of buildings and renovation of classrooms would qualify as "promoting education" and hence eligible or compliance of companies with Corporate Social Responsibility.</p> <p>(b) Donations to IIMA for conservation of buildings and renovation of classrooms would qualify as "protection of national heritage, art and culture, including restoration of buildings and sites of historical importance" and hence eligible for compliance of companies with CSR.</p>	<p>Conservation and renovation of school buildings and classrooms relates to CSR activities under Schedule VII as "promoting education".</p>
6.	<p>Non Academic Technopark TBI not located within an academic Institution but approved and supported by Department of Science and Technology.</p>	<p>Schedule VII (ii) under "promoting education", if approved by Department of Science and Technology.</p>

SI. No.	Additional items requested to be included in Schedule VII or to be clarified as already being covered under Schedule VII of the Act	Whether covered under Schedule VII of the Act
7.	Disaster Relief	<p>Disaster relief can cover wide range of activities that can be appropriately shown under various items listed in Schedule VII. For example,</p> <p>(i) medical aid can be covered under 'promoting health care including preventive health care.'</p> <p>(ii) food supply can be covered under eradicating hunger, poverty and malnutrition.</p> <p>(iii) supply of clean water can be covered under 'sanitation and making available safe drinking water'.</p>
8.	Trauma care around highways in case of road accidents.	Under 'health care'.
9.	Clarity on "rural development projects"	Any project meant for the development of rural India will be covered under this.
10.	Supplementing of Govt. schemes like mid-day meal by corporates through additional nutrition would qualify under Schedule VII.	Yes. Under Schedule VII, item no. (i) under 'poverty and malnutrition'.
11.	Research and Studies in the areas specified in Schedule VII.	Yes, under the respective areas of items defined in Schedule VII. Otherwise under 'promoting education'.
12.	Capacity building of government officials and elected representatives - both in the area of PPPs and urban infrastructure.	No.
13.	Sustainable urban development and urban public transport systems	Not covered.
14.	Enabling access to, or improving the delivery of, public health systems be considered under the head "preventive healthcare" or "measures for reducing inequalities faced by socially and economically backward groups"?	Can be covered under both the heads of "healthcare" or "measures for reducing inequalities faced by socially & economically backward groups", depending on the context.
15.	Likewise, could slum re-development or EWS housing be covered under "measures for reducing inequalities	Yes

SI. No.	Additional items requested to be included in Schedule VII or to be clarified as already being covered under Schedule VII of the Act	Whether covered under Schedule VII of the Act
16.	faced by socially and economically backward groups"?	
17.	Renewable energy projects	Under 'Environmental sustainability, ecological balance and conservation of natural resources',
17.	(i) Are the initiatives mentioned in Schedule VII exhaustive? (ii) In case a company wants to undertake initiatives for the beneficiaries mentioned in Schedule VII, but the activity is not included in Schedule VII, then will it count (as per 2(c)(ii) of the Final Rules, they will count)?	(i) and (ii) Schedule VII is to be liberally interpreted so as to capture the essence of subjects enumerated in the schedule.
18.	US - India Physicians Exchange Program -broadly speaking, this would be program that provides for the professional exchange of physicians between India and the United States.	No.

General Circular No. 35/2014

F.No. 17/66/2013/CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing Shastri Bhawan,
Dr. R.P. Road, New Delhi

Dated: 27th August 2014

To,

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

Subject : Clarification Accounting Standards (AS) 10- Capitalization of Cost - regarding.

Sir,

1. Government has received a number of representations seeking clarifications on capitalization of costs in case of Competitive Bid power projects. The clarifications sought were with regard to capitalization of borrowing costs incurred during extended delay in commercial production for reasons beyond the developer's control, and whether capitalization of power plant should be unit-wise or project-wise. The matter has been examined in consultation with the Accounting Standards Board (ASB) of the Institute of Chartered Accountants of India (ICAI).
2. Accounting Standards AS-10 and AS-16 prescribe the principles of capitalization of various costs based on the underlying concept that only such expenditure should be capitalized as form a part of the cost of fixed assets which increase the worth of the assets. Cost incurred during the extended delay in commencement of commercial production after the plant is otherwise ready does not increase the worth of fixed assets. Such costs cannot, therefore, be capitalized.
3. Accounting Standards AS-16, *inter alia* provides guidance with regard to part capitalization where some units of a project are complete. In case one of the units of the project is ready for commercial production and is capable of being used while construction continues for the other units, costs should be capitalized in relation to that part once the part is ready for commercial production.
4. It is further clarified that AS-10 and AS-16 are irrespective of whether the power projects are 'Costs Plus projects' or 'Competitive Bid Projects'.

This issues with approval of the competent authority.

Yours faithfully

(S.K. Verma)

Assistant Director (Policy)

Ph: 23073067

Copy to:

1. E-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File.

General Circular No. 36/2014

**F.No.05/01/2014-CSR
Government of India
Ministry of Corporate Affairs**

5th Floor, 'A' Wing
Shastri Bhawan, Dr. R.P. Road,
New Delhi-110001

Dated: 17.09.2014

To

All Regional Director,
All Registrar of Companies,
All Stakeholders.

**Subject: Clarification with regard to provisions of Corporate Social Responsibility (CSR)
under section 135 of the Companies Act, 2013**

Sir,

In continuation of the General Circular No. 21 of 2014 dated 18.06.2014, the following clarifications are hereby issued:

- (i) Rule 4(6) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 as notified on 27.02.2014 has been amended by notification dated 12.09.2014; and
 - (ii) Consequently, clarification (iv) in General Circular No. 21 of 2014 dated 18.06.2014, stands omitted.
2. This issues with the approval of Competent Authority.

Yours faithfully,

(Seema Rath)
Assistant Director (CSR)
Tel: 011-23384657

Copy to:

1. PSO to Secretary
2. PPS to Additional Secretary
3. PS to DG(IICA)
4. PS to JS(M)/JS(B)/JS(ADM)/JS(SP)/DII (NS)/EA/DII (Policy)
5. DIR (AK)/ DIR (NC)/ DIR(PS)/DIR (R&A)
6. e-Governance Cell for uploading on website of MCA
7. Guard File.

General Circular No. 39/2014

**No. 4/2/2014-CL-I
Government of India
Ministry of Corporate Affairs**

5th Floor, "A" Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi.

Dated: 14th October, 2014

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

Subject: Clarification on matters relating to consolidated Financial Statement.

Sir,

Government has received representations from stakeholders seeking clarifications on the manner of presentation of notes in Consolidated Financial Statement (CFS) to be prepared under Schedule III to the Companies Act, 2013(Act). These representations have been examined in consultation with the Institute of Chartered Accountants of India (ICAI) and it is clarified that Schedule III to the Act read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.

2. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Narayanan)
Assistant Director (Policy)

Copy to :

1. e-Governance Section and web contents Officer to place this circular on the Ministry website
2. Guard File

General Circular No. 01/ 2015

F. NO. 05/09/2014- CSR
Government of India
Ministry of Corporate Affairs

5th floor, 'A' wing, Shastri Bhawan
 Dr. R.P. Road , New Delhi – 110001.

Dated: 03.02.2015

OFFICE MEMORANDUM

Subject : Constitution of a High Level Committee to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013.

Undersigned has been directed to state that a High Level Committee has been constituted under the Chairmanship of Shri Anil Bajjal, Former Secretary, Govt. Of India to suggest measures for monitoring the progress of implementation of Corporate Social Responsibility (CSR) policies by companies at their level and by the Government under the provisions of Section 135 of the Companies Act, 2013 and Rules thereunder.

2. The composition of the High Level Committee is as under:

<i>Sr.</i>	<i>Name</i>	<i>Role</i>
i.	Shri Anil Bajjal Former Secretary to Govt. of India	Chairperson
ii.	Prof. Deepak Nayyar Professor (Emeritus), Jawaharlal Nehru University New Delhi	Member
iii.	Shri Onkar S Kanwar Chairman and Managing Director, Apollo Tyres Ltd.	Member
iv.	Shri Kiran Karnik Former President –NASSCOMM, New Delhi	Member
v.	Secretary, Department of Public Enterprises (Represented by an officer not below the rank of Joint Secretary)	Member
vi.	Additional Secretary(*) Ministry of Corporate Affairs	Member - Convener

(*) Economic Adviser, MCA will discharge the responsibility in the absence of Additional Secretary, MCA.

3. Terms of Reference of the Committee are as under:

(i) To recommend suitable methodologies for monitoring compliance of the provisions of

Section 135 (Corporate Social Responsibility) of the Companies Act, 2013 by the companies covered thereunder.

- (ii) To suggest measures to be recommended by the Government for adoption by the companies for systematic monitoring and evaluation of their own CSR initiatives.
 - (iii) To identify strategies for monitoring and evaluation of CSR initiatives through expert agencies and institutions to facilitate adequate feedback to the Government with regard to efficacy of CSR expenditure and quality of compliance by the companies.
 - (iv) To examine if a different monitoring mechanism is warranted for Government Companies undertaking CSR, and if so to make suitable recommendations in this behalf.
 - (v) Any other matter incidental to the above or connected thereto.
4. The Committee shall submit its report within Six months from the date of holding of its first meeting.
 5. Ministry of Corporate Affairs and Indian Institute of Corporate Affairs (IICA) shall jointly provide secretarial and technical support to the Committee. The Indian Institute of Corporate Affairs will render the necessary logistic support to the High Level Committee.
 6. This issues with the approval of Hon' ble Union Minister for Corporate Affairs.

(Dr. Pankaj Srivastava)

Director

Telephone : 011-23389263

E-mail: pankaj.srivastava@gov.in

To

- 1) Shri Anil Bajjal, Former Secretary to Govt. of India, New Delhi
- 2) Prof. Deepak Nayyar, Professor (Emeritus), Jawaharlal Nehru University, New Delhi
- 3) Shri Kiran Karnik, Former President (NASSCOMM), New Delhi
- 4) Shri Onkar S Kanwar , Chairman & Managing Director, Apollo Tyres Ltd
- 5) Secretary, DPE, M/o Heavy Industries and Public Enterprises

Copy to:

- 1) DG & CEO, IICA for information and necessary action

Copy for information to:

- 1) PS to Hon'ble Minister of Corporate Affairs
- 2) PPS to Secretary / PPS to Special Secretary, MCA
- 3) PS to JS(M)/JS (ADM)/JS(B)/JS(SP)/EA/DII(NS)/DII(SBG)
- 4) All Regional Directors/ Registrar of Companies, MCA

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 12th September, 2014

G.S.R. 644(E).—In exercise of the powers conferred under Section 135 and sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, in sub-rule (6), after the words "but such expenditure" the words and comma "including expenditure on administrative overheads," shall be inserted.

[F. No. 1/18/2013-CL-V-Part]

MANOJ KUMAR

Jt. Secy.

Note : The principal notification was published in the Gazette of India *vide* No. G.S.R. 129(E), dated 27.02.2014.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 14th October, 2014

G.S.R. 723(E).—In exercise of the powers conferred by sub-sections (1) and (3) of section 128, subsection (3) of section 129, section 133, section 134, sub-section (4) of section 135, sub-section (1) of section 136, section 137 and section 138 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Accounts) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Accounts) Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Accounts) Rules, 2014, in rule 6, after the existing proviso, the following provisos shall be inserted, namely:-

“Provided further that nothing in this rule shall apply in respect of preparation of consolidated financial statement by an intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company incorporated outside India:

Provided also that nothing contained in this rule shall, subject to any other law or regulation, apply for the financial year commencing from the 1st day of April, 2014 and ending on the 31st March, 2015, in case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, as the case may be. ”

[F. No. 1/19/2013-CL-V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) *vide* number G.S.R. 239(E), dated the 31st March, 2014.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 16th January, 2015

G.S.R. 37(E).—In exercise of the powers conferred by Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Accounts) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Accounts) Amendment Rules, 2015.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Accounts) Rules, 2014,-
 - (i) after rule 2, following rule shall be inserted, namely:-

"2A. Notice of address at which books of account are to be maintained.—For the purposes of the first proviso to sub-section (1) of Section 128, the notice regarding address at which books of account may be kept shall be in Form AOC-5."

- (ii) in rule 6, after the third proviso, the following proviso shall be inserted, namely :—

"Provided also that nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1st April, 2014."

- (iii) in the Annexure, after Form AOC-4, the following Form shall be inserted, namely :—

[F. No. 1/19/2013-CL-V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 239(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 723(E), dated the 14th October, 2014

AOC-5 is available at MCA site.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 19th January, 2015

G.S.R. 43(E).— In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2015.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, in sub-rule (2),—
 - (i) for the words “established by the company or its holding or subsidiary or associate company under section 8 of the Act or otherwise”, the words “established under section 8 of the Act by the company, either singly or alongwith its holding or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company, or otherwise” shall be substituted;
 - (ii) in the proviso, in clause (i), for the words “not established by the company or its holding or subsidiary or associate company, it”, the words “not established by the company, either singly or alongwith its holding or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company” shall be substituted.

[F. No. 1/18/2013-CL-V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 129(E), dated the 27th February, 2014 and was subsequently amended by notification number G.S.R. 644(E), dated the 12th September, 2014.

Chapter X

AUDIT AND AUDITORS

Chapter Title	Audit and Auditors
Sections Covered	Section-139 to 148
Topics Covered	Appointment of auditors, Removal, resignation of auditor and giving of special notice, Eligibility, qualifications and disqualifications of auditors, Remuneration of auditors, Power and duties of auditors and auditing standards, Central Government to specify audit items of cost in respect of certain companies.
Rules Framed thereunder	Companies (Audit and auditors) Rules, 2014 Companies (Cost Records and Audit) Rules, 2014 Dated 30/06/2014
Rules Notified on and effective from	Companies (Audit and auditors) Rules notified on 31st March, 2014 and is effective from 01st April, 2014 Companies (Cost Records and Audit) Rules notified on 30th June, 2014 and is effective from the same day.

Circulars and Orders issued by the Ministry under this chapter, so far:

1. General Circular No. 33/2014 dated 31st July, 2014.
2. General Circular 42/2014 dated 12th November, 2014.
3. General Circular 02/2015 dated 11th February, 2015.
4. General Circular 08/2015 dated 12th June, 2015.
5. Companies (Removal of Difficulties) Seventh Order, 2014.
6. Companies (Auditor's Report) Order, 2015.
7. Companies (Cost Records and Audit) Amendment Rules, 2014 Dated 12th June, 2015.

I. Issue involved

Whether sections 139(5) and 139(7) of the Companies Act, 2013 (New Act), which deal with appointment of auditors by Comptroller and Auditor General of India (C&AG), applies to 'deemed Government Companies'?

Clarifications issued

Doubts have been raised about applicability of sections 139(5) and 139(7) of the Companies Act, 2013 (New Act), which deal with appointment of auditors by Comptroller and Auditor General of India (C&AG), to 'deemed Government Companies' referred to in section 619B of the Companies

Act 1956 (Old Act) i.e. companies where ownership or control lies with two or more Government companies or corporations etc in the manner detailed in section 619B *ibid*. Stakeholders have pointed out that the New Act does not contain specific provisions about 'deemed Government companies' on the lines of section 619B of the Old Act. Clarification has been sought whether, under the new Act, such deemed Government companies would be subject to audit by the C&AG in the same manner as Government Companies. The above issue has been examined and it is clarified that the new Act does not alter the position with regard to audit of such deemed Government companies through C&AG and thus such companies are covered under sub-section (5) and (7) of section 139 of the New Act. Further, it has also been observed that the words "any other company owned or controlled, directly or indirectly..... by the Central Government and partly by one or more State Governments" appearing in sub-sections (5) and (7) of section 139 of the New Act are to be read with the definition of 'control' in section 2(27) of the New Act, Thus documents like articles of association and shareholders agreements etc envisaging control under section 2(27) are to be taken into account while deciding whether an individual company, other than those referred above, is covered under section 139(5)/139(7) of the New Act. Clarification has also been sought about the manner in which the information about incorporation of a company subject to audit by an auditor to be appointed by the C&AG is to be communicated to the C&AG for the purpose of appointment of first auditors under section 139(7) of the New Act. It is hereby clarified that such responsibility rests with both, the Government concerned and the relevant company. To avoid any confusion it is further clarified that it will primarily be the responsibility of the company concerned to intimate to the C&AG about its incorporation along with name, location of registered office, capital structure of such a company immediately on its incorporation. It is also incumbent on such a company to share such intimation to the relevant Government so that such Government may also send a suitable request to the C&AG.

II. Companies (Cost records and audit) Rules, 2014

The Central Government notified Companies (cost records and audit) Rules, 2014 on 30th June, 2014. The rules inter-alia prescribes-

- (i) Sectors for which Cost Records made applicable
- (ii) Format of maintenance of cost records in form CRA-1.
- (iii) Applicability for Cost Audit
- (iv) Filing of notice of appointment of Cost Auditor with the Central Government in e-form CRA-2.
- (v) Format of Cost Audit Report in Form CRA-3.
- (vi) Filing of Cost Audit Report along with full information and explanation on

Every reservation or qualification contained therein, in form CRA-4 to Central Government.

Due to delay in availability of form CR-2 on MCA-21 portal, the last date for filing was extended vide circular no. 42/2014 dt. 12th November, 2014 and Circular no. 2/2015 dt. 11th February, 2015.

On 12th June, 2015, the Central Government issued Companies (Cost Record and Audit) Amendment Rules, 2015, by which Form CRA-2 and CRA-4 are substituted. (These are available at www.mca.gov.in)

III. Companies (Removal of Difficulties) Seventh Order, 2014

Issue involved

Section 143 of the Companies Act, 2013, provides for the powers and duties of the auditors and

auditing standards. Sub-sections (5) and (7) of section 139 provide for power of the Comptroller and Auditor-General of India to appoint an auditor duly qualified to be appointed as an auditor in a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;

Sub-section (5) of Section 143 of the said Act which provides for power of the Comptroller and Auditor-General of India to conduct supplementary audit does not specifically cover companies 'owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments.

Difficulties have arisen in implementation of the provisions of sub-section (5) of section 143 for companies referred above.

Order issued

In exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 the central government issued the Companies (Removal of Difficulties) Seventh Order, 2014 on 4th September, 2014 to make section 143 of the Companies Act, read as under :—

“In the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor General of India shall appoint the auditor under sub-section (5) or sub-section (7) of Section 139 and direct such auditor the manner in which the accounts of the company are required to be audited and thereupon the auditor so appointed shall submit a copy of the audit report to the Comptroller and Auditor-General of India which, among other things, include the directions, if any, issued by the Comptroller and Auditor-General of India, the action taken thereon and its impact on the accounts and financial statement of the company”

IV. Companies (Auditor’s Report) Order, 2015

Section 143 (11) of the Companies Act, 2013 provides that the Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor’s report shall also include a statement on such matters as may be specified therein.

Accordingly, in exercise of the powers conferred by sub-section (11) of section 143 of the Companies Act, 2013 the central government vide notification S.O. 990(E).- dated 10th April, 2015 issued the Companies (Auditor’s Report) Order, 2015 applicable to every company including a foreign company. The order is not applicable to-

- Banking company,
- Insurance company,
- Company licensed to operate under section 8 of the Companies Act, 2013,
- One Person Company and Small Company
- Private limited company (with a paid up capital and reserves not more than rupees fifty lakh and which does not have loan outstanding exceeding rupees twenty five lakh from any bank or financial institution and does not have a turnover exceeding rupees five crore at any point of time during the financial year)

Contents of the Auditors Report

The order further provides that every report made by the auditor under section 143 of the

Companies Act, on the accounts of every company examined by him to which this Order applies for the financial year commencing on or after 1st April, 2014, shall contain the following matters:

- Whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets;
- Whether these fixed assets have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;
- Whether physical verification of inventory has been conducted at reasonable intervals by the management;
- Are the procedures of physical verification of inventory followed by the management reasonable and adequate in relation to the size of the company and the nature of its business. If not, the inadequacies in such procedures should be reported;
- Whether the company is maintaining proper records of inventory and whether any material discrepancies were noticed on physical verification and if so, whether the same have been properly dealt with in the books of account;
- Whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered in the register maintained under section 189 of the Companies Act. If so,
- Whether receipt of the principal amount and interest are also regular; and
- If overdue amount is more than rupees one lakh, whether reasonable steps have been taken by the company for recovery of the principal and interest;
- Is there an adequate internal control system commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods and services. Whether there is a continuing failure to correct major weaknesses in internal control system.
- In case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with? If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?
- Where maintenance of cost records has been specified by the Central Government under sub-section (l) of section 148 of the Companies Act, whether such accounts and records have been made and maintained:
- Is the company regular in depositing undisputed statutory dues including provident fund, employees' state insurance, income-tax, sales-tax, wealth tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.
- In case dues of income tax or sales tax or wealth tax or service tax or duty of customs or duty of excise or value added tax or cess have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (A mere representation to the concerned Department shall not constitute a dispute).

- Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made thereunder has been transferred to such fund within time.
- Whether in case of a company which has been registered for a period not less than five years, its accumulated losses at the end of the financial year are not less than fifty per cent of its net worth and whether it has incurred cash losses in such financial year and in the immediately preceding financial year;
- Whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported:
- Whether the company has given any guarantee for loans taken by others from bank or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company;
- Whether term loans were applied for the purpose for which the loans were obtained;
- Whether any fraud on or by the company has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated.

Reasons to be stated for unfavourable or qualified answers-

- Where, in the auditor's report, the answer to any of the questions referred above is unfavourable or qualified, the auditor's report shall also state the reasons for such unfavourable or qualified answer, as the case may be.
- Where the auditor is unable to express any opinion in answer to a particular question, his report shall indicate such fact together with the reasons why it is not possible for him to give an answer to such question.

VII. Extension of time for filling of E-form CRA-2 and CRA-4

1. **Issue Involved :** Non -availability of Revised CRA -2 for filling FY 2015-16 - relaxation of fees.

Clarification Issued

Ministry has clarified that additional fee on account of any delay beyond the prescribed period of 30 days from the date of the board meeting, in which the appointment of the Auditor was made for filling CRA- 2 for the financial year starting on or after 1st April, 2015 were waived for all such filling till 30th June, 2015.

2. **Issue Involved:** Non -availability of E-form CRA -4 for filling of Cost Audit Report to Central Government for FY 2014-15 - relaxation of fees.

Clarification Issued

Ministry has clarified that Additional fees on delayed filling of form CRA-4 beyond the prescribed period of 30 days from the date of receipt of a copy of Cost Audit Report from the Cost Auditor for the Financial Year starting on or after 1st April, 2014 has also been waived for all such filling till 31st August, 2015.

The text of the Circulars issued under this Chapter appended as under:

1

General Circular No. 33/2014

F. No.1/33/13-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr R.P. Road, New Delhi

Dated: 31st July, 2014

To

All Regional Directors,
All Registrars of Companies.

**Subject: Clarification with regard to applicability of provisions of section 139(5) and 139(7)
of the Companies Act, 2013**

Sir,

Doubts have been raised about applicability of sections 139(5) and 139(7) of the Companies Act, 2013 (New Act), which deal with appointment of auditors by Comptroller and Auditor General of India (CGAG), to 'deemed Government Companies' referred to in section 619B of the Companies Act 1956 (Old Act) i.e. companies where ownership or control lies with two or more Government companies or corporations etc in the manner detailed in section 619B *ibid*. Stakeholders have pointed out that the New Act does not contain specific provisions about 'deemed Government companies' on the lines of section 619B of the Old Act. Clarification has been sought whether, under the new Act, such deemed Government companies would be subject to audit by the CGAG in the same manner as Government Companies.

2. The above issue has been examined and it is clarified that the new Act does not alter the position with regard to audit of such deemed Government companies through CGAG and thus such companies are covered under sub-section (5) and (7) of section 139 of the New Act.

3. Further, it has also been observed that the words "any other company owned or controlled, directly or indirectly by the Central Government and partly by one or more State Governments" appearing in sub-sections (5) and (7) of section 139 of the New Act are to be read with the definition of 'control' in section 2(27) of the New Act, Thus documents like articles of association and shareholders agreements etc envisaging control under section 2(27) are to be taken into account while deciding whether an individual company, other than those referred in paragraph 1-2 above, is covered under section 139(5)/139(7) of the New Act.

4. Clarification has also been sought about the manner in which the information about incorporation of a company subject to audit by an auditor to be appointed by the CGAG is to be communicated to the CGAG for the purpose of appointment of first auditors under section 139(7) of the New Act. It is hereby clarified that such responsibility rests with both, the Government concerned and the relevant company. To avoid any confusion it is further clarified that it will

primarily be the responsibility of the company concerned to intimate to the C&AG about its incorporation along with name, location of registered office, capital structure of such a company immediately on its incorporation. It is also incumbent on such a company to share such intimation to the relevant Government so that such Government may also send a suitable request to the C&AG.

5. This issues with the approval of the competent authority.

Yours faithfully,

Sd/-

(KMS Narayanan)

Assistant Director (Policy)

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website
2. Guard File

General Circular No. 42/2014

No. 1/40/2013/CL.V-Part

Government of India

Ministry of Corporate Affairs

5th Floor , "A"wing, Shastri Bhawan,
Dr.R.P. Road, New Delhi.

Dated: 12th November, 2014

To

All Regional Directors,

All Registrars of Companies,

All Stakeholders.

**Subject : Clarification on matters relating to the Companies
(Cost Records and Audit) Rules, 2014.**

Sir,

Government has received representations from stakeholders seeking clarifications about Rules 5(1) and 6(2) of the Companies (Cost Records and Audit) Rules, 2014 regarding maintenance of cost records and filing of notice of appointment of the Cost Auditor in Form CRA-2 in electronic mode.

The matter has been examined in the Ministry and the following is clarified:

Considering delay in availability of Form CRA-2 on the MCA website, it has been decided to extend the date of filing of the said Form without penalty/ late fee up to 31st January, 2015. Form CRA-2 will be made available on the MCA website soon. It is noted that some companies have filed Form 23C for appointment of Cost Auditor for the financial year 2014-15. It is clarified that such companies need not file form CRA-2 afresh for the financial year 2014-15.

2. This issues with the approval of the Competent Authority.

Yours faithfully,

(Kamna Sharma)
Assistant Director

Copy to:-

1. E - governance Section and web contents officer to place this circular on the Ministry's website.
2. Guard File

General Circular No. 2/2015

No. 1/40/2013-CL-V-Part

Government of India

Ministry of Corporate Affairs

5th Floor , 'A' Wing, Shastri Bhawan,
New Delhi: 110001

Dated: 11th February, 2015

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

**Subject: Extension of time for filing of Notice of appointment of the
Cost Auditor in Form CRA-2.**

Sir,

In continuation to the General Circular No. 42/2014, the last date of filing of Form CRA-2 without any penalty/late fee is hereby extended upto 31st March,2015.

2. This issues with the approval of competent authority.

Yours faithfully,

(Kamna Sharma)
Assistant Director
Tel:23387263

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 12th June, 2015

G.S.R (E).- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 and section 148 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Cost Records and Audit) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Cost Records and Audit) (Amendment) Rules, 2015.
(2) They shall come into force from the date of their publication in the official Gazette.
2. In the Companies (Cost Records and Audit) Rules, 2014, in the Annexure, for Forms CRA-2 and CRA - 4, the following forms shall respectively be substituted, namely:-

AMARDEEP SINGH BHATIA
Joint Secretary to the Government of India

MINISTRY OF CORPORATE AFFAIRS**ORDER****New Delhi, the 4th September, 2014**

S.O. 2226(E).—Whereas the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013 and section 143 of the Act, which provides for the powers and duties of the auditors and auditing standards, came into force with effect from 1st April, 2014;

And whereas sub-sections (5) and (7) of section 139 of the said Act provide for power of the Comptroller and Auditor-General of India to appoint an auditor duly qualified to be appointed as an auditor in a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;

And whereas sub-section (5) of Section 143 of the said Act which provides for power of the Comptroller and Auditor-General of India to conduct supplementary audit does not specifically cover companies 'owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments';

And whereas difficulties have arisen in implementation of the provisions of sub-section (5) of section 143 for companies referred to in sub-sections (5) and (7) of section 139 of the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013, the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely :—

1. Short title and commencement.—

- (1) This order may be called the Companies (Removal of Difficulties) Seventh Order, 2014.
- (2) It shall come into force on the date of its publication in the Official Gazette.

2. In section 143 of the Companies Act, 2013 in sub-section (5), for the portion beginning with the words "In the case of a Government company" and ending with the words "required to be audited and", the following shall be substituted, namely :—

"In the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor General of India shall appoint the auditor under sub-section (5) or sub-section (7) of Section 139 and direct such auditor the manner in which the accounts of the company are required to be audited and".

[F. No. 1/33/2013-CL.-V]

AMARDEEP SINGH BHATIA
Jt. Secy.

General Circular No. 08/2015

**File No./1/40/2013/CL-V
Government of India
Ministry of Corporate Affairs**

'A' Wing, 5th floor, Shastri Bhawan
Dr. Rajendra Prasad Road, New Delhi-110001

Dated: 12th June, 2015

To,

All Regional Directors,
All Registrars of Companies,
All Stakeholders

**Subject : Extension of time for filing of Notice of appointment of the Cost Auditor
for the F.Y. 2015-16 in Form CRA-2 and filing of cost audit report to the
Central Government for the F.Y. 2014-15 in form CRA-4.**

Sir,

The Ministry has received several representations about the non-availability of the revised form CRA-2 on MCA-21 required for filing of notice of appointment of the Cost Auditor for the F.Y. 2015-16, although the time limit for filing of the same has either lapsed or will be lapsing. The revised form CRA-2 has now been notified on 12th June, 2015 and is available on the MCA21 system for filing.

2. In view of the delay in availability of revised Form CRA-2 on the MCA21 portal, however, the additional fee on account of any delay beyond the prescribed period of 30 days from the date of Board Meeting in which the appointment of the Auditor was made for filing of CRA-2 for the financial year starting on or after 1st April, 2015 is waived for all such filings till 30th June, 2015.

3. The revised e-Form CRA-4 has also been notified vide the above mentioned notification and will be made available on MCA-21 portal shortly. Therefore, on the similar lines mentioned in above paras, additional fees on delayed filing of form CRA- 4 beyond the prescribed period of 30 days from the date of receipt of a copy of Cost Audit Report from the Cost Auditor for the Financial Year starting on or after 1st April, 2014 is also waived for all such filings till 31st August, 2015.

4. This issues with the approval of the Competent Authority.

Yours faithfully,

(K.M.S. Narayanan)
Assistant Director
Tel: 23387263

Copy to:

1. E-governance Section and web content officer to place this circular on the Ministry's website.
2. File No. 52/22/CAB/2015

Chapter XI

APPOINTMENT AND QUALIFICATION OF DIRECTORS

Chapter Title	Appointment and Qualifications of Directors
Sections Covered	Section 149 to 172
Topics Covered	Board of Directors, Manner of selection of Independent directors and maintenance of databank of Independent directors, Small Shareholders' Director, Appointment of directors, Director Identification Number, Right of persons other than retiring directors to stand for directorship, Appointment of additional directors, alternate director and nominee director, Disqualifications for appointment of directors, Number of directorships, Duties of directors, Vacation of office of director, Resignation of director, Removal of directors, Register of directors and key managerial personnel and their shareholding
Rules Framed thereunder	Companies (Appointment and qualification of directors) Rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars & Amendment in Rules issued by the Ministry under this chapter, so far:

1. General Circular No. 14/2014 dated 09th June, 2014.
2. General Circular No. 25 /2014 dated 26th June, 2014.
3. General Circular No. 38/2014 dated 14th October, 2014
4. General Circular No. 03/2015 dated 03rd March, 2015
5. Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 dated 18th September, 2014
6. Companies (Appointment and Qualification of Directors) Amendment Rules, 2015 dated 19th January, 2015

Broad topics on which the Circulars were issued :

- Pecuniary relationship of independent director
- Independent directors appointed prior to April 01, 2014
- Appointment of Independent Directors for less than 5 years
- Letter of appointment for existing Independent Directors
- Resident Director

I. Pecuniary relationship of Independent Director (IDs)

Issue involved

Whether transactions taken place at arm's length price with IDs would take away independence?
Whether receipt of remuneration affect pecuniary interest?

Section 149(6)(c): inter alia requires that an 'ID' should have no 'pecuniary relationship' with the company concerned or its holding/ subsidiary/ associate company and certain other categories specified therein during the current and last two preceding financial years. Clarifications have been sought whether a transaction entered into by an 'ID' with the company concerned at par with any member of the general public and at the same price as is payable/paid by such member of public would attract the bar of 'pecuniary relationship*' under section 149(6)(c).

Clarification issued

The matter has been examined and it was hereby clarified vide circular 14/2014 dated June 09, 2014 that in view of the provisions of section 188 which take away transactions in the ordinary course of business at arm's length price from the purview of related party transactions, an 'ID' will not be said to have 'pecuniary relationship' under section 149(6)(c) in such cases. Stakeholders have also sought clarification whether receipt of remuneration, (in accordance with the provisions of the Act) by an "ID" from a company would be considered as having pecuniary interest while considering his appointment in the holding company, subsidiary company or associate company of such company. The matter has been examined in consultation with SEBI and it is clarified that 'pecuniary relationship' provided in section 149(6)(c) of the Act does not include receipt of remuneration, from one or more companies, by way of fee provided under sub-section (5) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission approved by the members, in accordance with the provisions of the Act.

II. Independent directors appointed prior to April 01, 2014

Issue involved

Whether the independent directors appointed prior to April 01, 2014 can continue their remaining tenure?

Clarification has been sought if 'IDs' appointed prior to April 1, 2014 may continue and complete their remaining tenure, under the provisions of the Companies Act, 1956 or they should demit office and be re-appointed (should the company so decide) in accordance with the provisions of the new Act.

Clarification issued

The matter has been examined in the light of the relevant provisions of the Act, particularly section 149(5) and 149(10) & (11). Explanation to section 149(11) clearly provides that any tenure of an "ID" on the date of commencement of the Act shall not be counted for his appointment/ holding office of director under the Act. In view of the transitional period of one year provided under section 149(5), it is hereby clarified vide circular 14/2014 dated June 09, 2014 that it would be necessary that if it is intended to appoint existing IDs' under the new Act, such appointment shall be made expressly under section 149(10)/ (11) read with Schedule IV of the Act within one year from 1st April, 2014, subject to compliance with eligibility and other prescribed conditions.

III. Appointment of Independent Directors for less than 5 years

Issue involved

Is it possible to appoint an individual as independent director for less than 5 years?

Clarification has been sought as to whether it would be possible to appoint an individual as an ID for a period less than five years.

Clarification issued

It is clarified vide circular 14/2014 dated June 09, 2014 that section 149(10) of the Act provides for a term of "upto five consecutive years" for an 'ID'. As such while appointment of an 'ID' for a term of less than five years would be permissible, appointment for any term (whether for five years or less) is to be treated as a one term under section 149(10) of the Act. Further, under section 149(11) of the Act, no person can hold office of 'ID' for more than 'two consecutive terms'. Such a person shall have to demit office after two consecutive terms even if the total number of years of his appointment in such two consecutive terms is less than 10 years. In such a case the person completing 'consecutive terms of less than ten years' shall be eligible for appointment only after the expiry of the requisite cooling-off period of three years.

IV. Letter of appointment for existing independent directors**Issue involved**

Whether letter of appointment is to be issued to existing IDs?

With reference to Para IV(4) of Schedule IV of the Act (Code for IDs) which requires appointment of 'IDs' to be formalized through a letter of appointment, clarification has been sought if such requirement would also be applicable for appointment of existing 'IDs'?

Clarification issued

The matter was examined. It was clarified vide circular 14/2014 dated June 09, 2014, in view of the specific provisions of Schedule IV, appointment of 'IDs' under the new Act would need to be formalized through a letter of appointment.

V. Resident Director**Issue involved**

What would be the first calendar year for residency?

Clarification issued

Section 149(3) of the Companies Act, 2013 (Act) requires every company to have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year. Government has received requests from stakeholders for clarification with regard to applicability of these provisions in the current calendar/financial year.

The matter has been examined. It is clarified vide circular no 25/2014 dated June 26, 2014 that the 'residency requirement' would be reckoned from the date of commencement of section 149 of the Act i.e. 1st April, 2014. The first 'previous calendar year' for compliance with these provisions would, therefore, be Calendar Year 2014. The period to be taken into account for compliance with these provisions will be the remaining period of calendar year 2014 (i.e. 1st April to 31st December). Therefore, on a proportionate basis, the number of days for which the director(s) would need to be resident in India, during Calendar Year 2014, shall exceed 136 days. Regarding newly incorporated companies it is clarified that companies incorporated between 1.4.2014 to 30.9.2014 should have a resident director either at the incorporation stage itself or within six months of their incorporation. Companies incorporated after 30.9.2014 need to have the resident director from the date of incorporation itself.

VI. Refund of Deposit received under Section 160 of the Companies Act, 2013, by Section 8 Companies**Issue involved**

Section 160 of the Companies Act, 2013 provides that a person who is not a retiring director in

terms of section 152 shall, subject to the provisions of the Act, be eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the **deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person** or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than 25% of total valid votes.

The relevant provision are silent on the manner in which the amount of deposit of rupees one lakh received under section 160(1) of the Companies Act, 2013 is to be handled if the depositor fails to secure more than twenty five per cent of the total valid votes.

Clarification issued

Clarification sought by companies registered under section 8 of the Companies Act, 2013 about the manner in which the amount of deposit of rupees one lakh received by them under section 160(1) of the Companies Act, 2013 is to be handled if the depositor fails to secure more than 25% of the total valid votes.

The Central Government vide General Circular No. 38/2014 dt. 14th October, 2014 clarified that the Board of directors of section 8 companies is to decide as to whether the deposit made by or on behalf of the person failing to secure more than twenty-five percent of the valid votes is to be forfeited or refunded.

VII. Filing of e-form DIR 11 & DIR-12 under the Companies Act, 2013

Issue involved

Following en masse resignation of all the directors of a company and filing of DIR-11 (Notice of resignation of a director to the registrar) before the appointment of new directors results in automatic deactivation of DSC of all the resigned/resigning director(s).

As a result, form DIR-12 (Particulars of appointment of directors and the Key Managerial Personnel and the Changes among them) can't be filed by a company due to lack of an authorised signatory director.

Clarification issued

The Central Government vide General Circular No. 03/2015 dt. 3rd March, 2015 clarified that the Registrar of Companies within their respective jurisdictions are authorized, on request from the stakeholders and after due examination, to allow any one of the resigned director who was an authorized signatory for the purpose of filing DIR-12 only alongwith additional fee and subject to compliance of other provisions of Companies Act, 2013.

The above clarification issued to facilitate the filing of such e-forms till an alternative mechanism is put in place in MCA-21 system.

VIII. Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 dated 18th September, 2014

The Central Government vide notification dated 18th September, 2014 issued the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 which provide for following amendments:

- (i) Rule 6(2) amended to rationalize the required information from the applicant registering

on the databank of Independent Directors by removing the required details of Income Tax PAN, Mother's and Spouse Name from the databank of Independent Directors.

- (ii) Rule 6(4) amended to remove the requirement of Form DIR-1 to be filled up by a person who desires to get his name included in the databank of Independent Director as the rules omitted the existing Form DIR-1.
- (iii) Rule 9(3) amended to include the term "verify" while applying for allotment of Director Identification Number (DIN) in form DIN-3. Earlier the verification by the applicant provided in Form DIR-4 as attachment to DIN 3. This requirement has now removed as the same is included in revised Form DIN-3.
- (iv) Every individual who has been allotted a DIN under these rules shall report the change if any in his particulars as stated in Form DIN-3. Rule 12 (1) is also amended to include the term "verify" in form DIR 6 itself, which is the prescribed form for intimating change in DIN particulars. Earlier the verification by the applicant provided in Form DIR-7 as attachment to DIN 6.
- (v) New sub rule (4) inserted in Rule 9 to provide that in case the name of a person does not have a last name, then his or her father's or grandfather's surname shall be mentioned in the last name along with the declaration in Form No. DIR-3A (New Form). This declaration will be submitted alongwith Form DIN-3.
- (vi) Rule 10 amended to replace the concept of "Provisional DIN" with the "Application Number". Now, the system will generate an application number automatically on submission of form DIR-3 on the MCA Portal. This has totally removed the concept of Provisional DIN from the rules.
- (vii) New sub-rule 10A inserted after Rule 10 which provides that-
 - every director, functioning as a director in one or more companies on or before the 30th June, 2007 and who has not yet intimated his DIN to such company or companies shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director as per Form DIR-3B (New Form).
 - The intimation by the company of Director Identification Number of its directors under section 157 of the Act shall be furnished in Form DIR-3C (New Form) within fifteen days of receipt of intimation under section 156.

IX. Companies (Appointment and Qualification of Directors) Amendment Rules, 2015 dated 19th January, 2015

Rule 15 of Companies (Appointment and Qualification of Directors) Rules, 2014 requires that a company shall intimate resignation of a director to Registrar in Form DIR-12 within 30 days from the date of receipt of notice of resignation and to post such information on its website.

Further, Rule 16 of above rules requires that a resigning director shall forward a copy of his resignation alongwith reasons for such resignation to the Registrar within 30 days from the date of resignation in Form DIR-11 with the prescribed fees.

The Central Government vide notification dated 19th January, 2015 issued the Companies (Appointment and Qualification of Directors) Amendment Rules, 2015 which inserted the following proviso to Rule 16:

"Provided that in case a company has already filed Form DIR-12 with the Registrar under rule

15, a foreign director of such company resigning from his office may authorise in writing a practising chartered accountant or cost accountant in practice or company secretary in practice or any other resident director of the company to sign Form DIR-11 and file the same on his behalf intimating the reasons for the resignation.”

X. Notification regarding authorized officers for filing Compliant in respect of offenses under section 155 of the Companies Act, 2013

Section 155 of the Companies Act, 2013 (the Act) provides that no individual who has already been allotted a Director Identification Number under section 154, shall apply for, obtain or possess another Director Identification Number.

Section 159 of the Act, further provides that for contravention of above provision, the individual shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which the contravention continues.

The Central Government vide notification no. S.O. 129(E) dated 9th January, 2015 authorized the following officers in the office of Regional Director (Northern Region) at Noida for the purpose of filing compliant under section 159 of the Act, in respect of offences under section 155 of the Act:

1. Dr. Raj Singh, Director
2. Shri A.M. Singh, Joint Director
3. Ms. P. Sheela, Joint Director
4. Shri R.K. Tiwari, Joint Director
5. Shri Ch. Jaganadh Reddy, Assistant Director

The text of the Circulars issued under this Chapter appended as under:

1

General Circular No. 14/2014

No. 1/22/2013-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr R.P. Road, New Delhi

Dated: 9th June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject: Clarifications on Rules prescribed under the Companies Act, 2013 -Matters relating to appointment and qualifications of directors and Independent Directors - reg.

Sir,

Government has received representations from Industry Chambers, Professional Institutes and other stakeholders seeking clarifications inter alia about appointment of Independent Directors (IDs) under the relevant provisions of the Companies Act, 2013 (Act) read with relevant rules with effect from 1st April, 2014. The representations have been examined and clarifications on the following points are hereby given:-

- (i) *Section 149(6)(c): "pecuniary interest in certain transactions"* :- (a) This provision inter alia requires that an 'ID' should have no 'pecuniary relationship' with the company concerned or its holding/ subsidiary/ associate company and certain other categories specified therein during the current and last two preceding financial years. Clarifications have been sought whether a transaction entered into by an 'ID' with the company concerned at par with any member of the general public and at the same price as is payable/paid by such member of public would attract the bar of 'pecuniary relationship*' under section 149(6)(c). The matter has been examined and it is hereby clarified that in view of the provisions of section 188 which take away transactions in the ordinary course of business at arm's length price from the purview of related party transactions, an 'ID' will not be said to have 'pecuniary relationship' under section 149(6)(c) in such cases.
- (b) Stakeholders have also sought clarification whether receipt of remuneration, (in accordance with the provisions of the Act) by an "ID1 from a company would be considered as having pecuniary interest while considering his appointment in the holding company, subsidiary company or associate company of such company.

The matter has been examined in consultation with SEBI and it is clarified that 'pecuniary relationship' provided in section 149(6){c} of the Act does not include receipt of remuneration, from one or more companies, by way of fee provided under sub-section (5) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission approved by the members, in accordance with the provisions of the Act.

- (ii) *Section 149: Appointment of 'IDs'*; Clarification has been sought if 'IDs' appointed prior to April 1, 2014 may continue and complete their remaining tenure, under the provisions of the Companies Act, 1956 or they should demit office and be re-appointed (should the company so decide) in accordance with the provisions of the new Act.

The matter has been examined in the light of the relevant provisions of the Act, particularly section 149(5) and 149(10) & (11). Explanation to section 149(11) clearly provides that any tenure of an 'ID' on the date of commencement of the Act shall not be counted for his appointment/ holding office of director under the Act. In view of the transitional period of one year provided under section 149(5), it is hereby clarified that it would be necessary that if it is intended to appoint existing IDs' under the new Act, such appointment shall be made expressly under section 149(10)/(11) read with Schedule IV of the Act within one year from 1st April, 2014, subject to compliance with eligibility and other prescribed conditions.

- (iii) *Section 149(10)/(11) - Appointment of 'IDs' for less than 5 years* :-Clarification has been sought as to whether it would be possible to appoint an individual as an ID for a period less than five years.

It is clarified that section 149(10) of the Act provides for a term of "upto five consecutive years" for an ID'. As such while appointment of an 'ID' for a term of less than five years would be permissible, appointment for any term (whether for five years or less) is to be treated as a one term under section 149(10) of the Act. Further, under section 149(11) of the Act, no person can hold office of 'ID' for more than 'two consecutive terms'. Such a person shall have to demit office after two consecutive terms even if the total number of years of his appointment in such two consecutive terms is less than 10 years. In such a case the person completing 'consecutive terms of less than ten years' shall be eligible for appointment only after the expiry of the requisite cooling-off period of three years.

- (iv) *Appointment of IDs' through letter of appointment* :- With reference to Para IV(4) of Schedule IV of the Act (Code for IDs) which requires appointment of 'IDs' to be formalized through a letter of appointment, clarification has been sought if such requirement would also be applicable for appointment of existing 'IDs'?

The matter has been examined. In view of the specific provisions of Schedule IV, appointment of 'IDs' under the new Act would need to be formalized through a letter of appointment.

This issues with the approval of the competent authority.

Yours faithfully

Sd/-

(Kamna Sharma)
Assistant Director

Copy to:-

1. e-Governance Section and Web Contents Officer to place this circular on the Ministry's website
2. Guard File

General Circular No. 25/2014

No. 1/22/13-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr R.P. Road, New Delhi

Dated : - 26th June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject: Clarification on applicability of requirement for resident director.

Sir,

1. Section 149(3) of the Companies Act, 2013 (Act) requires every company to have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year. Government has received requests from stakeholders for clarification with regard to applicability of these provisions in the current calendar/financial year.

2. The matter has been examined. It is clarified that the 'residency requirement' would be reckoned from the date of commencement of section 149 of the Act i.e. 1st April, 2014. The first 'previous calendar year' for compliance with these provisions would, therefore, be Calendar Year 2014. The period to be taken into account for compliance with these provisions will be the remaining period of calendar year 2014 (i.e. 1st April to 31st December). Therefore, on a proportionate basis, the number of days for which the director(s) would need to be resident in India, during Calendar Year 2014, shall exceed 136 days.

3. Regarding newly incorporated companies it is clarified that companies incorporated between 1.4.2014 to 30.9.2014 should have a resident director either at the incorporation stage itself or within six months of their incorporation. Companies incorporated after 30.9.2014 need to have the resident director from the date of incorporation itself.

This issues with the approval of the competent authority.

Yours faithfully

Sd/-

(S Nafajanan)

Assistant Director (Policy)

23387263

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File

General Circular No. 38/2014

No. 1 /22/2013-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, "A" Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi

Dated: 14th October, 2014

To

All Regional Directors,

All Registrars of Companies.

**Subject: Right of persons other than retiring directors to stand for directorship -
Refund of deposit under section 160 of the Companies Act, 2013 in certain cases.**

Sir,

Clarity has been sought by companies registered under section 8 of the Companies Act, 2013 (corresponding to section 25 of Companies Act, 1956) about the manner in which the amount of deposit of rupees one lakh received by them under sub-section (l) of section 160 of the Companies Act, 2013 (Act) is to be handled if the depositor fails to secure more than twenty five per cent of the total valid votes. It has been noted that the relevant provision is silent on such issue.

2. The matter has been examined in the Ministry and it is clarified that in such cases, the Board of directors of a section 8 company is to decide as to whether the deposit made by or on behalf of the person failing to secure more than twenty-five percent of the valid votes is to be forfeited or refunded.

3. This issues with the approval of the competent authority.

Yours faithfully

(KMS Narayanan)

Assistant Director (Policy)

Copy to:-

- 1 . e-Governance Section and web contents Officer to place this circular on the Ministry website
2. Guard File

General Circular No.03/2015

F.No.MCA21/272/2014
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

5th Floor, 'A' Wing Shastri Bhawan,
Dr. R.P. Road, New Delhi

Dated: 03rd March 2015

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject: Clarification relating to filing of e-form DIR-11 & DIR-12 under the Companies Act, 2013-regarding.

Sir,

This Ministry has received several representations about the difficulties faced by stakeholders due to deactivation of Digital Signature Certificate (DSC) following en masse resignation of all the directors of a company before appointment of new directors in their places. The difficulty arises because of automatic deactivation of DSC on filing of DIR-11 (Notice of resignation of a director to the Registrar) by the resigned/resigning Director (s), and none of the new Director's details having been filed. As a result, form DIR-12 (Particulars of appointment of directors and the key managerial personnel and the changes among them) cannot be filed by a company due to lack of an authorized signatory Director.

2. In order to enable the filing of such e-forms and till an alternative mechanism is put in place in MCA2I system, it is clarified that the Registrar of Companies within their respective jurisdictions are authorized, on request from the stakeholders, and after due examination, to allow any one of the resigned director who was an authorized signatory Director for the purpose of filing DIR-12 only along with additional fees, as applicable and subject to compliance of other provisions of Companies Act, 2013.

3. This issues with the approval of Secretary, MCA.

Yours faithfully,

(KMS Narayanan)
Assistant Director (Policy)
Ph.:23387263

Copy to:-

1. E-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION****New Delhi, 18th September 2014**

G.S.R. 671 (E).—In exercise of the powers conferred by second proviso to sub-section (1), sub-section (4) and clause (f) of sub-section (6) of section 149, sub-sections (3) and (4) of section 150, section 151, sub-section (5) of section 152, section 153, section 154, section 157, section 160, sub-section (1) of section 168 and section 170 read with section 469 of the Companies Act, 2013, the Central Government hereby makes the following rules to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:-

1. Short title and commencement.- (1) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Appointment and Qualification of Directors) Rules, 2014-
 - (1) in rule 6, -
 - (a) in sub-rule (2) –
 - (i) clause (c) shall be omitted;
 - (ii) in clause (d), the words “and mother’s name and Spouse’s name (if married)” shall be omitted;
 - (b) in sub-rule (4), the words letters and figure “in Form DIR-1” shall be omitted;
 - (2) in rule 9, in sub-rule (3),
 - (a) (i) in clause (a), for the words “therein and sign the form”, the words “therein, verify and sign the form” shall be substituted;
 - (ii) sub-clause (iv) shall be omitted.
 - (b) after sub-rule (3), the following sub-rule shall be inserted, namely:-

“(4) In case the name of a person does not have a last name, then his or her father’s or grandfather’s surname shall be mentioned in the last name along with the declaration in Form No. DIR-3A.”;
 - (3) in rule 10,-
 - (a) in sub-rule (1), for the words and letters “the provisional DIN shall be generated by the system automatically which shall not be utilised till the DIN is confirmed by the Central Government”, the words “an application number shall be generated by the system automatically” and letters shall be substituted;
 - (b) in sub-rule (2), for the words and letters “the provisional DIN” the words “application number” shall be substituted;
 - (c) in sub-rule (4), the words and letters “the provisional DIN so allotted by the system shall get lapsed automatically and” shall be omitted;

(4) after rule 10, the following rule shall be inserted, namely:-

“10A.(1) Every director, functioning as a director in one or more companies on or before the 30th June, 2007 and who has not yet intimated his DIN to such company or companies shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director as per Form DIR-3B.

(2) The intimation by the company of Director Identification Number of its directors under section 157 of the Act shall be furnished in Form DIR-3C within fifteen days of receipt of intimation under section 156.”;

(5) in rule 11, after the words “application received”, the words “alongwith fee as specified in Companies (Registration Offices and Fees) Rules, 2014” shall be inserted ;

(6) in rule 12, in sub-rule (1), for sub-clause (i), the following sub-clause shall be substituted, namely:-

“(1) The applicant shall download Form DIR-6 from the portal, fill in the relevant changes, verify the Form and attach duly scanned copy of the proof of the changed particulars and submit electronically.”;

(7) the existing Form DIR-1 shall be omitted;

(8) for the existing Forms DIR-3, the following Form shall be substituted, namely:-

(DIR-3 may be accessed at www.mca.gov.in)

(9) after form DIR-3 as substituted, the forms DIR-3A, DIR-3B and DIR 3C shall be inserted, namely:-

(DIR-3A, DIR 3B, DIR-3C may be accessed at www.mca.gov.in)

(12) form DIR-7 shall be omitted;

[F . No. 01/9/2013(Part-II) CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section(i) vide no. G.S.R. 259(E), dated the 31st March, 2014.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION****New Delhi, the 19th January, 2015**

G.S.R. 42(E).—In exercise of the powers conferred by the second proviso to sub-section (1), subsection (4) and clause (f) of sub-section (6) of section 149, sub-sections (3) and (4) of section 150, section 151, sub-section (5) of section 152, section 153, section 154, section 157, section 160, subsection (1) of section 168 and section 170 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2015.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Appointment and Qualification of Directors) Rules, 2014, in rule 16, the following proviso shall be inserted, namely:—

“Provided that in case a company has already filed Form DIR-12 with the Registrar under rule 15, a foreign director of such company resigning from his office may authorise in writing a practising chartered accountant or cost accountant in practice or company secretary in practice or any other resident director of the company to sign Form DIR-11 and file the same on his behalf intimating the reasons for the resignation.”.

[F. No. 01/9/2013-CL.V(Part-II)]

AMARDEEP SINGH BHATIA*Jt. Secy.*

Note.- The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number G.S.R. 259(E), dated the 31st March, 2014 and was subsequently amended by notification number G.S.R. 671(E), dated the 18th September, 2014.

Chapter XII

MEETINGS OF BOARD AND ITS POWERS

Chapter Title	Meeting of Board and its Powers
Sections Covered	Section-173 to Section-195
Topics Covered	Meetings of Board, Audit committee, Nomination and remuneration committee and stakeholders relationship committee, Powers of Board, Disclosure of interest by director, Loan to directors, etc, Loan and investment by company, Related party transactions, Register of contracts or arrangements in which directors are interested, Contract by One Person Company, Prohibition on forward dealings in securities of company by director or key managerial personnel, Prohibition on insider training of securities
Rules Framed thereunder	Companies (Meetings of Board and its powers) rules, 2014
Rules Notified on and effective from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Circulars, Amendments, Rules issued under this chapter so far :

1. General Circular No. 19/2013 dated 10th December, 2013.
2. General Circular No. 03/2014 dated 14th February, 2014.
3. General Circular No. 04/2014 dated 25th March, 2014.
4. General Circular No. 15/2014 dated 09th June, 2014.
5. General Circular No. 30/2014 dated 17th July, 2014.
6. General Circular 04/2015 dated 10th March, 2015.
7. General Circular 06/2015 dated 9th April, 2015.
8. Companies (Meetings of Board and its Powers) Amendment Rules, 2014 dated 12th June, 2014.
9. Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014 dated 14th August, 2014.
10. Companies (Meetings of Board and its Powers) Amendment Rules, 2015 dated 18th March, 2015.
11. Companies (Removal of Difficulties) Order, 2015 dated 13th February, 2015.

Broad topics covered in the Circulars, Amendment Rules and order are as under :

- Political contributions under Section 182
- Loans to directors
- Resolution passed before 12th September 2013(i.e notification of Section 180) with reference to restrictions on powers of the board.
- Loans and investments by the company under section 186
- Related Party Transactions
- Constitution of Audit committee/Nomination and Remuneration committee
- Meeting through Video Conferencing
- Powers exercised at the meetings of the Board

I. Political contributions under Section 182**Issues involved**

Whether disclosures are to be made under Section 182?

Ministry has received representations seeking clarification on disclosures to be made under section 182 of the companies Act, 2013. The same have been examined with the coming into force of the scheme relating to 'Electoral trust companies' in terms of section (24AA) of the Income Tax Act, 1961 read with Ministry of Finance Notification No. S.O.309(E) dated 31st January, 2013 it will be expedient to explain the requirements of disclosure on part of a company of any amount or amounts contributed by it to any political parties under section 182(3) of the Companies Act, 2013.

Clarification issued

It is hereby clarified vide circular no 19/2013 dated December 10, 2013 as under:

- (i) Companies contributing any amount or amounts to an 'Electoral Trust Company' for contributing to a political party or parties are not required to make disclosures required under section 182(3) of Companies Act 2013. It will suffice if the Accounts of the company disclose the amount released to an Electoral Trust Company.
- (ii) Companies contributing any amount or amounts directly to a political party or parties will be required to make the disclosures laid down in section 192(3) of the Companies Act, 2013.
- (iii) Electoral Trust companies will be required to disclose all amounts received by them from other companies/sources in their Books of Accounts and also disclose the amount or amounts contributed by them to a political party or parties as required by section 182(3) of Companies Act, 2013.

II. Resolution passed before 12th September 2013(i.e notification of Section 180) with reference to restrictions on powers of the board.**Issues involved**

What is the effect of resolution passed before 12th September 2013?

Clarification issued

This Ministry has received many representations regarding various difficulties arising out of

implementation of section 180 of the Companies Act, 2013 with reference to borrowings and/or creation of security, based on the basis of ordinary resolution. The matter has been examined in the Ministry and it is hereby clarified vide circular no 4/2014 dated March 25, 2014 that the resolution passed under section 293 of the Companies Act, 1956 prior to 12.09.2013 with reference to borrowings (subject to the limits prescribed) and / or creation of security on assets of the company will be regarded as sufficient compliance of the requirements of section 180 of the Companies Act, 2013 for a period of one year from the date of notification of section 180 of the Act.

III. Loans and investments by the company under Section 186.

(a) Grant of Loan and advances to employees.

Issues involved

With effect from what date the maintenance of registers of loans and investments to be in new format?

Clarifications issued

This Ministry has received various, communications seeking clarification regarding sub-section [9] of section 186 read with sub-rule (1) of Rule 12 of the Companies (Meeting of Board and its Powers) Rule, 2014 with regard to maintenance of register of loans/guarantee/security/making acquisition in new format.

In this connection, it is hereby clarified that registers maintained by companies pursuant to sub-section (5) of Section 372A of Companies Act, 1956 may continue as per requirements under these provisions and the new format prescribed vide Form MBP2 shall be used for particulars entered in such registers on and from 1.4.2014.

(b) Grant of Loans and advances to employees

Issues Involved

Whether the provisions of sections 186 of the Companies Act, 2013 be applicable to grant of loans and advances by the companies to their employees?

Clarification Issued

The Ministry of Corporate Affairs received various representations seeking clarity on the grant of loans and advances given to the employees by the companies and the applicability of provisions of section 186 of the Act relating to Loans and investment by company.

Considering the above the Ministry vide General Circular No. 04/2015 dated 10th March, 2015 clarified that the loans and/or advances made by the companies to their employees, other than the managing or whole time directors (which is governed by section 185) shall not governed by the requirements of section 186 of the Companies Act, 2013. However such loans/advances to employees should be in accordance with the conditions of service applicable to employees and also in accordance with the remuneration policy, in cases where such policy is required to be formulated.

(c) Treatment where effective yield on tax free bonds is greater than the prevailing yield

Issues Involved

In cases where the effective yield (effective rate of return) on tax free bonds is greater than the prevailing yield, will that be violation of sub-section (7) of section 186 of the Companies Act, 2013

Clarification Issued

The Ministry of Corporate Affairs (MCA) vide General Circular No. 06/2015 dated April 9, 2015 has issued clarification under sub-section (7) of section 186 of the Companies Act, 2013 that in cases where the effective yield (effective rate of return) on tax free bonds is greater than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan, there is no violation of sub-section (7) of section 186 of the Companies Act, 2013.

Section 186 (7) of the Companies Act, 2013 provides that no loan shall be given under this section at a rate of interest lower than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan.

If the company opts for tax-free bonds whose rate of interest, although less than the prevailing rate of interest of government securities, will not be in violation of section 186 (7) provided that the effective return is greater than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan.

This clarification is similar to the clarification issued by the Ministry vide General Circular No 06/2013 dated 14.03.2013 under section 372A(3) of the Companies Act, 1956.

(d) Issues Involved

In clause (b) of sub-section (11) of section 186, in the absence of provisions for exemption to a banking company or an insurance company or a housing finance company making acquisition of securities in its ordinary course of business, a difficulty arose that such companies could not make any acquisition of securities in their ordinary course of business.

RoD issued

Ministry of Corporate Affairs, after considering the difficulty faced by the banking/ insurance/ housing finance companies in making acquisition of securities in ordinary course of business, vide Companies (Removal of Difficulties) Order, 2015 dated 13th February, 2015, inserted item (iv) in clause (b) of sub-section (11) of section 186 of the Companies Act, 2013.

The inserted provision exempts banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business from the applicability of provisions of section 186 of the Act.

The revised section reads thus:

(11) Nothing contained in this section, except sub-section (1), shall apply—

(a) to a loan made, guarantee given or security provided by a banking company or an insurance company or a housing finance company in the ordinary course of its business or a company engaged in the business of financing of companies or of providing infrastructural facilities;

(b) to any acquisition—

(i) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities:

Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;

(ii) made by a company whose principal business is the acquisition of securities;

- (iii) of shares allotted in pursuance of clause (a) of sub-section (1) of section 62.
- (iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.

IV. Related party transactions

Issues involved

What the scope of related party is as mentioned in the second proviso to Section 188(1)

Clarification issued

Scope of second proviso to Section 188(1) :- Second proviso to sub-section (1) of section 188 requires that no member of the company shall vote on a special resolution to approve the contract or arrangement (referred to in the first proviso), if such a member is a related party. It is clarified that 'related party' referred to in the second proviso has to be construed with reference only to the contract or arrangement for which the said special resolution is being passed. Thus, the term 'related party' in the above context refers only to such related party as may be a related party in the context of the contract or arrangement for which the said special resolution is being passed. (General Circular No. 30/2014 dated 17th July, 2014).

Issues involved

Does section 188 apply to corporate restructuring decisions?

Clarifications issued

Applicability of Section 188 to corporate restructuring, amalgamations etc. - It is clarified vide General Circular no. 30/2014 dated 17th July, 2014 that transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Companies Act, 1956/Companies Act, 2013, will not attract the requirements of section 188 of the Companies Act, 2013.

Issues involved

Does the past contracts require fresh approvals?

Clarifications issued

Requirement of fresh approvals for past contracts under Section 188. :- Contracts entered into by companies, after making necessary compliances under Section 297 of the Companies Act, 1956, which already came into effect before the commencement of Section 188 of the Companies Act, 2013, will not require fresh approval under the said section 188 till the expiry of the original term of such contracts. Thus, if any modification in such contract is made on or after 1st April, 2014, the requirements under section 188 will have to be complied with. (General Circular No. 30/2014).

V. Substitution of Sub-rule 3 of Rule 15 of Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014 dated 14th August, 2014

Substituted rule is read as under -

“(3) For the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a special resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into,—

- (a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mentioned below –
 - (i) sale, purchase or supply of any goods or materials, directly or through appointment of

agent, exceeding ten per cent. of the turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;

- (ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, exceeding ten per cent. of net worth of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;
- (iii) leasing of property of any kind exceeding ten per cent. of the net worth of the company or ten per cent. of turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;
- (iv) availing or rendering of any services, directly or through appointment of agent, exceeding ten per cent. of the turnover of the company or rupees fifty crore, whichever is lower, as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188:

Explanation.—It is hereby clarified that the limits specified in sub-clauses (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

- (b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and half lakh rupees as mentioned in clause (f) of subsection (1) of section 188; or
- (c) is for remuneration for underwriting the subscription of any securities or derivatives thereof, of the company exceeding one per cent. of the net worth as mentioned in clause (g) of sub-section (1) of section 188.

Explanation.- (1) The Turnover or Net Worth referred in the above sub-rules shall be computed on the basis of the Audited Financial Statement of the preceding Financial year.

(2) In case of a wholly owned subsidiary, the special resolution passed by the holding company shall be sufficient for the purpose of entering into the transactions between the wholly owned subsidiary and the holding company.

(3) The explanatory statement to be annexed to the notice of a general meeting convened pursuant to section 101 shall contain the following particulars, namely:—

- (a) name of the related party ;
- (b) name of the director or key managerial personnel who is related, if any;
- (c) nature of relationship;
- (d) nature, material terms, monetary value and particulars of the contract or arrangement;
- (e) any other information relevant or important for the members to take a decision on the proposed resolution.”

The substitution, more specifically, has revised the limits of contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, beyond which special resolution is required.

VI. Constitution of audit committee/nomination and remuneration committee.

Rule 6 of Companies (Meetings and powers of Board) Amendment Rules 2014 reads as under

Committees of the Board.- The Board of directors of every listed companies and the following

classes of companies shall constitute an Audit Committee and a Nomination and Remuneration Committee of the Board-

- (i) all public companies with a paid up capital of ten crore rupees or more;
- (ii) all public companies having turnover of one hundred crore rupees or more;
- (iii) all public companies, having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding fifty crore rupees or more.

Explanation.- The paid up share capital or turnover or outstanding loans, or borrowings or debentures or deposits, as the case may be, as existing on the date of last audited Financial Statements shall be taken into account for the purposes of this rule.

The ministry vide its Companies(Meetings and powers of Board) Amendment Rules 2014 has made the following amendments:

In rule 6, after the explanation, the following shall be inserted, namely:-

“Provided that public companies covered under this rule which were not required to constitute Audit Committee under section 292A of the Companies Act, 1956 (1 of 1956) shall constitute their Audit Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier :

Provided further that public companies covered under this rule shall constitute their Nomination and Remuneration Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier.”.

Accordingly revised rule 6 reads as under

Committees of the Board.- The Board of directors of every listed companies and the following classes of companies shall constitute an Audit Committee and a Nomination and Remuneration Committee of the Board-

- (i) all public companies with a paid up capital of ten crore rupees or more;
- (ii) all public companies having turnover of one hundred crore rupees or more;
- (iii) all public companies, having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding fifty crore rupees or more.

Explanation.- The paid up share capital or turnover or outstanding loans, or borrowings or debentures or deposits, as the case may be, as existing on the date of last audited Financial Statements shall be taken into account for the purposes of this rule.

“Provided that public companies covered under this rule which were not required to constitute Audit Committee under section 292A of the Companies Act, 1956 (1 of 1956) shall constitute their Audit Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier :

Provided further that public companies covered under this rule shall constitute their Nomination and Remuneration Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier.”.

VII.Meeting through Video Conferencing

The sub-rule 6 of Rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014 restricted the scheduled venue of the meeting through video conferencing or audio visual means to be in India.

The Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014 omitted the words and comma ", which shall be in India,"

The revised rule is read as under:

With respect to every meeting conducted through video conferencing or other audio visual means authorised under these rules, the scheduled venue of the meeting as set forth in the notice convening the meeting shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place.

Further the rule 4 has been amended, accordingly the Audit committee meetings for consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act, may not be dealt in a meeting through video conferencing or other audio visual means.

VIII. Powers exercised at the Meetings of the Board

Rule 8 of Companies (Meetings of Board and its Powers) Rules, 2014 provided for the powers(in addition to powers mentioned in Section 179 (3) which are required to be exercised by the Board of Directors by way of resolutions. For all the resolutions MGT 14 is to be filed.

Considering the burden on the corporates the Ministry of Corporate Affairs vide Companies (Meetings of Board and its Powers) Amendment Rules, 2015 dated 18th March, 2015 omitted following items from the powers to be exercised by the Board of Directors only by means of resolutions passed at meetings of the Board:

- (a) to take note of appointment(s) or removal(s) of one level below the Key Management Personnel;
- (b) to take note of the disclosure of director's interest and shareholding;
- (c) to buy, sell investments held by the company (other than trade investments), constituting five percent or more of the paid up share capital and free reserves of the investee company;
- (d) to invite or accept or renew public deposits and related matters;
- (e) to review or change the terms and conditions of public deposit;
- (f) to approve quarterly, half yearly and annual financial statements or financial results as the case may be.

Revised Rule 8 is read as under:

8. Powers of Board.- In addition to the powers specified under sub-section (3) of section 179 of the Act, the following powers shall also be exercised by the Board of Directors only by means of resolutions passed at meetings of the Board.-

- (1) to make political contributions;
- (2) to appoint or remove key managerial personnel (KMP);
- (3) to appoint internal auditors and secretarial auditor.

The text of the Circulars issued under this Chapter appended as under:

1

Circulars - 19/2013

No. 17/27/2013-CL-V
Government of India
Ministry of Corporate Affairs

Shastri Bhawan, 5th Floor, 'A' Wing
Dr. Rajendra Prasad Road
New Delhi 110001

Dated 10.12.2013

To

All Registrar of Companies
All Regional Director

Sub :- Clarification with regard to applicability of section 182(3) of the Companies Act, 2013.

Sir,

Ministry has received representations seeking clarification on disclosures to be made under section 182 of the Companies Act, 2013. The same have been examined. With the coming into force of the scheme relating to "Electoral Trust Companies" in terms of section (24AA) of the Income Tax Act, 1961 read with Ministry of Finance Notification No. S.O.309(E) dated 31st January, 2013 it will be expedient to explain the requirements of disclosure on part of a company of any amount or amounts contributed by it to any political parties under section 182(3) of the Companies Act, 2013.

It is hereby clarified as under;

- (i) Companies contributing any amount or amounts to an 'Electoral Trust Company' for contributing to a political party or parties are not required to make disclosures required under section 182(3) of Companies Act 2013. It will suffice if the Accounts of the company disclose the amount released to an Electoral Trust Company.
- (ii) Companies contributing any amount or amounts directly to a political party or parties will be required to make the disclosures laid down in section 182(3) of the Companies Act, 2013.
- (iii) Electoral Trust Companies will be required to disclose all amounts received by them from other companies/sources in their Books of Accounts and also disclose the amount or amounts contributed by them to a political party or parties as required by section 182(3) of Companies Act, 2013.

This issues with the approval of competent authority.

Yours Faithfully,

Sd/-

(Vinod Sharma)
Deputy Director

General Circular No 03/2014

No.1/12/2013-CLV
Government of India
Ministry of Corporate Affairs

5h Floor, 'A' Wing, Shastri Bhawan
Dr. R..P. Road, New Delhi-110001

Dated: 14/2/2014

To

All Regional Directors
All Registrar of Companies
All Stakeholders.

Subject: Clarification with regard to Section 185 of the Companies Act, 2013.

Sir,

This Ministry has received number of representations on the applicability of Section 165 of the Companies Act, 2013 with reference to loans made, guarantee given or security provided under Section 372A of the Companies Act, 1956. The issue has been examined with reference to applicability of Section 372A of the Companies Act, 1956 vis-a-vis Section 185 of the Companies Act, 2013. Section 372A of the Companies Act, 1956, specifically exempts any loans made, any guarantee given or security provided or any investment made by a holding company to its wholly owned subsidiary. Whereas, Section 185 of the Companies Act, 2013 prohibits guarantee given or any security provided by a holding company in respect of any loan taken by its subsidiary company except in the ordinary course of business.

2. In order to maintain harmony with regard To applicability of Section 372A of the Companies Act, 1956 till the same is repealed and Section 185 of the Companies Act, 2013 is notified, it is hereby clarified that any guarantee given or security provided by a holding company in respect of loans made by a bank or financial institution to its subsidiary company, exemption as provided in clause (d) of sub-section (8) of Section 372A of the Companies Act, 1956 shall be applicable till Section 186 of the Companies Act, 2013 is notified. This clarification will, however, be applicable to cases where loans so obtained are exclusively utilized by the subsidiary for its principal business activities.

Yours faithfully,

Sd/-

(K.M.S. Narayanan)
Assistant Director (Policy)
Phone No. 23387263

Copy to:

Guard File.

General Circular No. 04 /2014

No. 1/32/2013-CLV(Pt. File)

Government of India

Ministry of Corporate Affairs

5th Floor, W Wing, Shastri Bhavan
Dr. R P Road, New Delhi-110001

Dated:25/03/2014

To

All Regional Directors
All Registrar of Companies
All the Stakeholders

Subject: Clarification with regard to section 180 of the Companies Act, 2013.

Sir,

This Ministry has received many representations regarding various difficulties arising out of implementation of section 180 of the Companies Act, 2013 with reference to borrowings and/or creation of security, based on the basis of ordinary resolution. The matter has been examined in the Ministry and it is hereby clarified that the resolution passed under section 293 of the Companies Act, 1956 prior to 12.09.2013 with reference to borrowings (subject to the limits prescribed) and / or creation of security on assets of the company will be regarded as sufficient compliance of the requirements of section 180 of the Companies Act, 2013 for a period of one year from the date of notification of section 180 of the Act.

Yours faithfully,

Sd/-

(KMS Narayanan)

Assistant Director (Policy)

Ph. No. 23387263

Copy to:

Guard File

General Circular No. 15/2014

**File No.5/6/2014-CL-I
Government of India
Ministry of Corporate Affairs**

'A' Wing, 5th floor, Shastri Bhawan
Dr. Rajendra Prasad Road
New Delhi-110001

Dated: 9th June, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

**Subject: Clarification regarding maintaining register in new format
[sub-section (9) of section 186] - reg.**

Sir,

This Ministry has received various, communications seeking clarification regarding sub-section [9] of section 186 read with sub-rule (1) of Rule 12 of the Companies (Meeting of Board and its Powers) Rule, 2014 with regard to maintenance of register of loans/guarantee/security/making acquisition in new format.

2. In this connection, it is hereby clarified that registers maintained by companies pursuant to sub-section (5) of Section 372A of Companies Act, 1956 may continue as per requirements under these provisions and the new format prescribed vide Form MBP2 shall be used for particulars entered in such registers on and from 1.4.2014.

3. This issues with the approval of the Competent Authority.

Yours faithfully,

Sd/-

(Kamna Sharma)
Assistant Director

Copy to:

PSO to Secretary/PPS to AS

PSs to JS (M)/JS (B)/JS (SP)/DII (UCN)/DII (RCM)

DIR (AK)/DIR (AB)/DIR (NC)/DIR (PS), CL.V Section

General Circular No. 30/2014

No. 1/32/2013-CL-V(Pt)
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

5th Floor, A Wing Shastri Bhavan
Dr R.P. Road, New Delhi

Dated: 17th July 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

Subject: Clarifications on matters relating to Related Party Transactions.

Sir,

Government has received representations from stakeholders seeking certain clarifications on related party transactions covered under section 188 of the Companies Act, 2013. These representations have been examined and the following clarifications are given:-

1. *Scope of second proviso to Section 188(1)* :- Second proviso to sub-section (1) of section 188 requires that no member of the company shall vote on a special resolution to approve the contract or arrangement (referred to in the first proviso), if such a member is a related party. It is clarified that 'related party' referred to in the second proviso has to be construed with reference only to the contract or arrangement for which the said special resolution is being passed. Thus, the term 'related party' in the above context refers only to such related party as may be a related party in the context of the contract or arrangement for which the said special resolution is being passed.
2. *Applicability of Section 188 to corporate restructuring, amalgamations etc.* :- It is clarified that transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Companies Act, 1956/Companies Act, 2013, will not attract the requirements of section 188 of the Companies Act, 2013.
3. *Requirement of fresh approvals for past contracts under Section 188.* :- Contracts entered into by companies, after making necessary compliances under Section 297 of the Companies Act, 1956, which already came into effect before the commencement of Section 188 of the Companies Act, 2013, will not require fresh approval under the said section 188 till the expiry of the original term of such contracts. Thus, if any modification in such contract is made on or after 1st April, 2014, the requirements under section 188 will have to be complied with.
4. This issues with approval of the competent authority.

Yours faithfully

Sd/-

(KMS Narayanan)

Assistant Director (Policy)

Ph: 23387263

Copy To:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website.
2. Guard File

General Circular No. 04/2015

No. 1/32/2013-CL.V
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

5th floor, 'A' wing, Shastri Bhavan
New Delhi - 110001

Dated: 10/03/2015

To

All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Subject : Clarification with regard to section 185 and 186 of the Companies Act, 2013 - loans and advances to employees - reg.

Sir,

1. This Ministry has received a number of references seeking clarification on the applicability of provisions of section 186 of the Companies Act, 2013 relating to grant of loans and advances by Companies to their employees.
2. The issue has been examined and it is hereby clarified that loans and/or advances made by the companies to their employees, other than the managing or whole time directors (which is governed by section 185) are not governed by the requirements of section 186 of the Companies Act, 2013. This clarification will, however, be applicable if such loans/advances to employees are in accordance with the conditions of service applicable to employees and are also in accordance with the remuneration policy, in cases where such policy is required to be formulated.
3. This issues with the approval of the Secretary.

Yours faithfully,

(K.M.S. Narayanan)
Assistant Director
Phone: 011-23387263

Copy to :

1. PSO to Secretary
2. PS to JS(M)/JS(B)/JS(A)JS(SP)/DII(NS)/DII(P)
3. E-Gov Cell for uploading on the MCA website
4. Guard File.

General Circular No. 06/2015

File No. 5/3/ 13-CL.V

**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS**

5th floor, 'A' wing, Shastri Bhavan
Dr. R P Road, New Delhi.

Dated 9th April, 2015

To

All Regional Directors,
All Registrar of Companies,
All Stakeholders

Subject : Clarification under sub-section (7) of section 186 of the Companies Act, 2013

Sir,

1. Attention of this Ministry has been drawn to General Circular No 06/2013 dated 14.03.2013 vide which it was clarified that in cases where the effective yield (effective rate of return) on tax free bonds is greater than the yield on prevailing bank rate, there was no violation of Section 372A(3) of Companies Act, 1956. Stakeholders have requested for similar clarification w.r.t. corresponding section 186(7) of the Companies Act, 2013.
2. The matter has been examined in the Ministry and it is hereby clarified that in cases where the effective yield (effective rate of return) on tax free bonds is greater than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan, there is no violation of sub-section (7) of section 186 of the Companies Act, 2013.
3. This issues with the approval of competent authority.

Yours faithfully,

(K.M.S Narayanan)
Assistant Director
Phone 23387263

Copy to :

1. All concerned
2. PS to CAM
3. PS to Secretary
4. PS to A.S.
5. PS to Joint Secretaries
6. E-Governance Cell for uploading this Circular in MCA 21.

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 12th June, 2014

G.S.R. 398(E).—In exercise of the powers conferred under sections 173, 175, 177, 178, 179, 184, 185, 186, 187, 188, 189 and section 191 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Meetings and Powers of Board) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Meetings and Powers of Board) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Meetings and Powers of Board) Rules, 2014, in rule 6, after the explanation, the following shall be inserted, namely:-

“Provided that public companies covered under this rule which were not required to constitute Audit Committee under section 292A of the Companies Act, 1956 (1 of 1956) shall constitute their Audit Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier :

Provided further that public companies covered under this rule shall constitute their Nomination and Remuneration Committee within one year from the commencement of these rules or appointment of independent directors by them, whichever is earlier.”.

[F. No. 1/32/2013-CL-V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal notification was published in the Gazette of India vide No.G.S.R. 265(E), dated 31.03.2014.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 14th August, 2014

G.S.R. 590(E).—In exercise of the powers conferred under sections 173, 175, 177, 178, 179, 184, 185, 186, 187, 188, 189 and section 191 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Meetings of Board and its Powers) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Meetings of Board and its Powers) Rules, 2014, -
 - (1) in rule 3, in sub-rule (6), the words and commas “,which shall be in India,” shall be omitted.
 - (2) in rule 4,—
 - (a) in sub-rule (1), for the brackets, figure and word “(1) The”, the word “The” shall be substituted;
 - (b) in clause (iv), for the words “consideration of accounts”, the words “consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act” shall be substituted.
 - (3) in rule 15, for sub-rule (3), the following sub-rule shall be substituted, namely:—

“(3) For the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a special resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into,—

 - (a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mentioned below –
 - (i) sale, purchase or supply of any goods or materials, directly or through appointment of agent, exceeding ten per cent. of the turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;
 - (ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, exceeding ten per cent. of net worth of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;
 - (iii) leasing of property of any kind exceeding ten per cent. of the net worth of the company or ten per cent. of turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;

- (iv) availing or rendering of any services, directly or through appointment of agent, exceeding ten per cent. of the turnover of the company or rupees fifty crore, whichever is lower, as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188:

Explanation.—It is hereby clarified that the limits specified in sub-clauses (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

- (b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and half lakh rupees as mentioned in clause (f) of subsection (1) of section 188; or
- (c) is for remuneration for underwriting the subscription of any securities or derivatives thereof, of the company exceeding one per cent. of the net worth as mentioned in clause (g) of sub-section (1) of section 188.

Explanation.- (1) The Turnover or Net Worth referred in the above sub-rules shall be computed on the basis of the Audited Financial Statement of the preceding Financial year.

- (2) In case of a wholly owned subsidiary, the special resolution passed by the holding company shall be sufficient for the purpose of entering into the transactions between the wholly owned subsidiary and the holding company.
- (3) The explanatory statement to be annexed to the notice of a general meeting convened pursuant to section 101 shall contain the following particulars, namely:—
 - (a) name of the related party ;
 - (b) name of the director or key managerial personnel who is related, if any;
 - (c) nature of relationship;
 - (d) nature, material terms, monetary value and particulars of the contract or arrangement;
 - (e) any other information relevant or important for the members to take a decision on the proposed resolution.”

[F. No. 1/32/2013-CL-V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal notification was published in the Gazette of India vide No. GSR 240 (E), dated 31.05.2014 and was amended vide notification number GSR 398 (E), dated 12.06.2014.

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 18th March, 2015

G.S.R. 206(E). - In exercise of the powers conferred under sections 173, 175, 117, 178, 179, 184, 185, 186, 187, 188, 189 and section 191 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Meetings of Board and its Powers) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Meetings of Board and its Powers) Amendment Rules, 2015.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Meetings of Board and its Powers) Rules, 2014,
 - (a) in rule 8,
 - (i) item numbers (3), (5), (6), (7), (8) and (9) and the entries relating thereto shall be omitted;
 - (b) in rule 10, in the proviso, for the word 'principle' the word 'principal' shall be substituted.

[F. No. 1/32/2013-CL-V-Part]

AMARDEEP SINGH BHATIA
Jt. Secy.

Note.- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 240(E), dated the 31st March, 2014 and was subsequently amended *vide* notification number G.S.R. 398(E), dated the 12th June, 2014 and number G.S.R. 590(E), dated the 14th August, 2014.

MINISTRY OF CORPORATE AFFAIRS**ORDER****New Delhi, the 13th February, 2015**

S.O. 504(E).—Whereas, the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013;

And whereas, clause (85) of section 2 of the said Act provides for definition of the term “small company”;

And whereas, clause (b) of sub-section (11) of section 186 of the said Act provides that the requirements of provisions of section 186 [except sub-section (1) of the said section] shall not apply to any acquisition made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934) and any other company whose principal business is acquisition of securities;

And whereas, such provisions of clause (85) of section 2 and section 186 of the said Act had come into force on the 1st day of April, 2014;

And whereas, the following difficulties have arisen in giving effect to the above provisions of the said Act:—

- (a) According to clause (85) of section 2, a company may be treated as a ‘small company’ if it meets either of the conditions provided therein thereby making the second limit unrestricted or inconsequential. Difficulties have arisen in this regard as companies which, though, meet one of the criteria but exceed the monetary limit in respect of second criteria excessively are also getting classified as ‘small companies’; and
- (b) in clause (b) of sub-section (11) of section 186, in the absence of provisions for exemption to a banking company or an insurance company or a housing finance company making acquisition of securities in its ordinary course of business, a difficulty has arisen that such companies cannot make any acquisition of securities in their ordinary course of business;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:-

(1) Short title and commencement.—

- (1) This Order may be called the Companies (Removal of Difficulties) Order, 2015.
- (2) It shall come into force on the date of its publication in the Official Gazette.

(2) In the Companies Act, 2013 (hereinafter referred to as the said Act),—

- (a) in section 2, in clause (85), in sub-clause (i), for the word “or” occurring at the end, the word “and” shall be substituted; and
- (b) in section 186 of the said Act, in sub-section (11), in clause (b), after item (iii), the following item shall be inserted, namely :—

“(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.”.

[F. No. 1/13/2013-CL.V-Part]

AMARDEEP SINGH BHATIA

Jt. Secy.

Chapter XIII

APPOINTMENT AND REMUNERATION OF MANAGERIAL PERSONNEL

Chapter Title	Appointment and remuneration of Managerial Personnel
Sections Covered	Section-196 to Section-205
Topics Covered	Appointment of managing director, whole-time director or manager, Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits, Recovery of remuneration in certain cases, Central Government or company to fix limit with regard to remuneration, Compensation for loss of office of managing or whole time director or manager, Appointment of key managerial personnel, Secretarial audit for bigger companies, Functions of company secretary
Rules Framed thereunder	Companies (Appointment and remuneration of managerial personnel) rules, 2014
Rules Notified on and effected from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Amendment Rules and Notification issued by the Ministry under this Chapter :

1. Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2014 dated 09th June, 2014.
2. Notification S. O. 1913(E) dated 25th July, 2014.
3. General Circular No. 07/2015 dated 10th April, 2015. (Refer Schedule V)

Broad topics covered in Amendment Rules and Notification are as under :

- Appointment of Company Secretary
- Appointment of Chief executive officer

I. Appointment of company secretary

The Companies (Appointment and Remuneration of Managerial Personnel) amendment rules 2014 states that

In the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 after rule 8, the following rule shall be inserted, namely:—

“8A. Appointment of Company Secretaries in companies not covered under rule 8.—A company other than a company covered under rule 8 which has a paid up share capital of five crore rupees or more shall have a whole-time company secretary.”

II. Appointment of Chief Executive Officer

Section 203(1) reads as under

(1) Every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel,—

- (i) managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;
- (ii) company secretary; and
- (iii) Chief Financial Officer :

Provided that an individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of the articles of the company, as well as the managing director or Chief Executive Officer of the company at the same time after the date of commencement of this Act unless,—

- (a) the articles of such a company provide otherwise; or
- (b) the company does not carry multiple businesses:

Provided further that nothing contained in the first proviso shall apply to such class of companies engaged in multiple businesses and which has appointed one or more Chief Executive Officers for each such business as may be notified by the Central Government.

The Ministry vide its notified dated July 25 , 2014 has stated that in exercise of the powers conferred by the second proviso to sub-section (1) of section 203 of the Companies Act, 2013 (18 of 2013), the Central Government hereby notifies that public companies having paid-up share capital of rupees one hundred crore or more and annual turnover of rupees one thousand crore or more which are engaged in multiple businesses and have appointed Chief Executive Officer for each such business shall be the class of companies for the purposes of the second proviso to sub-section (1) of section 203 of the said Act.

Explanation. - For the purposes of this notification, the paid-up share capital and the annual turnover shall be decided on the basis of the latest audited balance sheet.

The text of the Amendment Rules and Notification issued under this Chapter appended as under:

1

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 9th June, 2014

G.S.R. 390(E).—In exercise of the powers conferred by sub-section (1) of Section 203 of the Companies Act, 2013 (18 of 2013) read with clause (51) of Section 2 and Section 469 of the said Act, the Central Government hereby makes the following rules to amend the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 after rule 8, the following rule shall be inserted, namely:—

“8A. Appointment of Company Secretaries in companies not covered under rule 8.—A company other than a company covered under rule 8 which has a paid up share capital of five crore rupees or more shall have a whole-time company secretary.”

[F. No. 1/11/2013-CL-V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note : The principal rules were published in the Gazette of India vide notification number G.S.R. 249(E), dated the 31st March, 2014.

NOTIFICATION

New Delhi, the 25th July, 2014

S. O. 1913(E).—In exercise of the powers conferred by the second proviso to sub-section (1) of Section 203 of the Companies Act, 2013 (18 of 2013), the Central Government hereby notifies that public companies having paid-up share capital of rupees one hundred crore or more and annual turnover of rupees one thousand crore or more which are engaged in multiple businesses and have appointed Chief Executive Officer for each such business shall be the class of companies for the purposes of the second proviso to sub-section (1) of Section 203 of the said Act.

Explanation.—for the purposes of this notification, the paid-up share capital and the annual turnover shall be decided on the basis of the latest audited balance sheet.

[F. No. 1/5/2013 CL-V]

AMARDEEP SINGH BHATIA,
Jt. Secy.

Chapter XIV

INSPECTION, INQUIRY AND INVESTIGATION

This Chapter broadly covers (Section 206 -229) inspection, inquiry and investigation, covering aspects such as Power to call for information, inspect books and conduct inquiries, Conduct of inspection and inquiry, Report on inspection made, Search and seizure, Investigation into affairs of company, Establishment of Serious Fraud Investigation Office, Investigation into affairs of company by Serious Fraud Investigation Office, Investigation of ownership of company, Procedure, powers, etc., of inspectors Seizure of documents by inspector, Freezing of assets of company on inquiry and investigation,, Investigation, etc., of foreign companies etc.

The Ministry has not issued any Circulars, Clarifications, Notification and Amendment Rules in this regard.

Chapter XV

COMPROMISES, ARRANGEMENT AND AMALGAMATION

This Chapter broadly covers (Section 230 -240) compromise, arrangement and amalgamations, such as Power to compromise or make arrangements with creditors and members, Power of Tribunal to enforce compromise or arrangement, Merger and amalgamation of companies, Merger or amalgamation of company with foreign company, . Power to acquire shares of shareholders dissenting from scheme or contract approved by majority, Purchase of minority shareholding, Power of Central Government to provide for amalgamation of companies in public interest, Registration of offer of schemes involving transfer of shares, Preservation of books and papers of amalgamated companies, Liability of officers in respect of offences committed prior to merger, amalgamation, etc.

This chapter is yet to be notified.

Chapter XVI

PREVENTION OF OPPRESSION AND MISMANAGEMENT

This Chapter broadly covers (Section 241-246) prevention of oppression and mismanagement, such as Application to Tribunal for relief in cases of oppression, etc., Powers of Tribunal, Class action.

This chapter is yet to be notified

Chapter XVII

REGISTERED VALUERS

This Chapter broadly covers (Section 247) Valuation by registered valuers.

This chapter is yet to be notified.

Chapter XVIII

REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES

This Chapter broadly covers (Section 248- 252) removal name of company from register of Companies such as Power of Registrar to remove name of company from register of Companies, Effect of company notified as dissolved, Fraudulent application for removal of name, Appeal to Tribunal etc.

This chapter is yet to be notified

Chapter XIX

REVIVAL AND REHABILITATION OF SICK COMPANIES

This Chapter broadly covers (Section 253- 269) determination of sickness, Application for revival and rehabilitation, Exclusion of certain time in computing period of limitation, Appointment of interim administrator, Committee of creditors, Order of Tribunal, Appointment of administrator, Powers and duties of company administrator, Scheme of revival and rehabilitation, Sanction of scheme, Scheme to be binding, Implementation of scheme, Winding up of company on report of company administrator, Power of Tribunal to assess damages against delinquent directors, etc. Rehabilitation and Insolvency Fund.

This chapter is yet to be notified

Chapter XX

WINDING UP

This Chapter broadly covers (Section 270-365) winding up of companies such as Modes of winding up, Circumstances in which company may be wound up by Tribunal, Petition for winding up, Powers of Tribunal, Directions for filing statement of affairs, Company Liquidators and their appointments, Removal and replacement of liquidator, Intimation to Company Liquidator, provisional liquidator and Registrar, Effect of winding up order, Stay of suits, etc., on winding up order, Power of Tribunal on application for stay of winding up, Powers and duties of Company Liquidator, Provision for professional assistance to Company Liquidator, Books to be kept by Company Liquidator, Audit of Company Liquidator's accounts, Adjustment of rights of contributories, Power to summon persons suspected of having property of company, etc., Power to order examination of promoters, directors, etc., Dissolution of company by Tribunal, Circumstances in which company may be wound up voluntarily, Declaration of solvency in case of proposal to wind up voluntarily, Meeting of creditors, Commencement of voluntary winding up, Effect of voluntary winding up, Appointment of committees, Distribution of property of company, Overriding preferential payments, Preferential payments, Fraudulent preference, Sale of assets and recovery of debts due to company, Settlement of claims of creditors by Official Liquidator, Appeal by creditor, Order of dissolution of company etc .

This chapter is yet to be notified

Chapter XXI

PART I - COMPANIES AUTHORISED TO REGISTER UNDER THIS ACT

PART II- WINDING UP OF UNREGISTERED COMPANIES

This Chapter broadly covers (Sections 366-378) Companies authorised to register under this Act and Section (375-378) Winding up of unregistered companies.

The ministry has not issued any Circulars, Clarifications, Notification and Amendment Rules in this regard.

Chapter XXII

COMPANIES INCORPORATED OUTSIDE INDIA

This Chapter broadly covers (Section 379 - 393) application of Act to foreign companies, Documents, etc., to be delivered to Registrar by foreign companies, Accounts of foreign company, Display of name, etc., of foreign company, Service on foreign company, Offer of Indian Depository Receipts etc.

The ministry has not issued any Circulars, Clarifications, Notification and Amendment Rules in this regard.

Chapter XXIII

GOVERNMENT COMPANIES

This Chapter broadly covers (Section 394-395)

Annual reports on Government companies.

Annual reports where one or more State Governments are members of companies.

The Ministry has not yet issued any exemptions for Government Companies.

Chapter XXIV

REGISTRATION OF OFFICES AND FEES

Chapter Title	Registration Offices and Fees
Sections Covered	Section-396 to Section-404
Topics Covered	Registration Office, Admissibility of certain documents as evidence, provisions relating to filing of applications, documents, inspection, etc., in electronic form, Application of provisions of Information Technology Act, 2000
Rules Framed thereunder	Companies (Registration Offices and Fees) Rules, 2014
Rules Notified on and effected from	Rules notified on 31st March, 2014 and is effective from 01st April, 2014

Amendment Rules and Notification issued by the Ministry under this chapter, so far :

1. General Circular No. 05/2014 dated 28th March, 2014.
2. General Circular No. 10/2014 dated 07th May, 2014.
3. General Circular dated 01 April, 2014.
4. Companies (Registration Offices and Fees) Amendment Rules, 2014 dated 28th April, 2014.
5. Companies (Registration Offices and Fees) Amendment Rules, 2015 dated 24th February, 2015.
6. Companies (Registration Offices and Fees) Second Amendment Rules, 2015 dated 29th May, 2015.

Broad Topics covered in Circulars and Amendment Rules are as under :

Online payment of stamp duty and court fee stamp for issue of certified copies.

- Certification of E-forms/non e-forms under the Companies Act, 2013 by the Practicing Professionals.
- Pre-Certification by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice.
- Table of Fees.

I. Issue involved

Online payment of stamp duty and court fee stamp for issue of certified copies

Clarification issued

1. The Ministry has reviewed the process of issue of certified copies of the documents filed

with the Registrar of companies. As per the existing process, in case a User applies for the certified true copy of any document, he needs to pay MCA fee online at MCA portal. The fee is computed based on the number of documents required.

2. Once the selection of documents is done and the requisite MCA fee is paid, the Stakeholder is required to approach the jurisdictional ROC along with the application and the acknowledgement of the fee paid. The application needs to be filed along with Stamp Papers of requisite value and the Court Fee stamp attached to the same. The amount of Stamp Duty as well as Court Fee varies from State to State. On receipt of the application, the respective ROC affix the certified documents on the Stamp paper and returns the same to the Stakeholder (Applicant) duly certified.
3. With a view to identify and improve the component causing delay in issue of certified copy the Ministry has enabled payment of Stamp Duty as well as Court Fee online through MCA portal. This would enable the respective ROCs to send the certified documents without awaiting for physical stamp papers and any formal application (with Court Fee Stamp) in this regard.
4. Amount of Court Fee shall be added to the MCA fee calculated by the system for getting Certified Copies. This would be based on the State in which the registered office of the company is situated. Court Fee would be added per SRN irrespective of number of documents applied for.
5. Stamp duty for obtaining certified true copy would also be paid electronically through the system as per the existing process. The Stamp Duty would be calculated based on document, number of copies requested and the State wherein the registered office of the company is situated. Separate SRN will be generated for payment of Stamp Duty.
6. After the application is completely processed; an acknowledgement for stamp duty payment shall be generated separately. The same to be appended to the certified copy of the document. The certified copy of the documents requested shall be sent to the stakeholder by the jurisdictional Registrar of Companies within 15 days by post. The Copies would be sent at the address of applicant mentioned in the challan.
7. The Registrar of company shall ensure that the corresponding amount of court fee stamp is pasted against the record of despatch of certified copy or the print out of the challan for payment of MCA fee. The court fee stamp paid by ROC will be booked as Office expenses.

II. Issue involved

Certification of E-forms/non e-forms under the Companies Act, 2013 by the Practicing Professionals

Clarification Issued

The Ministry has allowed registered Members of the professionals bodies (the ICAI, ICSI and the ICAI) to authenticate correctness and integrity of documents being filed by them with the MCA in electronic mode.

1. In this regard attention is invited towards the requirement of authentication of documents prescribed under the Companies (Registration Offices and Fees) Rules, 2014 which elaborate on the responsibility. Further, Rule 10 of *ibid* the Registrar is to examine e-forms or non e-forms attached and filed with general forms on MCA portal viz. to verify whether all the requirements have been complied with and all the attachment to the forms have been duly scanned and attached in accordance with the requirement of above said rules.

2. Where any instance of filing of documents, application or return or petition etc. containing false or misleading information or omission of material fact or incomplete information is observed, the Regional Director or the Registrar as the case may be, shall conduct a quick inquiry against the professionals who certified the form and signatory thereof including an officer in default who appears prima facie responsible for submitting false or misleading or incorrect information pursuant to requirement of above said Rules; 15 days notice may be given for the purpose.
3. The Regional Director or the Registrar will submit his/her report in respect of the inquiry initiated, irrespective of the outcome, to the E-Governance cell of the Ministry within 15 days of the expiry of period given for submission of an explanation with recommendation in initiating action u/s 447 and 448 of the Companies Act, 2013 wherever applicable and also regarding referral of the matter to the concerned professional Institute for initiating disciplinary proceedings.
4. The E-Gov cell of the Ministry shall process each case so referred and issue necessary instructions to the Regional Director/ Registrar of Companies for initiating action u/s 448 and 449 of the Act wherever prima facie cases have been made out. The E-Gov cell will thereafter refer such cases to the concerned Institute for conducting disciplinary proceedings against the errant member as well as debar the concerned professional from filing any document on the MCA portal in future.
5. The Registrar shall forward a fortnightly report to the concerned Regional Director as well as to the E-Gov Division. Thereafter, the Regional Director shall forward a consolidated report to the Joint Secretary E-Governance Division on or before 7th of every month as per the prescribed proforma.

III. The Companies (Registration Offices and Fees) Amendment Rules, 2014

After amendment the Rule 8 (12)(a) and Rule 9(1) read as under:

Rule 8 (12)(a)

"The following e-forms filed by companies, other than one person companies and small companies, under sub-rule (1) of rule 9, shall be pre-certified by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice, namely:-

INC-21, INC-22, INC-28, PAS-3, SH-7, CHG-1, CHG-4, CHG-9, MGT- 14, DIR-6, DIR-12, MR-1, MR-2, MSC-1, MSC-3, MSC-4, GNL-3, ADT-1, NDH-1, NDH-2, NDH-3;

(b) The following e-forms filed by companies, other than one person companies and small companies, under sub rule (1) of rule 9, shall be pre-certified in the following manner, namely:—

(i) GNL-1 - optional pre-certification by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice;

(ii) DPT-3 – certification by Auditors of the company;

(i) MGT-10-certification by a Company Secretary in whole-time practice;

(ii) AOC-4- certification by a Chartered Accountant in whole-time practice;

(c) E-form DIR-3 shall be filed along with attestation of photograph, identity proof and proof of residence of the applicant by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice."

IV. Rule 9(1)

" The Central Government shall set up and maintain a secure centralised electronic registry in

which all the applications, financial statement, prospectus, return, register, memorandum, articles, particulars of charges, or any particulars or returns or any other documents under the Act shall be filed and stored electronically.”

Table of Fees - Detail Specifies in Annexure 4.

V. The Companies (Registration Offices and Fees) Amendment Rules, 24th February, 2015

Insertion of Sub-rule (7) in Rule 10

Sub-rule (7) inserts Form No. GNL-4 for any further information or documents called for, in respect of application or e-form or document, filed electronically with the Ministry of Corporate Affairs.

The inserted rule reads thus:

“7. Any further information or documents called for, in respect of application or e-form or document, filed electronically with the Ministry of Corporate Affairs shall be furnished in Form No. GNL-4 as an addendum”

VI. Restriction on Public Inspection of Board Resolutions filed with Registrar of Companies

In rule 15 of Companies (Registration offices and Fees) rules, 2014, the following proviso has been inserted:

“Provided that no person shall be entitled under section 399 to inspect or to obtain copies of resolution referred to in clause (g) of Sub section (3) of Section 117 of the Act.

Amended Rule shall be read as under:

- (a) inspect any document kept by the Registrar, being documents filed or registered by him in pursuance of this Act or the Companies Act, 1956 (1 of 1956) or making a record of any fact required or authorised to be recorded or registered in pursuance of this Act, on payment for each Inspection of fee.
- (b) require a certificate of incorporation of any company, or a copy or extract of any other document or any part of any other document to be certified by the Registrar, on payment of fee.

Provided that no person shall be entitled under section 399 to inspect or to obtain copies of resolution referred to in clause (g) of Sub section (3) of Section 117 of the Act.

The text of the Circulars and Amendment Rules issued under this Chapter appended as under:

1

General Circular No.05/2014

**No. HQ/7/2002-Computensation
Ministry of Corporate Affairs
Government of India**

5th Floor, 'A' Wing, Shastri Bhawan
Dr. R P. Road, New Delhi-110001

Dated : 28th March, 2014

To

All Regional Directors
All Registrar of Companies
All Stakeholders

Sub: Online payment of stamp duty and court fee stamp for issue of certified copies.

The Ministry has reviewed the process of issue of certified copies of the documents filed with the Registrar of companies. As per the existing process, in case a User applies for the certified true copy of any document, he needs to pay MCA fee online at MCA portal. The fee is computed based on the number of documents required.

2. Once the selection of documents is done and the requisite MCA fee is paid, the Stakeholder is required to approach the jurisdictional ROC along with the application and the acknowledgement of the fee paid. The application needs to be filed along with Stamp Papers of requisite value and the Court Fee stamp attached to the same. The amount of Stamp Duty as well as Court Fee varies from State to State. On receipt of the application, the respective ROC affix the certified documents on the Stamp paper and returns the same to the Stakeholder (Applicant) duly certified.

3. With a view to identify and improve the component causing delay in issue of certified copy the Ministry has enabled payment of Stamp Duty as well as Court Fee online through MCA portal. This would enable the respective ROCs to send the certified documents without awaiting for physical stamp papers and any formal application (with Court Fee Stamp) in this regard.

4. Amount of Court Fee shall be added to the MCA fee calculated by the system for getting Certified Copies. This would be based on the State in which the registered office of the company is situated. Court Fee would be added per SRN irrespective of number of documents applied for.

5. Stamp duty for obtaining certified true copy would also be paid electronically through the system as per the existing process. The Stamp Duty would be calculated based on document, number of copies requested and the State wherein the registered office of the company is situated. Separate SRN will be generated for payment of Stamp Duty.

6. After the application is completely processed; an acknowledgement for stamp duty payment shall be generated separately. The same to be appended to the certified copy of the document. The certified copy of the documents requested shall be sent to the stakeholder by the jurisdictional

Registrar of Companies within 15 days by post. The Copies would be sent at the address of applicant mentioned in the challan.

7. The Registrar of company shall ensure that the corresponding amount of court fee stamp is pasted against the record of despatch of certified copy or the print out of the challan for payment of MCA fee. The court fee stamp paid by ROC will be booked as Office expenses.

8. The Circular shall be effective from 31.03.2014.

Yours faithfully

Sd/-

(Shyam Sunder)
Deputy Director

Copy for information to:

1. PS to CAM
2. PPS to Secretary, Additional Secretary, Joint Secretaries.

General Circular- 10/2014

File No. MCA21/28/2014-E-gov

Government of India

Ministry of Corporate Affairs

"A" Wing, 5Q1 Floor, Shastri Bhawan
Dr R. P. Road, New Delhi- 110001

Date : 07.05.2014

To,

All Regional Director
All Registrars of Companies

Sub: - Certification of E-forms/non e-forms under the Companies Act, 2013 by the Practicing Professionals: - regarding.

Sir,

The Ministry has allowed registered Members of the professionals bodies (the ICAI, 1CSI and the ICOAI) to authenticate correctness and integrity of documents being filed by them with the MCA in electronic mode. Details of documents required to be certified have been given in the notification dated 28/04/2014 available on the MCA portal.

2. In this regard attention is invited towards the requirement of authentication of documents prescribed under the Companies (Registration Offices and Fees) Rules, 2014 which elaborate on the responsibility. Further, Rule 10 of *ibid* the Registrar is to examine e-forms or non e-forms attached and filed with general forms on MCA portal viz. to verify whether all the requirements have been complied with and all the attachment to the forms have been duly scanned and attached in accordance with the requirement of above said rules.

3. Where any instance of filing of documents, application or return or petition etc. containing false or misleading information or omission of material fact or incomplete information is observed, the Regional Director or the Registrar as the case may be, shall conduct a quick inquiry against the professionals who certified the form and signatory thereof including an officer in default who appears *prima facie* responsible for submitting false or misleading or incorrect information pursuant to requirement of above said Rules; 15 days notice may be given for the purpose.

4. The Regional Director or the Registrar will submit his/her report in respect of the inquiry initiated, irrespective of the outcome, to the E-Governance cell of the Ministry within 15 days of the expiry of period given for submission of an explanation with recommendation in initiating action u/s 447 and 448 of the Companies Act, 2013 wherever applicable and also regarding referral of the matter to the concerned professional Institute for initiating disciplinary proceedings.

5. The E-Gov cell of the Ministry shall process each case so referred and issue necessary instructions to the Regional Director/ Registrar of Companies for initiating action u/s 448 and 449 of the Act

wherever prima facie cases have been made out. The E-Gov cell will thereafter refer such cases to the concerned Institute for conducting disciplinary proceedings against the errant member as well as debar the concerned professional from filing any document on the MCA portal in future,

6. The Registrar shall forward a fortnightly report to the concerned Regional Director as well as to the E-Gov Division. Thereafter, the Regional Director shall forward a consolidated report to the Joint Secretary E-Governance Division on or before 7th of every month as per the prescribed proforma (copy enclosed).

7. This issues with the approval of the Secretary.

Yours faithfully,

Sd/-

(KMS Narayanan)
Assistant Director
23387263

1. PPS to Secretary
2. PPS to Additional Secretary
3. PPS to JS(R) / JS(B)/ JS(M)/ DII(UCN)/DII(BNH)
4. PS to DIR(AB)

NOTIFICATION

New Delhi, the 28th April, 2014

G.S.R. 297(E).—In exercise of the powers conferred by sections 396, 398, 399, 403 and section 404, 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 to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Registration Offices and Fees) Amendment Rules, 2014.
(2) They shall come into force with effect from the 28th day of April, 2014.
2. In the Companies (Registration Offices and Fees) Rules, 2014 (herein after referred to as the said rules), in rule 8, after sub-rule (11), following sub-rule shall be inserted, namely:—

“(12)(a) The following e-forms filed by companies, other than one person companies and small companies, under sub-rule (1) of rule 9, shall be pre-certified by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice, namely:-

INC-21, INC-22, INC-28, PAS-3, SH-7, CHG-1, CHG-4, CHG-9, MGT- 14, DIR-6, DIR-12, MR-1, MR-2, MSC-1, MSC-3, MSC-4, GNL-3, ADT-1, NDH-1, NDH-2, NDH-3;

(b) The following e-forms filed by companies, other than one person companies and small companies, under sub rule (1) of rule 9, shall be pre-certified in the following manner, namely:—

 - (i) GNL-1 - optional pre-certification by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice;
 - (ii) DPT-3 – certification by Auditors of the company;
 - (iii) MGT-10-certification by a Company Secretary in whole-time practice;
 - (iv) (iv) AOC-4- certification by a Chartered Accountant in whole-time practice;

(c) E-form DIR-3 shall be filed along with attestation of photograph, identity proof and proof of residence of the applicant by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice.”
3. In the said rules, in rule 9, for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) The Central Government shall set up and maintain a secure centralised electronic registry in which all the applications, financial statement, prospectus, return, register, memorandum, articles, particulars of charges, or any particulars or returns or any other documents under the Act shall be filed and stored electronically.”

[F. No.1/5/2014-CL-V]

RENUKA KUMAR
Jt. Secy.

Annexure

Table of Fees

(pursuant to rule 12 of the Companies (Registration of Offices and Fees) Rules, 2014)

I. Fee for filings etc. under section 403 of the Companies Act, 2013

Table of fees for the documents required to be submitted, filed, registered or recorded or for any fact or information required or authorized to be registered under the Act, shall be submitted filed, registered or recorded within the time specified in the relevant provision on payment of fee as prescribed hereunder :-

A. TABLE OF FEES TO BE PAID TO THE REGISTRAR

<i>(I) In respect of a company having a share capital :</i>	<i>Other than OPCs and Small Companies</i>	<i>*OPC and Small Companies</i>
1. (a) For OPC and small companies whose nominal share capital does not exceeds Rs. 10,00,000.	—	2000
(b) For every Rs. 10,000 of nominal share capital or part of Rs. 10,000 after the first Rs. 10,00,000 and upto Rs. 50,00,000	—	200
(c) For registration of a company whose nominal share capital does not exceeds Rs. 1,00,000.	5000	—
2. For registration of a company whose nominal share capital exceeds Rs. 1,00,000, the above fee of Rs. 5,000 with the following additional fees regulated according to the amount of nominal capital :		
(a) for every Rs. 10,000 of nominal share capital or part of Rs. 10,000 after the first Rs. 1,00,000 upto Rs.5,00,000	400	
(b) for every Rs. 10,000 of nominal share capital or part of Rs 10,000 after the first Rs. 5,00,000 upto Rs. 50,00,000	300	—
(c) for every Rs. 10,000 of nominal share capital or part of Rs. 10,000 after the first Rs. 50,00,000 upto Rs. one crore	100	—
(d) for every Rs. 10,000 of nominal share capital or part of Rs. 10,000 after the first Rs. 1 crore.	75	—

Provided that where the additional fees, regulated according to the amount of the nominal capital of a company, exceeds a sum of rupees two crore and fifty lakh, the total amount of additional fees payable for the

registration of such company shall not, in any case, exceed rupees two crore and fifty lakhs.

3. For filing a notice of any increase in the nominal share capital of a company, the difference between the fees payable on the increased share capital on the date of filing the notice for the registration of a company and the fees payable on existing authorized capital, at the rates prevailing on the date of filing the notice.
4. For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee is charged for registering a new company.
5. For submitting, filing, registering or recording any document by this Act required or authorised to be submitted, filed, registered or recorded
 - (a) in respect of a company having a nominal share capital of upto 1,00,000. 200
 - (b) in respect of a company having a nominal share capital of Rs. 1,00,000 or more but less than Rs.5,00,000. 300
 - (c) in respect of a company having a nominal share capital of Rs. 5,00,000 or more but less than Rs. 25,00,000 400
 - (d) in respect of a company having a nominal share capital of Rs.25,00,000 or more but less than Rs. 1 crore or more. 500
 - (e) in respect of a company having a nominal share capital of Rs. 1 crore or more. 600
6. For making a record of or registering any fact by this Act required or authorised to be recorded or registered by the Registrar -
 - (a) in respect of a company having a nominal share capital of upto 1,00,000. 200
 - (b) in respect of a company having a nominal share capital of Rs. 1,00,000 or more but less than Rs.5,00,000. 300
 - (c) in respect of a company having a nominal share capital of Rs. 5,00,000 or more but less than Rs.25,00,000 400
 - (d) in respect of a company having a nominal share capital of Rs. 25,00,000 or more but less than Rs. 1 crore or more. 500
 - (e) in respect of a company having a nominal share capital of Rs. 1 crore or more. 600

(II) In respect of a company not having a share capital :

- | | |
|--|-------|
| 7. For registration of a company whose number of members as stated in the articles of association, does not exceed 20 | 2000 |
| 8. For registration of a company whose number of members as stated in the articles of association, exceeds 20 but does not exceed 200 | 5000 |
| 9. For registration of a company whose number of members as stated in the articles of association, exceeds 200 but is not stated to be unlimited, the above fee of Rs.5,000 with an additional Rs. 10 for every member after first 200. | |
| 10. For registration of a company in which the number of members is stated in the articles of association to be unlimited. | 10000 |
| 11. For registration of any increase in the number of members made after the registration of the company, the same fees as would have been payable in respect of such increase, if such increase had been stated in the articles of association at the time of registration :
Provided that no company shall be liable to pay on the whole a greater fee than Rs. 10,000 in respect of its number of members, taking into account the fee paid on the first registration of the company. | |
| 12. For registration of any existing company except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company. | 10000 |
| 13. For filing or registering any document by this Act required or authorized to be filed or registered with the Registrar. | 200 |
| 14. For making a record of or registering any fact by this Act required or authorized to be recorded or registered by the Registrar.] | 200 |
- (1) The above table prescribed for small companies (as defined under section 2(85) of the Act) and one person companies defined under Rule related to Chapter II r/w 2(62) of the Act shall be applicable provided the said company shall remain as said class of company for a period not less than one year from its incorporation.
 - (2) The above table of fee shall be applicable for any such intimation to be furnished to the Registrar or any other officer or authority under section 159 of the Act, filing of notice of appointment of auditors or Secretarial Auditor or Cost Auditor.
 - (3) The above table of fee and calculation of fee as applicable for increase in authorised capital shall be applicable for revised capital in accordance with sub-section (11) of 233 of the Act, (after setting off fee paid by the transferor company on its authorised capital prior to its merger or amalgamation with the transferee company).
 - (4) The above table of fee shall be applicable for filing revised financial statement or board report under section 130 and 131 of the Act.

B. Following table of additional fees shall be applicable for delays in filing of the forms other than for increase in Nominal Share Capital

Sl no	Period of delays	Forms including charge documents
01	upto 15 days (sections 93,139 and 157)	One time
02	More than 15 days and upto 30 days (Sections 93, 139 and 157) and upto 30 days in remaining forms.	2 times of normal filing fees
03	More than 30 days and upto 60 days	4 times of normal filing fees
04	More than 60 days and upto 90 days	6 times of normal filing fees
05	More than 90 days and upto 180 days	10 times of normal filing fees
06	More than 180 days and upto 270 days	12 times of normal filing fees

Note :- (1) The additional fee shall also applicable to revised financial statement or board's report under sections 130 and 131 of the Act and secretarial audit report filed by the company secretary in practice under section 204 of the Act.

(2) The belated filing of documents/forms (including increasing in nominal capital and delay caused thereon) which were due to be filed whether in Companies Act, 1956 Act or the Companies Act, 2013 Act i.e due for filing prior to notification of these fee rules , the fee applicable at the time of actual filing shall be applicable.

(3) Delay beyond 270 days, the second proviso to sub-section (1) of section 403 of the Act may be referred.

C. For increase in authorised capital, the additional fees shall be applicable at the following rates:-

	<i>Delay upto 6 months</i>	<i>Delay beyond 6 months</i>
slab	2.5 % per month on the fees payable under para I.3 or II.12 of Table A above as the case may be.	3% per month on the fees payable under para I.3 or II.12 of Table A above as the case may be.

(1) The above fee table shall also be applicable for delay in filing application with Registrar under sub-section (11) of section 233 of the Act.

II. FEE ON APPLICATIONS (including Appeal) made to Central Government under sub-section (2) of Section 459 of the Companies Act, 2013.

(I) For Application made	<i>Other than OPCs and Small Companies</i>	<i>*OPC and Small Companies</i>
(i) By a company having an authorized share capital of:		
(a) Upto Rs. 25,00,000	2,000	1000
(b) More than Rs.25,00,000 and upto Rs.50,00,000	5,000	2500
(c) More than 50,00,000 and upto Rs. 5,00,00,000	10,000	—
(d) More than Rs. 5,00,00,000 and upto Rs. 10 crores	15,000	—
(e) More than Rs. 10 crores	20,000	—
(ii) By a company limited by guarantee but not having a share capital	2,000	—

(iii)	By an Association or proposed company for issue of license under section 8 of the Act	2,000	—
(iv)	By a company having a valid license issued under section 8 of the Act	2000	—
(v)	By a foreign company	5,000	—
(vi)	Application for allotment of Director Identification Number (DIN) under section 153 of the Act	500	—

(1) Every application to the Registrar of Companies filed by any person for reservation of name under sub-section (4) of section 4 of the Companies Act, 2013 shall be accompanied with the fee of Rs. 1,000/-.

(2) For every application made to Regional Director (including appeal) or Registrar of Companies (except specifically stated elsewhere), Table of fees as above shall be applicable.

Note: The separate fee schedule shall be prescribed under sub-section (2) of section 459 of the Act for applications to be filed before Tribunal.

III. Annual Fee payable by a dormant company under sub-section (5) of section 455 of the Companies Act, 2013.

(I) For Application made	<i>Other than OPCs and Small Companies</i>	<i>*OPC and Small Companies</i>
(i) By a company having an authorized share capital of:		
(a) Upto Rs. 25,00,000	2,000	1000
(b) More than Rs.25,00,000 and upto Rs.50,00,000	5,000	2500
(c) More than 50,00,000 and upto Rs. 5,00,00,000	10,000	—
(d) More than Rs. 5,00,00,000 and upto Rs. 10 crores	15,000	—
(e) More than Rs. 10 crores	20,000	—
(ii) By a company limited by guarantee but not having a share capital	2,000	—

IV. Fee for Inspection and providing certified copies of documents kept by the Registrar under section 399 of the Act.

(i) Under clause (a) of sub-section (1) of section 399 of the Act – Rs.100/-

(ii) Under clause (b) of sub-section (1) of section 399 of the Act

 (a) For copy of Certificate of Incorporation – Rs.100/-

 (b) For copy or extract of other documents including hard copy of such document on computer readable media – Rs.25 per page.

V. Fee for registration of documents under section 385 of the Act.

Rs.6000/- for each document.

VI. Fees for Removal of Names of Companies from the Registrar of Companies under section 248 (2) of the Act.

Rs.5000/-

F.No. 01/16/2013 CL-V

(Renuka Kumar)

Joint Secretary to the Govt of India

INSTRUCTIONS

1. Payment of fees - Except as otherwise provided elsewhere, the table of fees annexed to the Companies (Registration Offices and Fees), Rules 2014, shall be payable in the following head.

(1) fees payable to the Registrar in pursuance of the Act or any rule or regulation made or notification issued thereunder shall be paid to the Registrar on any authorized bank by the Ministry of Corporate Affairs and acting as the agent of the Reserve Bank of India for credit under the following head, namely : -

<i>Major Head</i>	<i>Alphanumeric code description</i>	<i>Account Code Code</i>	<i>Serial check</i>	<i>Source category digit</i>
1475	Other general Economic service			
	Regulation of joint stock companies	147500105	14750006	113
	(a) Registration fees	14750010599	14750032	114
	(b) Filing fees	14750010598	14750033	117
	(c) Inspection and copying fee	14750010597	14750034	112
	(d) Other fees	14750010596	14750035	119

(2) Where application is filed through electronic media or through any other computer readable media, the user may choose any one of the following payment options namely, (i) Credit Card; or (ii) Internet Banking; or (iii) Remittance at the Bank Counter or (iv) any other mode as approved by the Central Government. The requisite fee as specified in Companies (Registration Offices and Fees), Rules 2014 shall be payable through any of the accredited branches of the following Banks.

(a) Punjab National Bank

(b) State Bank of India

(c) Indian Bank

(d) ICICI Bank

(e) HDFC Bank

(f) Union Bank of India"

(3) The fees payable to the Registrars may be paid bank drafts payable at drawn on banks, located at the same city or town as the office of the Registrar :

(4) Where a fee payable to the Registrar is paid through bank drafts as, aforesaid it shall not be deemed to have been paid unless and until the relevant drafts are cashed and the amount credited."

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 24th February, 2015

G.S.R. 122(E).—In exercise of the powers conferred by Sections 396, 398, 399, 403, and section 404, 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 further to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Registration Offices and Fees) Amendment Rules, 2015.

(2) In the Companies (Registration Offices and Fees) Rules, 2014,—

- (a) in rule 10, after sub-rule (6), the following sub-rule shall be inserted, namely:—

"7. Any further information or documents called for, in respect of application or e-form or document, filed electronically with the Ministry of Corporate Affairs shall be furnished in Form No. GNL-4 as an addendum"

- (b) in the Annexure, after Form No. GNL-3, the following Form shall be inserted, namely:—

Form No. GNL 4 may be viewed at mca.gov.in

[F. No. 01/16/2013-CL-V (Part-I)]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note:— The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), *vide* number. G.S.R. 268(E), dated the 31st March, 2014 and was last amended by notification *vide* number G.S.R 297(E), dated the 28th April, 2014.

6

Government of India
Ministry of Corporate Affairs
Notification

New Delhi Dated the 29th May, 2015

G.S.R.- In exercise of the powers conferred by section 399 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 further to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Registration Offices and Fees) Second Amendment Rules, 2015.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Registration Offices and Fees) Rules, 2014, in rule 15, the following proviso shall be inserted:

“Provided that no person shall be entitled under section 399 to inspect or obtain copies of resolutions referred to in clause (g) of sub-section (3) of section 117 of the Act.”

[File No. 1/16/2013-CL-V]

(Amardeep Singh Bhatia)
Joint Secretary to the Government of India

Chapter XXV

COMPANIES TO FURNISH INFORMATION OR STATISTICS

This Chapter deals with companies to furnish information or statistics contain section 405 i.e..
Section 405. Power of Central Government to direct companies to furnish information or statistics.

*The Ministry has not issued any Circulars, Clarifications, Notification and
Amendment Rules in this regard.*

Chapter XXVI

NIDHIS

This Chapter deals with nidhi company.

The Nidhi Rules, 2014 have been notified by the Ministry vide notification No. G.S.R. 258(E) dated 31st March, 2014. The rules broadly covers the procedural aspects of incorporation of Nidhi Companies restrictions or prohibitions on nidhi companies, auditing, deposits acceptance by their companies. Detailed rules are available on mca.gov.in.

Chapter XXVII

NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

This Chapter deals with Constitution and other related matters of National Company Law Tribunal and Appellate Tribunal (Section 407 to 434).

Recently, Supreme Court in its judgement dated 14th May, 2015 upheld the constitutional validity of National Company Law Tribunal and Appellate Tribunal

Chapter XXVIII

SPECIAL COURTS

This chapter deals with Special Court (section 435 to 446) covering aspects such as Establishment of Special Courts, Offences triable by Special Courts, Appeal and revision, Application of Code to proceedings before Special Court, Offences to be non-cognizable.

This chapter is yet to be notified.

Chapter XXIX

THE COMPANIES (AMENDMENT) ACT, 2015

The President of India gave his assent to the Companies (Amendment) Act, 2015 on 25th May, 2015. The Central Government in exercise of the powers conferred by sub-section (2) of Section 1 of the Companies (Amendment) Act, 2015 (21 of 2015), the Ministry of Corporate Affairs vide Notification No. S.O. 1440(E) dated 29th May, 2015 notified sections 1 to 12 and 15 to 23 of the said Act.

The following sections of the Companies Act, 2013 "**Principal Act**", after amendment vide Companies (Amendment) Act, 2015 shall be read as under:

Section 2(68): Private Company

The amended Section 2(68) shall be read as under:

"private company" means a company having a minimum paid-up share capital as may be prescribed, and which by its articles,—

- (i) restricts the right to transfer its shares;
- (ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

Provided further that—

(A) persons who are in the employment of the company; and

(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and

- (iii) prohibits any invitation to the public to subscribe for any securities of the company;

Effect of this Amendment:

In order to stimulate the ease of doing business the threshold limit for minimum capital required of one lakh rupees or such higher paid-up share capital for formation of private company has been diluted.

Section 2(71): Public Company

The amended Section 2(71) shall be read as under:

"public company" means a company which—

- (a) is not a private company;
- (b) has a minimum paid-up share capital as may be prescribed:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles ;

Effect of this Amendment:

In order to stimulate the ease of doing business the threshold limit for minimum capital required of five lakh rupees or such higher paid-up share capital for formation of Public company has been diluted.

Section 9: Effect of Registration

The Amended Section 9 shall be read as under:

“From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name”.

Effect of this Amendment

The mandatory requirement of common seal has been done away with and its optional to have a common seal of the company.

Accordingly Section 12, 22 (2) & (3), 46 and 223 of the Act also amended.

Section 11: Commencement of Business

Section 11 relating to commencement of business has been omitted.

Effect of this Amendment

By omitting this section, the filing requirement of declaration and verification as prescribed in the principal act has been done away.

Now, companies can commence business and exercise their borrowing power immediately after getting registration with the Registrar.

Subsequent to this amendment Section 11 of the Companies Act, 2013, Rule 24 of Companies (Incorporation) Rules, 2014 and e-form INC-21 has also been omitted. With the omission of Rule 24 the requirement of approval from regulators has been inserted in Rule 12 of Companies (incorporation) Rule, 2014.

Section 12: Registered office of the Company

The Amended Section 12 (3) (b) shall be read as under :

“(b) have its name engraved in legible characters on its seal, if any;”.

Effect of this Amendment

The mandatory requirement of having name engraved in legible character on the common seal has been done away with since its optional to have a common seal of the company.

Section 22: Execution of bills of exchanges, etc:

The Amended Section 22 (2) shall be read as under:

(2) A company may, by writing under its common seal, if any, authorise any person, either generally or in respect of any specified matters, as its attorney to execute other deeds on its behalf in any place either in or outside India.

Provided that in case a company does not have a common seal, the authorisation under this sub-section shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.

The Amended Section 22 (3) shall be read as under:

A deed signed by such an attorney on behalf of the company and under his seal shall bind the company.

Effect of this Amendment

The mandatory requirement for affixing common seal on Execution of bills of exchange, etc. has been done away with since its optional to have a common seal of the company.

Section 46: Certificate of Shares

The Amended Section 46 (1) shall be read as under:

A certificate issued under the common seal, if any, of the company or signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary, specifying the shares held by any person, shall be prima facie evidence of the title of the person to such shares.

Effect of this Amendment

The mandatory requirement for affixing common seal on share certificate has been done away with.

Section 76A : Punishment for contravention of section 73 or section 76 (New Section inserted)

Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made there under or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made there under or such further time as may be allowed by the Tribunal under section 73,-

- (a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees; and
- (b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both:

Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.”.

Effect of this Amendment

This Section is newly inserted in principal Act, the Act now prescribes the penalties and action to be initiated by the tribunal for such contraventions and defaults.

Section 117: Resolutions and agreement to be filed

A proviso has been inserted in 117(3)(g). The Amended Section 117 (3) (g) shall be read as under:

- (g) resolutions passed in pursuance of sub-section (3) of section 179;

Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions; and

Effect of this Amendment:

With this amendment, the Act restricts inspection of Board resolutions filed with Registrar of Companies, this will maintain confidentiality.

Section 123: Declaration of dividend

In Section 123(1) after third proviso the following was added as fourth Proviso:

“Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.”.

Effect of this addition of fourth proviso:

With insertion of fourth proviso in section 123(1), no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.

Section 124: Unpaid Dividend Account

The Amended Section 124 (6) shall be read as under:

All shares in respect of which dividend has not been paid or claimed for seven consecutive years or more shall be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:

Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.

Explanation.—For the removal of doubts, it is hereby clarified that in case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.

Effect of this Amendment:

With this amendment, the requirement of transfer of equity shares on which the dividend remains unpaid or unclaimed for a continuous period of seven years shall be made to the IEPF.

Section 134: Financial Statement, Board’s Report, etc.

In section 134 (3) after clause (c), the following was inserted:

“(ca) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;”

Effect of this Amendment:

With this amendment the Board of Directors has to give details in Board’s report about the fraud reported by the auditors that are not required to be reported to the Central Government.

Section 143: Power and Duties of Auditor and Auditing standards

The Amended Section 143 (12) shall be read as under:

“(12) Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the

company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed:

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed:

Provided further that the companies, whose auditors have reported frauds under this subsection to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed."

Effect of this Amendment:

The Auditor to report the board or Audit Committee or Central Government as the case may be, of any fraud come across during the audit of the company committed by its officers and employees.

Note : this section of Companies (Amendment) Act, 2015 is not yet notified

Section 177: Audit Committee

In Section 177(4) After clause (iv) the following proviso has been inserted-

"Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;"

Effect of this Amendment:

With this amendment, the Audit Committee has been given power to give omnibus approvals for related party transactions proposed to be entered into by the Company upto certain threshold.

Note : this section of Companies (Amendment) Act, 2015 is not yet notified

Section 185: Loan to Director

In section 185(1)(b) the following clauses and proviso has been inserted:

- (c) any loan made by a holding company to its wholly owned subsidiary\ company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or
- (d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:

Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.

Effect of this Amendment:

With this amendment, the exemption given under Rule 10 of Companies (Meeting of Board and its Powers) Rules, 2014 for loan made to wholly owned subsidiary was incorporated into the Act as a matter of abundant caution.

Section 188: Related Party Transactions

After Amendment Section 188(1) shall be read as :

- (i) for the words "special resolution", at both the places where they occur, the word "resolution" shall be substituted;
- (ii) after the third proviso, the following proviso shall be inserted, namely:—

Provided also that the requirement of passing the resolution under first proviso shall not be

applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval;

After Amendment Section 188(3) shall be read as:

for the words "special resolution", the word "resolution" shall be substituted."

Effect of this Amendment:

In consideration of practical difficulties faced by corporates the requirement of special resolution for passing related party transaction has been diluted. Members may pass such transactions by an ordinary resolutions. And the requirement of passing RPTs by ordinary resolution is not applicable for transactions between holding and wholly owned subsidiary companies.

Section 212: Investigation into affair of company by Serious Fraud Investigation Office

After amendment Section 212(6) shall be read as under:

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences covered under section 447 of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—

- (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
- (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:

Provided further that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by—

- (i) the Director, Serious Fraud Investigation Office; or
- (ii) any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government.

Effect of this Amendment

No major effect of this amendment, only the detailed list of sections has been substituted.

Section 223: Inspector's Report

After Amendment Section 223(4) (a) shall be read as under:

- (a) by the seal if any, of the company whose affairs have been investigated; or

Section 248: Power of Registrar to remove name of Company from Register of Companies

After amendment Section 248(1)(a) shall be read as under:

- (a) a company has failed to commence its business within one year of its incorporation; or

The amended clauses of section 248(1)(b) shall be omitted.

Effect of this amendment

This is in line with omission of Section 11 relating to commencement of business.

Earlier to this amendment, the Registrar had power under section 248(1)(b) to remove name of the company if subscribers to the memorandum did not have paid the subscription which they had undertaken to pay within a period of one hundred and eighty days from the date of incorporation of a company and a declaration under sub-section (1) of section 11 to this effect has not been filed within one hundred and eighty days of its incorporation.

In line with discontinuance of declaration under sub-section (1) of section 11 before commencement of business. The said condition has also been removed from one of the power of registrar to remove name of the company

Section 419: Benches of Tribunal

After amendment Section 419(4) shall be read as under:

The President shall, for the disposal of any case relating to rehabilitation, restructuring, reviving, of companies, constitute one or more Special Benches consisting of three or more Members, majority necessarily being of Judicial Members”

Note : not yet notified in the principal Act

Section 435: Establishment of Special Courts

After amendment Section 435(1) shall be read as under

The Central Government may, for the purpose of providing speedy trial of offences punishable under this Act with imprisonment of two years or more, by notification, establish or designate as many Special Courts as may be necessary.”

Provided that all other offences shall be tried, as the case may be, by a Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law.

Effect of this Amendment

With this amendment the offences punishable under this Act with imprisonment of two years or more, shall be tried by a Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction. This will reduce burden of special courts.

Note : not yet notified in the principal act

Section 436: Offence triable by Special Court

After amendment section 436(1)(a) shall be read as under:

(a) all offences specified under sub-section (1) of section 435 shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.”

Note : not yet notified in the principal act

Section 462: Power of Court to grant relief in certain cases

After amendment section 462(2) shall be read as under:

A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

After Amendment the following was added as 462(3) & (4):

- (3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in subsection (2) is prorogued or adjourned for more than four consecutive days.
- (4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament."

The text of the Amendment Act is appended as under:

1

THE COMPANIES (AMENDMENT) ACT, 2015

NO. 21 OF 2015

[25th May, 2015.]

An Act to amend the Companies Act, 2013.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 2015.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.
2. In section 2 of the Companies Act, 2013 (hereinafter referred to as the principal Act),—
 - (i) in clause (68), the words “of one lakh rupees or such higher paid-up share capital” shall be omitted;
 - (ii) in clause (71), in sub-clause (b), the words “of five lakh rupees or such higher paid-up capital,” shall be omitted.
3. In section 9 of the principal Act, the words “and a common seal” shall be omitted.
4. Section 11 of the principal Act, shall be omitted.
5. In section 12 of the principal Act, in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

“(b) have its name engraved in legible characters on its seal, if any;”.
6. In section 22 of the principal Act,—
 - (i) in sub-section (2),—
 - (a) for the words “under its common seal”, the words “under its common seal, if any,” shall be substituted;
 - (b) the following proviso shall be inserted, namely:—

“Provided that in case a company does not have a common seal, the authorisation under this sub-section shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.”;
 - (ii) in sub-section (3), the words “and have the effect as if it were made under its common seal” shall be omitted.
7. In section 46 of the principal Act, in sub-section (1), for the words “issued under the common seal of the company”, the words “issued under the common seal, if any, of the company or signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary” shall be substituted.
8. After section 76 of the principal Act, the following section shall be inserted, namely:—

“76A. Where a company accepts or invites or allows or causes any other person to accept or

invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made there under or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made there under or such further time as may be allowed by the Tribunal under section 73,—

- (a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees; and
- (b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both:

Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.”.

9. In section 117 of the principal Act, in sub-section (3),—

- (i) in clause (g), the word “and” occurring at the end shall be omitted;
- (ii) after clause (g), the following proviso shall be inserted, namely:—

“Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions; and”.

10. In section 123 of the principal Act, in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—

“Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.”.

11. In section 124 of the principal Act, in sub-section (6),—

- (i) for the words, brackets and figure “unpaid or unclaimed dividend has been transferred under sub-section (5) shall also be”, the words “dividend has not been paid or claimed for seven consecutive years or more shall be” shall be substituted;
- (ii) after the proviso, the following Explanation shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby clarified that in case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.”.

12. In section 134 of the principal Act, in sub-section (3), after clause (c), the following clause shall be inserted, namely:—

“(ca) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;”.

13. In section 143 of the principal Act, for sub-section (12), the following sub-section shall be substituted, namely:—

“(12) Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of

fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed:

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed:

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed."

14. In section 177 of the principal Act, in sub-section (4), in clause (iv), the following proviso shall be inserted, namely:—

"Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;"

15. In section 185 of the principal Act, in sub-section (1), in the proviso, after clause (b), the following clauses and proviso shall be inserted, namely:—

"(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or

(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:

Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities."

16. In section 188 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "special resolution", at both the places where they occur, the word "resolution" shall be substituted;

(ii) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.";

(b) in sub-section (3), for the words "special resolution", the word "resolution" shall be substituted.

17. In section 212 of the principal Act, in sub-section (6), for the words, brackets and figures "the offences covered under sub-sections (5) and (6) of section 7, section 34, section 36, sub-section (1) of section 38, sub-section (5) of section 46, sub-section (7) of section 56, sub-section (10) of section 66, sub-section (5) of section 140, sub-section (4) of section 206, section 213, section 229, sub-section (1) of section 251, sub-section (3) of section 339 and section 448 which attract the punishment for fraud provided in section 447", the words and figures "offence covered under section 447" shall be substituted.

18. In section 223 of the principal Act, in sub-section (4), in clause (a), for the words "by the seal", the words "by the seal, if any," shall be substituted.
19. In section 248 of the principal Act, in sub-section (1),—
 - (i) in clause (a), after the word 'incorporation', the word 'or' shall be inserted;
 - (ii) clause (b) shall be omitted.
20. In section 419 of the principal Act, in sub-section (4), the words "or winding up" shall be omitted.
21. In section 435 of the principal Act, in sub-section (1),—
 - (i) for the words "trial of offences under this Act", the words "trial of offences punishable under this Act with imprisonment of two years or more" shall be substituted;
 - (ii) the following proviso shall be inserted, namely:—

"Provided that all other offences shall be tried, as the case may be, by a Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law."
22. In section 436 of the principal Act, in sub-section (1), in clause (a), for the words "all offences under this Act", the words, brackets and figures "all offences specified under sub-section (1) of section 435" shall be substituted.
23. In section 462 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—
 - "(2)A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.
 - (3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in subsection (2) is prorogued or adjourned for more than four consecutive days.
 - (4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament."

DR. SANJAY SINGH
Secretary to the Govt. of India.

Chapter XXX

NOTIFIED EXEMPTIONS

Notified Exemptions to Government Companies, Private Companies, Nidhi Companies & Non-Profit (Section - 8) Companies

For Government Companies, Private Companies, Nidhi Companies and Non-profit (Section-8) Companies, the Central Government vide Notification No. G.S.R. 463(E). 464(E) 465(E) 466(E) Dated 05th June, 2015 directed that respective sections of the Companies Act, 2013 as notified in respective notifications shall not apply or shall apply with certain exceptions, modification and adaptations. A brief analysis of these exemptions is given hereunder. The complete notification is placed subsequently.

1. Exceptions, modification and adaptations to Government Companies

<i>Sr. No.</i>	<i>Chapter / Section Number / Sub-section(s) in the Companies Act, 2013</i>	<i>Exceptions/Modifications/Adaptations</i>
(1)	(2)	(3)
1.	Chapter II Section 4	<p>Incorporation of Company and matters incidental thereto</p> <p>In section 4, in sub-section (1), in clause (a), the words in the case of a public limited company, or the last words "Private Limited" in the case of a private limited company' shall be omitted</p>
2.	Chapter IV Section 56	<p>Share capital & Debentures</p> <p>In sub-section (1), after the proviso, the following provisos shall be inserted, namely :-</p> <p>Provided further that the provisions of this sub-section, in so far as it requires a proper instrument of transfer, to be duly stamped and executed by or on behalf of the transferor and by or on behalf of the transferee , shall not apply with respect to bonds issued by a Government company, provided that an intimation by the transferee specifying his name, address and occupation, if any, has been delivered to the company along with the certificate relating to the bond; and if no such certificate is in existence, along with the letter of allotment of the bond:</p> <p>Provided also that the provisions of this sub-section shall not apply to a Government Company in respect of securities held by nominees of the Government.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>Note:</p> <ol style="list-style-type: none"> 1. Section 56(1)(prescribing instruments of transfer) shall not apply to a government company in respect of securities held by nominees of the government. 2. Section 56(1), in so far as it requires a proper instrument of transfer, to be duly stamped and executed by or on behalf of the transferor and by or on behalf of the transferee, shall not apply with respect to bonds issued by a Government company, provided that an intimation by the transferee specifying his name, address and occupation, if any, has been delivered to the company along with the certificate relating to the bond; and if no such certificate is in existence, along with the letter of allotment of the bond.
3.	Chapter VII Section 89	<p>Management and Administration</p> <p>Shall not apply.</p> <p>Note: Section 89 dealing with declaration of beneficial interest does not apply to a government company.</p>
4.	Section 90	<p>Shall not apply.</p> <p>Note: Section 90 dealing with investigation of beneficial ownership of shares in certain cases shall not apply to a government company.</p>
5.	Sub-section (2) of section 96	<p>In sub-section (2), for the words "some other place within the city, town or village in which the registered office of the company is situate", the words "such other place as the Central Government may approve in this behalf" shall be substituted.</p> <p>Note: Section 96(2) mandates that Annual General Meeting shall be held either at the Registered Office of the Company or some other place within the city, town or village in which the registered office of the company is situate. Government company may convene its Annual General Meeting at such other place as the Central Government may approve in this behalf.</p>
6.	Chapter VIII Second proviso to sub- section (1) of section 123	<p>Declaration and Payment of Dividend</p> <p>Shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
7.	Subsection (4) of section 123	<p>Shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments or by one or more Government Company.</p> <p>Note: Section 123(4) states that the amount of dividend, including interim dividend, shall be deposited in a scheduled bank in a separate bank in a separate account within five days from the date of declaration of such dividend. It does not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments or by one or more Government Company.</p>
8.	Chapter IX Section 129	<p>Accounts of Companies</p> <p>Shall not apply to the extent of application of Accounting Standard 17 (Segment Reporting) to the companies engaged in defence production.</p> <p>Note: Section 129 relates to provisions relating to financial statement. Section 129 shall not apply Shall not apply to the extent of application of Accounting Standard 17 (Segment Reporting) to the companies engaged in defence production.</p>
9.	Clause (e) of sub-section (3) of section 134	<p>Shall not apply</p> <p>Note: Section 134(3)(e) mandates Board's report to include in case of a company covered under sub-section (1) of section 178(Companies required to nomination and remuneration committee), company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178. It shall not apply to Government Companies.</p> <p>Accordingly, the Board's report does not have to disclose company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178.</p>
10.	Clause (p) of sub-section (3) of section 134	<p>Shall not apply in case the directors are evaluated by the Ministry or Department of the Central Government which</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>is administratively in charge of the company, or, as the case may be, the State Government, as per its own evaluation methodology.</p> <p>Note: Section 134(3)(p) requires the Board report to include in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors;</p> <p>It shall not apply in case the directors are evaluated by the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government, as per its own evaluation methodology.</p>
11.	<p>Chapter XI</p> <p>Section 149(1)(b) and first proviso to sub-section (1) of section 149</p>	<p>Appointment and Qualification of Director</p> <p>Shall not apply.</p> <p>Note: Provisions relating to maximum number of directors as provided in Section 149 do not apply to government companies.</p>
12.	Clause (a) of sub-section (6) of section 149	<p>In section 149, in sub-section (6), in clause (a), for the word "Board", the words "Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government" shall be substituted</p> <p>Note: Section 149(6)(a) relates to one of the conditions for being appointed as Independent director. It states that the independent director, who is in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience. In case of Government Companies, the independent director, who is in the opinion of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government, is a person of integrity and possesses relevant expertise and experience, can be appointed as independent director subject to fulfilment of other conditions"</p>
13.	Clause (c) of sub-section (6) of section 149	Shall not apply.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>Note: Section 149(6)(c) states that independent directors not to have had pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year. This provision shall not apply to a government company.</p>
14.	Sub-section (5) of section 152	<p>Shall not apply where appointment of such director is done by the Central Government or State Government, as the case may be.</p> <p>Note: Section 152(5) deals with consent to act as director shall not apply to a government company.</p>
15.	Sub-sections (6) and (7) of section 152	<p>Shall not apply to –</p> <p>(a) a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;</p> <p>(b) a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.</p> <p>Note: Section 152(7) relates to filling up of vacancy of retiring director. It shall not apply to a government company subject to above said conditions.</p>
16.	Section 160	<p>Shall not apply to –</p> <p>(a) a Government Company in which the entire paid up share capital is held by the Central Government. or by any State Government or Governments or by the Central Government and one or more State Governments;</p> <p>(b) a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.</p> <p>Note: Section 160 relates to right of persons other than retiring directors to stand for directorship. Section 160 does not apply to a government company if the above said conditions are fulfilled.</p>
17.	Section 162	<p>Shall not apply to –</p> <p>(a) a Government Company in which the entire paid up share capital is held by the Central Government, or by</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>any State Government or Governments or by the Central Government and one or more State Governments;</p> <p>(b) a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.</p> <p>Note : Section 162 relates to appointment of directors to be voted individually. Section 162 does not apply to a government company if the aforesaid conditions are fulfilled. Accordingly more than one director may be appointed through a single resolution.</p>
18.	Section 163	<p>Shall not apply to - (a) a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments;</p> <p>(b) a subsidiary of a Government company referred to in (a) above, in which the entire paid up share capital is held by that Government company.</p> <p>Note: Section 163 relates to option to adopt principle of proportional representation for appointment of directors. Section 163 does not apply to a government company if the above said conditions are fulfilled.</p>
19.	Sub-section (2) of section 164	<p>Shall not apply</p> <p>Note: Section 164(2) relating to disqualification of director, for non-filing of financial statements for continuous period of three years in which he is a director or failure to repay deposits etc. Section 164(2) does not apply to a Government Company.</p>
20.	Section 170.	<p>Shall not apply to a Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments.</p> <p>Note: Section 170 relates to register of directors and key managerial personnel and their holdings. Section 170 does not apply to a government company if the above said conditions are fulfilled.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
21.	Section 171.	<p>Shall not apply to a Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments.</p> <p>Note: Section 171 deals with member's right to inspect. Section 171 does not apply to a government company if the above said conditions are fulfilled</p>
22.	Chapter XII Clause (i) of sub-section (4) of section 177	<p style="text-align: center;">Meeting of Board and its Powers</p> <p>In clause (i) of sub-section (4) of the section 177, for the words "recommendation for appointment, remuneration and terms of appointment" the words "recommendation for remuneration" shall be substituted.</p> <p>Note: Section 177(4) deals with terms of reference of audit committee. Audit committee of a government company can recommend only for remuneration of auditor.</p>
23.	Subsections (2), (3) and (4) of section 178	<p>Shall not apply to Government company except with regard to appointment of 'senior management' and other employees.</p> <p>Note: Provision relating induction of directors, criteria/ qualifications etc does not apply to a Government company and accordingly Nomination and remuneration committee of government company will lay down those criteria for senior management and other employees.</p>
24.	Section 185	<p>Shall not apply to Government company in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security under the section.</p> <p>Note: Section 185 prohibits loans to directors with few exceptions. It shall not apply to Government company in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security under the section.</p>
25.	Section 186	<p>Shall not apply to –</p> <p>(a) a Government company engaged in defence production;</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>(b) a Government company, other than a listed company, in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security or making any investment under the section.</p> <p>Note : Section 186 relates to loans and investment by company. It does not apply to the above said government companies.</p>
26.	First and second proviso to sub-section (1) of section 188.	<p>Shall not apply to –</p> <p>(a) a Government company in respect of contacts or arrangements entered into by it with any other Government company;</p> <p>(b) a Government company, other than a listed company, in respect of contracts or arrangements other than those referred to in clause (a), in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, of, as the case may be, the State Government before entering into such contract or arrangement.</p> <p>Descriptive Note:</p> <p>Section 188 relates to related party transactions. Section 188 does not apply to government company if above said conditions are fulfilled.</p>
27.	Chapter XIII Sub-sections (2), (4) and (5) of section 196.	<p>Appointment and Remuneration of Managerial Person</p> <p>Shall not apply.</p> <p>Note: Section 196(2) relates to term of managing director not to exceed five years. Section 196(4) relates to approval of the members/central government as the case may be for appointment of managing director and section 196(5) relates to validity of actions of Managing Director if his appointment is not approved at the General Meeting. These provisions are not applicable to a government company.</p>
28.	Section 197	<p>Shall not apply.</p> <p>Note: The provisions relating to overall maximum managerial remuneration and managerial remuneration</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
29.	Sub-sections (1), (2), (3) and (4) of section 203.	<p>in case of absence or inadequacy of profits as given in section 197 does not apply to a government company.</p> <p>After sub-section (4), the following sub-section shall be inserted, namely:-</p> <p>“(4A) The provisions of sub-sections (1), (2), (3) and (4) of this section shall not apply to a managing director or Chief Executive Officer or manager and in their absence, a whole-time director of the Government Company.”</p> <p>Note: The Provisions of section 203 relating to appointment of KMP shall not apply to MD/CEO/Manager or in their absence a whole time director of the Government Company.</p>
30.	Chapter XXIX Sub-section (2) of section 439.	<p>Miscellaneous</p> <p>In sub-section (2), the words “the Registrar, a shareholder of the company, or of” shall be omitted.</p> <p>Note: Section 439 deals with offences to be non-cognizable. As per Section 439(2) states that no court shall take cognizance of any offence under this Act which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, a shareholder of the company, or of a person authorised by the Central Government in that behalf. With the deletion of words “the Registrar, a shareholder of the company, or of” relates to a government company, no court shall take cognizance of any offence under this Act which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of a person authorised by the Central Government in that behalf.</p>

2. Exceptions, modification and adaptations for Private Companies

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
1	<p>Chapter 1</p> <p>Section 2(76) (viii)</p>	<p>Preliminary</p> <p>Shall not apply with respect to Section 188</p> <p>Note: Section 2(76) defines related party with reference to a company and as per Section 2(76)(viii) the following are considered to be related party.</p> <p>(a) A holding, subsidiary or an associate company of such company or</p> <p>(b) A subsidiary of holding company to which it is also a subsidiary.</p> <p>Effect: Section 2(76)(viii) is not applicable to a private company with respect to Section 188 (i.e related party transactions)</p> <p>Accordingly a holding/ subsidiary/ associate company of a private limited company or a subsidiary of holding company of a private limited company will not be considered as related party.</p>
2	<p>Chapter IV</p> <p>Section 43 & Section 47</p>	<p>Share Capital and Debentures</p> <p>Shall not apply where memorandum or articles of association of the private Company so provides.</p> <p>Note: Section 43 deals with kinds of capital and Section 47 deals with voting rights.</p> <p>Effects: Memorandum or Articles of Association of a Private Limited Company can provide for a clause, making sections 43 and section 47 not applicable to that company.</p>
3	<p>Chapter IV</p> <p>Section 62(1)(a)(i) and Section 62(2)</p>	<p>Share capital and Debenture</p> <p>In clause (a), in sub-clause (i), the following proviso shall be inserted, namely;-</p> <p>Provided that notwithstanding anything contained in this sub-clause and sub section (2) of this section, in case ninety per cent. of the members of a private company have given their consent in writing or in electronic mode, the periods lesser than those specified in the said sub-clause or sub-section shall apply.</p> <p>Note: Section 62 deals with further issue of shares. Section 62(1)(a) deals with conditions for sending letter of offer</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
4	Section 62(1)(b)	<p>the existing holders. Section 62(1)(a)(i) deals with the time within which the letter of offer is to be accepted by the existing shareholders. According to Section 62(1)(a)(i) the offer shall be made by notice specifying the number of shares offered and limiting a time of not being less than fifteen days and not exceeding thirty days from the date of offer within which the offer, if not accepted, shall be deemed to have been declined.</p> <p>Effects: In case ninety per cent of the members of a private company have given their consent in writing or in electronic mode, the periods lesser than those specified in the said sub-clause or sub-section shall apply.</p> <p>Accordingly time limit for acceptance of offer by existing shareholders may be less than 15 days if 90% of the members of a private limited company have given their consent either in writing or through electronic mode. The reference to Section 62(1)(a)(i) in Section 62(2) would accordingly apply.</p> <p>In clause (b), for the words "special resolution", the words "ordinary resolution" shall be substituted.</p> <p>Note: Section 62(1)(b) requires passing of Special Resolution for offering of further shares to employees subject to passing of special resolution and other conditions prescribed under the rules.</p> <p>Effect: For private Limited Companies, passing of ordinary resolution is sufficient.</p>
5	Section 67	<p>Shall not apply to private companies -</p> <p>(a) in whose share capital no other body corporate has invested any money;</p> <p>(b) if the borrowings of such a company from banks or financial institutions or any body-corporate is less than twice its paid up share capital or fifty crore rupees, whichever is lower; and</p> <p>(c) such a company is not in default in repayment of such borrowings subsisting at the time of making transactions under this section.</p> <p>Note: Section 67 deals with restrictions on purchase by a company or giving loans by it for purchase of its shares.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>Effects: Private Companies are exempted from Section 67 subject to the following three conditions.</p> <ul style="list-style-type: none"> (i) a private limited company in whose share capital no other body corporate has invested any money; (ii) Borrowings by such private company from banks or financial institutions or any body-corporate is less than twice its paid up share capital or fifty crore rupees, whichever is lower; and (iii) such a company is not in default in repayment of such borrowings subsisting at the time of making transactions under this section.
6	<p>Chapter V</p> <p>Section 73(2)(a) to Section 73(2)(e)</p>	<p>Acceptance of Deposits by Companies</p> <p>Shall not apply to a private company which accepts from its members monies not exceeding one hundred per cent of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.</p> <p>Note: Section 73(2) deals with conditions for acceptance of deposits from members.</p> <p>Effects: Conditions for acceptance of deposits from members is not applicable to a Private Company if the monies accepted does not exceed one hundred per cent of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.</p>
7	<p>Chapter VII</p> <p>Section 101 to Section 107 and Section 109.</p>	<p>Management and Administration</p> <p>Shall apply unless otherwise specified in respective sections or the articles of the company provide otherwise.</p> <p>Note: Articles of Association of a Private Company can have specific provisions with respect to - notice of the general meeting (Section 101); Statement to be annexed to notice (Section 102); Quorum for meeting (Section 103); Chairman of meetings (Section 104); proxies (Section 105); restriction on voting rights (Section 106); Voting by show of hands (Section 107); Demand for poll (Section 109).</p> <p>Effects: Articles of Association of a Private Company may have specific provisions with respect to above mentioned sections.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
8	Section 117(3)(g)	<p>Shall not apply</p> <p>Note: Section 117 deals with resolutions and agreements to be filed with registrar. Section 117(3)(g) deals with filing of resolutions passed in pursuance of sub-section (3) of section 179(i.e., resolutions to be passed only at the meeting of Board of directors).</p> <p>Effects: Private companies are not required to file with the registrar the resolutions passed under Section 179(3).</p>
9	Chapter X Section 141(3)(g)	<p>Audit and auditors</p> <p>Shall apply with the modification that the words "other than one person companies, dormant companies, small companies and private companies having paid-up share capital less than one hundred crore rupees" shall be inserted after the words "twenty companies".</p> <p>Note: Section 141(3) deals with conditions for eligibility for appointment as an auditor of a company. Section 143(3)(g) limits the number of audits by an auditor to twenty companies.</p> <p>Effects: One person companies, dormant companies, small companies and private companies having paid-up share capital less than one hundred crore rupees are excluded from this limit.</p>
10	Chapter XI Section 160	<p>Appointment and qualification of directors</p> <p>Shall not apply</p> <p>Note: Section 160 deal with right of persons other than retiring directors to stand for directorship.</p> <p>Effect: Now, for private companies' requirement of Deposit of Rupees one lakh is not required.</p>
11	Section 162	<p>Shall not apply</p> <p>Note : Section 162 deals with appointment of directors to be voted individually.</p> <p>Effect: Now, more than one director can be appointed through a single resolution.</p>
12	Chapter XII Section 180	<p>Meetings of board and its powers</p> <p>Shall not apply</p> <p>Note: Section 180 deals with restrictions on powers of the Board.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
13	Section 184(2)	<p>Effects: Special Resolution is not required to exercise such power of board as provided in Section 180.</p> <p>Shall apply with the exception that the interested director may participate in such meeting after disclosure of his interest.</p> <p>Note: Section 184 deals with disclosure of interest by director. Section 184(2) prohibits interested director from participating in meeting.</p> <p>Effects: Interested director of a private company can participate in the meeting after disclosing his interest.</p>
14	Section 185	<p>Shall not apply to a private company -</p> <p>(a) in whose share capital no other body corporate has invested any money;</p> <p>(b) if the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and</p> <p>(c) Such a company has no default in repayment of such borrowings subsisting at the time of making transactions under this Section.</p> <p>Note: Section 185 deals with loans to directors</p> <p>Effects: the Provisions of Section 185 shall not apply to a private company if the following conditions are fulfilled.</p> <p>(i) that no other body corporate has invested any money in share of the company ;</p> <p>(b) that the borrowings of such company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and</p> <p>(c) that the company has no made any default in repayment of such borrowings subsisting at the time of making transactions under this Section.</p>
15	Second proviso to Section 188(1)	<p>Shall not apply</p> <p>Note: Second proviso to Section 188(1) states that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		entered into by the company, if such member is a related party.
		Effects: in private company, related party to any contract or arrangement can vote on such resolution as a member of the company.
16	Chapter XIII Section 196(4) and (5)	<p data-bbox="714 619 1438 682">Appointment and Remuneration of the Managerial Personnel</p> <p data-bbox="714 703 1438 745">Shall not apply</p> <p data-bbox="714 766 1438 829">Note: Section 196(4) deals with appointment of managing director, whole time director or manager</p> <p data-bbox="714 850 1438 955">Section 196(5) deals with validating actions of managing director; whole time Director/manager, if the appointment is not approved by a company in general meeting.</p> <p data-bbox="714 976 1438 1089">Effects: Approval of central government on variation of terms of appointment from Schedule V is not required for private companies.</p>

Exceptions, modification and adaptations to Nidhi Companies

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
1	Chapter II Section 20(2)	Incorporation of Company Shall apply subject to the modification that in the case of a Nidhi, the document may be served only on members who hold shares of more than one thousand rupees in face value or more than one per cent of the total paid-up share capital of the Nidhi's whichever is less. For other shareholders, document may be served by a public notice in newspaper circulated in the district where the Registered Office of the Nidhi is situated; and publication of the same on the notice board of the Nidhi. Note: Section 20 deals with service of documents.
2	Chapter III Section 42 except sub-section(1), explanation (II) to sub-section (2), sub-sections(4), (6), (8), (9) and (10)	Prospectus and Allotment of Securities Shall not apply. Note: Provisions of Section 42(2) except for explanation II, Section 42(3), Section 42(5), Section 42(7) shall not apply to Nidhi companies. Accordingly provision such as recording of names of proposed allottees prior to invitation to subscribe, restrictions on fresh offer, restrictions on payment of subscription money through cash etc. shall not apply to Nidhi companies.
3	Chapter IV Section 47(1)(b)	Share Capital & Debenture Shall apply, subject to the modification that no member shall exercise voting rights on poll in excess of five per cent of total voting rights of equity shareholders. Note: Section 47(1)(b) deals with voting right on a poll to be in proportion with the paid-up share capital held. In Nidhi companies it shall apply, subject to the modification that no member shall exercise voting rights on poll in excess of five per cent of total voting rights of equity shareholders.
4	Section 62	Shall not apply. Note: Section 62 relates to further issue of share capital. Section 62 is not applicable to Nidhi companies.
5	Section 67(1)	Shall not apply, when shares are purchased by the company from a member on his ceasing to be a depositor or borrower and it shall not be considered as reduction of capital under section 66 of the Companies Act, 2013.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
6	Chapter VIII Section 123(5)	<p>Note: Section 67(1) states that no company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of the Act. It shall not apply to Nidhi companies when shares are purchased by the company from a member on his ceasing to be a depositor or borrower and it shall not be considered as reduction of capital under section 66 of the Companies Act, 2013.</p> <p>Declaration and payment of dividend</p> <p>Shall apply, subject to the modification that any dividend payable in cash may be paid by crediting the same to the account of the member, if the dividend is not claimed within 30 days from the date of declaration of the dividend.</p> <p>Note: Section 123(5) states that no dividend shall be paid by a company in respect of any shares therein except to the registered shareholder of such share or his order or to his banker and shall not be payable except in cash. These provisions shall apply subject to the modification that any dividend payable in cash may be paid by crediting the same to the account of the member, if the dividend is not claimed within 30 days from the date of declaration of the dividend.</p>
7	Section 127	<p>Shall apply, subject to the modification that where the dividend payable to a member is one hundred rupees or less, it shall be sufficient compliance of the provisions of the section, if the declaration of dividend is announced in the local language in one local news paper of wide circulation and announcement of the said declaration is also displayed on the notice board of the Nidhis for at least three months.</p> <p>Descriptive note:</p> <p>Section 127 deals with punishment for failure to distribute dividend. However for Nidhi companies, where the dividend payable to a member is one hundred rupees or less, it shall be sufficient compliance of the provisions of the section, if the declaration of dividend is announced in the local language in one local news paper of wide circulation and announcement of the said declaration is also displayed on the notice board of the Nidhis for at least three months.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
8	Chapter IX Section 136(1)	<p>Accounts of Companies</p> <p>Shall apply, subject to the modification that, in the case of members who do not individually or jointly hold shares of more than one thousand rupees in face value or more than one per cent of the total paid-up share capital whichever is less, it shall be sufficient compliance with the provisions of the section if an intimation is sent by Public notice in newspaper circulated in the district in which the Registered Office of the Nidhi is situated stating the date, time and venue of Annual General Meeting and the financial statement with its enclosures can be inspected at the registered office of the company, and the financial statement with enclosures are affixed in the Notice Board of the company and a member is entitled to vote either in person or through proxy.</p> <p>Note: Section 136(1) deals with the right of the members to copies of audited financial statement. In case of Nidhi companies, for members not holding individually or jointly shares of more than one thousand rupees in face value or more than one per cent of the total paid-up share capital whichever is less, it shall be sufficient compliance with the provisions of the section if an intimation is sent by Public notice as prescribed above.</p>
9	Chapter XI Section 160	<p>Appointment and Qualification of Director</p> <p>In sub-section (1), for the words "one lakh rupees", the words "ten thousand rupees" shall be substituted.</p> <p>Note: Section 160(1) requires a deposit of Rs. 1 lakh for nomination of a director. For Nidhi companies such deposit is Rs 10,000/-</p>
10	Chapter XII Section 185	<p>Meeting of Board and Its Power</p> <p>Shall not apply, provided the loan is given to a director or his relative in their capacity as members and such transaction is disclosed in the annual accounts by a note.</p> <p>Note: Section 185 prohibits loans to directors with some exceptions. However, it shall not apply to Nidhi companies, provided the loan is given to a director or his relative in their capacity as members and such transaction is disclosed in the annual accounts by a note.</p>
11	Chapter XIII Second proviso to sub-section (1) of section 197	<p>Appointment and Remuneration of Managerial Person</p> <p>Shall apply with the modification that the remuneration of a director who is neither managing director nor whole</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
12	Chapter XXIV Section 403	<p>time director or manager for performing special services to the Nidhis specified in the articles of association may be paid by way of monthly payment subject to the approval of the company in general meeting and also to the provisions of section 197 :</p> <p>Provided that no approval of the company in general meeting shall be required where,-</p> <p>(a) a Nidhi does not have a managing director or a whole-time director or a manager;</p> <p>(b) the remuneration payable during a financial year to all the directors of the Nidhi does not exceed ten per cent of the net profits of such Nidhi or fifteen lakh rupees, whichever is less; and</p> <p>(c) a remuneration payable under clause (b) is approved by a special resolution passed in this behalf by the Nidhi.</p> <p>Note: Section 197 deals with overall maximum managerial remuneration and managerial remuneration in case absence or inadequacy of profits. Second proviso to Section 197(1) limits the remuneration payable to directors who are neither managing directors nor whole-time directors to one percent of the net profits of the company, if there is a managing or whole-time director or manager; three percent of the net profits in any other case. However, Nidhi companies are allowed to pay remuneration to directors who are neither managing directors nor whole-time directors, for performing special services subject to conditions as laid down.</p> <p>Registration offices and Fees</p> <p>Shall apply, with the modification that the filing fees in respect of every return of allotment under sub-section (9) of section 42 shall be calculated at the rate of one rupee for every one hundred rupees or parts thereof on the face value of the shares included in the return but shall not exceed the amount of normal filing fee payable.</p> <p>Note: Section 403 deals with filing fee. For Nidhi companies it shall apply with the modification that the filing fees in respect of every return of allotment under sub-section (9) of section 42 shall be calculated at the rate of one rupee for every one hundred rupees or parts thereof on the face value of the shares included in the return but shall not exceed the amount of normal filing fee payable.</p>

4. Exceptions, modification and adaptations to Section 8(Non -Profit) Companies

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
1	Chapter 1 Section 2(24)	<p>Preliminary</p> <p>The provisions of clause (24) of section 2 shall not apply.</p> <p>Note: The definition of the term Secretary as defined in Section 2(24) does not apply to Section 8 Companies.</p>
2	Section 2(68)	<p>The requirement of Minimum paid-up share capital shall not apply.</p> <p>Note: Section 2(68) defines a private company. Though the companies (amendment) Act 2015 has removed the minimum prescription of Rs.1 lakh as minimum paid up capital for private limited companies, the provisions for prescribing minimum paid up capital is retained. However, the requirement of minimum- paid up capital shall not apply to section 8 companies.</p>
3	Section 2(71)	<p>The requirement of Minimum paid-up share capital shall not apply.</p> <p>Note: Section 2(71) defines a public company. Though the companies (amendment) Act 2015 has removed the minimum prescription of Rs.5 lakh as minimum paid up capital for public limited companies, the provisions for prescribing minimum paid up capital is retained. However, the requirement of minimum- paid up capital shall not apply to section 8 companies.</p>
4	Chapter VII Section 96(2)	<p>Management and Administration</p> <p>In sub-section (2), after the proviso and before the explanation, the following proviso shall be inserted, namely:-</p> <p>Provided further that the time, date and place of each annual general meeting are decided upon before-hand by the board of directors having regard to the directions, if any, given in this regard by the company in its general meeting.</p> <p>Note: Section 96(2) inter-alia covers time, date venue of annual general meeting. In case of Section 8 companies, the time, date and place of each annual general meeting are decided upon before-hand by the board of directors having regard to the directions, if any, given in this regard by the company in its general meeting.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
5	Section 101(1)	<p>In sub-section (1), for the words "Twenty one days" the words "Fourteen Days" shall be substituted.</p> <p>Note: Section 101(1) deals with notice of the General meeting with clear twenty one days notice. In case of Section 8 Companies 14 clear days notice is sufficient for a general meeting.</p>
6	Section 118	<p>The section shall not apply as a whole except that minutes may be recorded within thirty days of the conclusion of every meeting in case of companies where the articles of association provide for confirmation of minutes by circulation.</p> <p>Note: Section 118 deals with minutes of proceedings of general/board and other meetings. Provision of Section 118 does not apply to Section 8 companies except that minutes may be recorded within thirty days of the conclusion of every meeting in case of companies where the articles of association provide for confirmation of minutes by circulation.</p>
7	Chapter IX Section 136(1)	<p style="text-align: center;">Accounts of Companies</p> <p>In sub-section (1), for the words "twenty one days", the words "fourteen days" shall be substituted.</p> <p>Note: Section 136(1) deals with the rights of members to copies of audited financial statement, before twenty-one days before the date of annual general meeting. Section 8 companies may send the audited financial statements 14 days before the date of annual general meeting.</p>
8	Chapter XI Sub-section (1) of Section 149 and the first proviso to sub- section (1)	<p style="text-align: center;">Appointment and Qualification of Director</p> <p>Shall not apply.</p> <p>Note: Section 149(1) and first proviso to sub-section (1) relates to minimum and maximum number of directors. It is not applicable to Section 8 Companies.</p>
9	Sub-sections (4), (5), (6), (7), (8), (9), (10), (11), clause (i) of sub-section (12) and sub-section (13) of section 149.	<p>Shall not apply.</p> <p>Note: The cluster of sub-sections of section 149 given herein pertains to independent directors. These provisions will not apply to a Section 8 Company.</p>
10	Section 150	<p>Shall not apply.</p> <p>Note: Section 150 deals with manner of selection of</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		independent directors and maintenance of databank of independent directors, which is not applicable to Section 8 companies.
11	Proviso to sub-section (5) of section 152	<p>Shall not apply.</p> <p>Note: Proviso to sub-section (5) of section 152 relates to appointment of independent directors. It is not applicable to section 8 companies.</p>
12	Section 160	<p>Shall not apply to companies whose articles provide for election of directors by ballot.</p> <p>Note: Section 160 deals with right of persons other than retiring directors to stand for directorship. Section 160 shall not apply to section 8 companies whose articles provide for election of directors by ballot.</p>
13	Section 165(1)	<p>Shall not apply.</p> <p>Note: Section 165(1) deals with restrictions on number of directorships. Directorship of Section 8 Companies are not reckoned for this purpose.</p>
14	Chapter XII Section 173(1)	<p>Meeting of Board and its Powers</p> <p>Shall apply only to the extent that the Board of Directors, of such Companies shall hold at least one meeting within every six calendar months.</p> <p>Note: Section 173(1) mandates convening of first board meeting within 30 days of incorporation and minimum of four board meeting every year, with a gap not exceeding 120 days between two consecutive meetings. With regard to Section 8 companies this section shall apply only to the extent that the Board of Directors, of such Companies shall hold at least one meeting within every six calendar months.</p>
15	Section 174(1)	<p>In sub-section (1),—</p> <p>(a) for the words “one-third of its total strength or two directors, whichever is higher”, the words “either eight members or twenty five per cent. of its total strength whichever is less” shall be substituted;</p> <p>(b) the following proviso shall be inserted, namely:- “Provided that the quorum shall not be less than two members”.</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		<p>Note: Section 174(1) states that the quorum for a meeting of the Board of Directors of a company shall be one third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this sub-section. In case of Section 8 companies the quorum for the board meetings shall be either eight members or twenty five per cent. of its total strength whichever is less. However, the quorum shall not be less than two members.</p>
16	Section 177(2)	<p>The words "with independent directors forming a majority" shall be omitted.</p> <p>Note: Section 177(2) requires audit committee to have majority of independent directors. It is not required for Section 8 Companies.</p>
17	Section 178	<p>Shall not apply</p> <p>Note : Section 178 pertains to nomination and remuneration committee and stakeholders' relationship committee. Section 178 is not applicable to section 8 companies.</p>
18	Section 179	<p>Matters referred to in clauses (d), (e) and (f) of sub-section (3) may be decided by the Board by circulation instead of at a Meeting.</p> <p>Note : Section 179(3) deals with resolutions to be passed at meetings of the Board. Section 179(3)(d), (e) and (f) pertains to resolution to borrow moneys, to invest funds of the company and to grant loans or give guarantee or provide security in respect of loans. These items may be decided by the Board by circulation in case of Section 8 companies.</p>
19	Sub-section (2) of section 184	<p>Shall apply only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.</p> <p>Note : Section 184(2) prohibits participation of interested directors. In case of Section 8 Companies it shall apply only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.</p>
20	Section 189	<p>Shall apply only if the transaction with reference to section</p>

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.
		Note: Section 189 deals with register of contracts or arrangements in which directors are interested. Section 189 is applicable to section 8 companies only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.

The text of Exemption Notification are appended as under:

1

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 5th June, 2015

G.S.R. 463(E). - In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of Section 462 and in pursuance of sub-section (2) of said section of the Companies Act, 2013 (18 of 2013) and in supersession of notifications issued under section 620 of the Companies Act, 1956 (1 of 1956). except as respects things done or omitted to be done before such supersession, the Central Government, in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, as specified in column (2) of the Table, shall not apply or shall apply with such exceptions, modifications and adaptations, as specified in column (3) of the said Table, to a Government company, namely:-

<i>Sr. No.</i>	<i>Chapter / Section Number / Sub-section(s) in the Companies Act, 2013</i>	<i>Exceptions/Modifications/Adaptations</i>
(1)	(2)	(3)
1.	Chapter II, section 4.	In section 4. in sub-section (1), in clause (a), the words 'in the case of a public limited company, or the last words "Private Limited" in the case of a private limited company' shall be omitted.
2.	Chapter IV, section 56.	In sub-section (1), after the proviso, the following provisos shall be inserted, namely:- Provided further that the provisions of this sub-section, in so far as it requires a proper instrument of transfer, to be duly stamped and executed by or on behalf of the transfer or and by or on behalf of the transferee, shall not apply with respect to bonds issued by a Government company, provided that an intimation by the transferee specifying his name, address and occupation, if any, has been delivered to the company along with the certificate relating to the bond; and if no such certificate is in existence, along with the letter of allotment of the bond: Provided also that the provisions of this sub-section shall not apply to a Government Company in respect of securities held by nominees of the Government.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
3.	Chapter VII. section 89.	Shall not apply.
4.	Chapter VII. section 90.	Shall not apply.
5.	Chapter VII, sub-section (2) of section 96.	In sub-section (2), for the words "some other place within the city, town or village in which the registered office of the company is situate", the words "such other place as the Central Government may approve in this behalf" shall be substituted.
6.	Chapter VIII, second proviso to sub-section (1) of section 123.	Shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments.
7.	Chapter VIII, sub-section (4) of section 123.	Shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments or by one or more Government Company.
8.	Chapter IX, section 129.	Shall not apply to the extent of application of Accounting Standard 17 (Segment Reporting) to the companies engaged in defence production.
9.	Chapter IX, clause (e) of sub-section (3) of section 134.	Shall not apply.
10.	Chapter IX, clause (p) of sub-section (3) of section 134.	Shall not apply in case the directors are evaluated by the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government, as per its own evaluation methodology.
11.	Chapter XI, section 149(1)(b) and first proviso to sub-section (1) of section 149.	Shall not apply.
12.	Chapter XI, clause (a) of sub-section (6) of section 149.	In section 149, in sub-section (6), in clause (a), for the word "Board", the words "Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government" shall be substituted.
13.	Chapter XI, clause (c) of sub-section (6) of section 149.	Shall not apply.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
14.	Chapter XI, sub-section (5) of section 152.	Shall not apply where appointment of such director is done by the Central Government or State Government, as the case may be.
15.	Chapter XI, sub-sections (6) and (7) of section 152.	Shall not apply to - (a) a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments; (b) a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.
16.	Chapter XI, section 160.	Shall not apply to- (a) a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments; (b) a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.
17.	Chapter XI, section 162.	Shall not apply to — 1. a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments; 2. a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.
18.	Chapter XI, section 163.	Shall not apply to — 1. a Government Company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments; 2. a subsidiary of a Government company, referred to in (a) above, in which the entire paid up share capital is held by that Government company.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
19.	Chapter XI, sub-section (2) of section 164.	Shall not apply.
20.	Chapter XI, section 170.	Shall not apply to a Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments.
21.	Chapter XI, section 171	Shall not apply to a Government Company in which the entire share capital is held by the Central Government, or by any State Government or Governments or by the Central Government or by one or more State Governments.
22.	Chapter XII, clause (i) of sub-section (4) of section 177.	In clause (i) of sub-section (4) of the section 177, for the words "recommendation for appointment, remuneration and terms of appointment" the words "recommendation for remuneration" shall be substituted.
23.	Chapter XII, sub-sections (2), (3) and (4) of section 178.	Shall not apply to Government company except with regard to appointment of 'senior management' and other employees.
24.	Chapter XII, section 185.	Shall not apply to Government company in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security under the section.
25.	Chapter XII, section 186.	Shall not apply to - (a) a Government company engaged in defence production; (b) a Government company, other than a listed company, in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security or making any investment under the section.
26.	Chapter XII, first and second proviso to sub-section (1) of section 188.	Shall not apply to — 1. a Government company in respect of contracts or arrangements entered into by it with any other Government company;

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		2. a Government company, other than a listed company, in respect of contracts or arrangements other than those referred to in clause (a), in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before entering into such contract or arrangement.
27.	Chapter XIII, sub-sections (2), (4) and (5) of section 196.	Shall not apply.
28.	Chapter XIII, section 197	Shall not apply.
29.	Chapter XIII, sub-sections (1), (2), (3) and (4) of section 203.	After sub-section (4), the following sub-section shall be inserted, namely:- “(4A) The provisions of sub-sections (1), (2), (3) and (4) of this section shall not apply to a managing director or Chief Executive Officer or manager and in their absence, a whole time director of the Government Company.”
30.	Chapter XXIX. sub-section (2) of section 439.	In sub-section (2). the words “the Registrar, a shareholder of the company, or of’ shall be omitted.

2. The Government companies, while complying with such exceptions, modifications and adaptations, as specified in column (3) of the aforesaid Table, shall ensure that the interests of their shareholders are protected.

3. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the Companies Act, 2013.

[F No.1/2/2014-CL.V]

Amardeep Singh Bhatia,
Joint Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 5th June, 2015

G.S.R. 464(E). - In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 462 and in pursuance of sub-section (2) of said section of the Companies Act, 2013 (18 of 2013), the Central Government, in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, as specified in column (2) of the Table, shall not apply or shall apply with such exceptions, modifications and adaptations, as specified in column (3) of the said Table, to a private company, namely:-

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
1.	Chapter I, sub-clause (viii) of clause (76) of section 2.	Shall not apply with respect to section 188.
2.	Chapter IV, section 43 and section 47.	Shall not apply where memorandum or articles of association of the private company so provides.
3.	Chapter IV, sub-clause (i) of clause (a) of sub-section (1) and sub-section (2) of section 62.	Shall apply with following modifications:- In clause (a), in sub-clause (i), the following proviso shall be inserted, namely:- Provided that notwithstanding anything contained in this sub-clause and sub-section (2) of this section, in case ninety per cent, of the members of a private company have given their consent in writing or in electronic mode, the periods lesser than those specified in the said sub-clause or sub-section shall apply.
4.	Chapter IV, clause (b) of sub-section (1) of section 62.	In clause (b), for the words "special resolution", the words "ordinary resolution" shall be substituted.
5.	Chapter IV, section 67.	Shall not apply to private companies - a. in whose share capital no other body corporate has invested any money; b. if the borrowings of such a company from banks or financial institutions or any body corporate is less than

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		twice its paid up share capital or fifty crore rupees, whichever is lower; and c. such a company is not in default in repayment of such borrowings subsisting at the time of making transactions under this section.
6.	Chapter V, clauses (a) to (e) of subsection (2) of section 73.	Shall not apply to a private company which accepts from its members monies not exceeding one hundred per cent, of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.
7.	Chapter VII, sections 101 to 107 and section 109.	Shall apply unless otherwise specified in respective sections or the articles of the company provide otherwise.
8.	Chapter VII, clause (g) of sub-section (3) of section 117.	Shall not apply.
9.	Chapter X, Clause (g) of sub-section (3) of section 141.	Shall apply with the modification that the words "other than one person companies, dormant companies, small companies and private companies having paid-up share capital less than one hundred crore rupees" shall be inserted after the words "twenty companies".
10.	Chapter XI, section 160.	Shall not apply.
11.	Chapter XI, section 162.	Shall not apply.
12.	Chapter XII, section 180.	Shall not apply.
13.	Chapter XII, sub-section (2) of section 184.	Shall apply with the exception that the interested director may participate in such meeting after disclosure of his interest.
14.	Chapter XII, section 185.	Shall not apply to a private company - a. in whose share capital no other body corporate has invested any money; b. if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and c. such a company has no default in repayment of such borrowings subsisting at the time of making transactions under this section.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
15.	Chapter XII, second proviso to subsection (1) of section 188.	Shall not apply.
16.	Chapter XIII, sub-sections (4) and (5) of section 196.	Shall not apply.

2. The private companies, while complying with such exceptions, modifications and adaptations, as specified in column (3) of the aforesaid Table, shall ensure that the interests of their shareholders are protected.

3. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the Companies Act, 2013.

[F No.1/1/2014-CL.V]

Amardeep Singh Bhatia,
Joint Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 5th June, 2015

G.S.R. 465(E). - In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 462 read with section 406 of the Companies Act, 2013 (18 of 2013) and in supersession of notification number GSR 517(E), dated the 31st August, 2006 and GSR 326(E), dated the 8th April, 2011 or any other notification issued under section 620A of the Companies Act, 1956, except as respects things done or omitted to be done before such supersession, the Central Government in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, as specified in column (2) of the Table, shall not apply or shall apply with such exceptions, modifications and adaptations, as specified in column (3) of the said Table, to Nidhis, namely:-

<i>Sr. No.</i>	<i>Chapter / Section Number / Sub-section(s) in the Companies Act, 2013</i>	<i>Exceptions/Modifications/Adaptations</i>
(1)	(2)	(3)
1.	Sub-section (2) of section 20	Shall apply subject to the modification that in the case of a Nidhi, the document may be served only on members who hold shares of more than one thousand rupees in face value or more than one per cent, of the total paid-up share capital of the Nidhis whichever is less. For other shareholders, document may be served by a public notice in newspaper circulated in the district where the Registered Office of the Nidhi is situated; and publication of the same on the notice board of the Nidhi.
2.	Section 42 except sub-section (1), explanation (II) to sub-section (2), sub-sections (4), (6), (8), (9) and (10)	Shall not apply.
3.	Clause (b) of sub-section (1) of section 47	Shall apply, subject to the modification that no member shall exercise voting rights on poll in excess of five per cent, of total voting rights of equity shareholders.
4.	Section 62	Shall not apply.
5.	Sub-section (1) of section 67	Shall not apply, when shares are purchased by the company from a member on his ceasing to be a depositor

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
		or borrower and it shall not be considered as reduction of capital under section 66 of the Companies Act, 2013.
6.	Sub-section (5) of Section 123	Shall apply, subject to the modification that any dividend payable in cash may be paid by crediting the same to the account of the member, if the dividend is not claimed within 30 days from the date of declaration of the dividend.
7.	Section 127	Shall apply, subject to the modification that where the dividend payable to a member is one hundred rupees or less, it shall be sufficient compliance of the provisions of the section, if the declaration of dividend is announced in the local language in one local newspaper of wide circulation and announcement of the said declaration is also displayed on the notice board of the Nidhis for at least three months.
8.	Sub-section (1) of Section 136	Shall apply, subject to the modification that, in the case of members who do not individually or jointly hold shares of more than one thousand rupees in face value or more than one per cent, of the total paid-up share capital whichever is less, it shall be sufficient compliance with the provisions of the section if an intimation is sent by public notice in newspaper circulated in the district in which the Registered Office of the Nidhi is situated stating the date, time and venue of Annual General Meeting and the financial statement with its enclosures can be inspected at the registered office of the company, and the financial statement with enclosures are affixed in the Notice Board of the company and a member is entitled to vote either in person or through proxy.
9.	Section 160	In sub-section (1), for the words "one lakh rupees", the words "ten thousand rupees" shall be substituted.
10.	Section 185	Shall not apply, provided the loan is given to a director or his relative in their capacity as members and such transaction is disclosed in the annual accounts by a note.
11.	Second proviso to sub- section (1) of section 197	Shall apply with the modification that the remuneration of a director who is neither managing director nor whole time director or manager for performing special services to the Nidhis specified in the articles of association may be paid by way of monthly payment subject to the approval of the company in general meeting and also to the provisions of section 197 :

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
12.	Section 403	<p>Provided that no approval of the company in general meeting shall be required where,—</p> <ol style="list-style-type: none"> 1. a Nidhi does not have a managing director or a whole-time director or a manager; 2. the remuneration payable during a financial year to all the directors of the Nidhi does not exceed ten per cent, of the net profits of such Nidhi or fifteen lakh rupees, whichever is less; and 3. a remuneration payable under clause (b) is approved by a special resolution passed in this behalf by the Nidhi. <p>Shall apply, with the modification that the filing fees in respect of every return of allotment under sub-section (9) of section 42 shall be calculated at the rate of one rupee for every one hundred rupees or parts thereof on the face value of the shares included in the return but shall not exceed the amount of normal filing fee payable.</p>

2. The Nidhis, while complying with such exceptions, modifications and adaptations, as specified in column (3) of the aforesaid Table, shall ensure that the interests of their shareholders are protected.

3. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the Companies Act, 2013.

[F No.2/11/2014-CL.V]

Amardeep Singh Bhatia,
Joint Secretary to the Government of India.

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 5th June, 2015

G.S.R. 466(E). - In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of Section 462 and in pursuance of sub-section (2) of said section of the Companies Act, 2013 (18 of 2013) and in supersession of notifications issued under section 25 of the Companies Act, 1956 (1 of 1956)except as respect things done or omitted to be done before such supersession, the Central Government, in the interest of public, hereby directs that certain provisions of the Companies Act, 2013, as specified in column (2) of the Table, shall not apply or shall apply with such exceptions, modifications and adaptations, as specified in column (3) of the said Table, to a body to which a licence is granted under the provisions of the aforesaid, Section 8,namely:-

Sr. No.	<i>Chapter / Section Number / Sub-section(s) in the Companies Act, 2013</i>	<i>Exceptions/Modifications/Adaptations</i>
(1)	(2)	(3)
1.	Clause (24) of section 2.	The provisions of clause (24) of section 2 shall not apply.
2.	Clause (68) of section 2.	The requirement of having minimum paid-up share capital shall not apply.
3.	Clause (71) of section 2.	The requirement of having minimum paid-up share capital shall not apply.
4.	Sub-section (2) of section 96.	In sub-section (2), after the proviso and before the explanation, the following proviso shall be inserted, namely:- Provided further that the time, date and place of each annual general meeting are decided upon before-hand by the board of directors having regard to the directions, if any, given in this regard by the company in its general meeting.
5.	Sub-section (1) of section 101.	In sub-section (1), for the words "twenty one days", the words "fourteen days" shall be substituted.
6.	Section 118.	The section shall not apply as a whole except that minutes may be recorded within thirty days of the conclusion of every meeting in case of companies where the articles of association provide for confirmation of minutes by circulation.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
7.	Sub-section (1) of section 136.	In sub-section (1), for the words "twenty one days", the words "fourteen days" shall be substituted.
8.	Sub-section (1) of section 149 and the first proviso to sub-section (1).	Shall not apply.
9.	Sub-sections (4), (5), (6), (7), (8), (9), (10), (11), clause (i) of sub-section (12) and subsection (13) of section 149.	Shall not apply.
10.	Section 150.	Shall not apply.
11.	Proviso to sub-section (5) of section 152.	Shall not apply.
12.	Section 160.	Shall not apply to companies whose articles provide for election of directors by ballot.
13.	Sub-section (1) of section 165.	Shall not apply.
14.	Sub-section (1) of section 173.	Shall apply only to the extent that the Board of Directors, of such Companies shall hold at least one meeting within every six calendar months.
15.	Sub-section (1) of section 174.	In sub-section (1),— a. for the words "one-third of its total strength or two directors, whichever is higher", the words "either eight members or twenty five per cent, of its total strength whichever is less" shall be substituted; b. the following proviso shall be inserted, namely:- "Provided that the quorum shall not be less than two members".
16.	Sub-section (2) of section 177.	The words "with independent directors forming a majority" shall be omitted.
17.	Section 178.	Shall not apply.
18.	Section 179.	Matters referred to in clauses (d), (e) and (f) of sub-section (3) may be decided by the Board by circulation instead of at a meeting.
19.	Sub-section (2) of section 184.	Shall apply only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.

Sr. No.	Chapter / Section Number / Sub-section(s) in the Companies Act, 2013	Exceptions/Modifications/Adaptations
(1)	(2)	(3)
20.	Section 189.	Shall apply only if the transaction with reference to section 188 on the basis of terms and conditions of the contract or arrangement exceeds one lakh rupees.

2. The companies covered under section 8 of the Companies Act, 2013, while complying with such exceptions, modifications and adaptations, as specified in column (3) of the aforesaid Table, shall ensure that the interests of their shareholders are protected.

3. A copy of this notification has been laid in draft before both Houses of Parliament as required by sub-section (2) of section 462 of the Companies Act, 2013.

[F No.1/2/2014-CL.V]

Amardeep Singh Bhatia,
Joint Secretary to the Government of India

OTHERS

So far the following Circulars, Notifications, Orders and Amendment Rules have been issued under this chapter:

1. Constiution of Companies Law Committee, Order dated 4th June, 2015.
2. The Companies (Central Government's) General Rules and Forms Amendment Rules, 2014 dated 17th November, 2014.
3. General Circular No. 44/2014 dated 14th November,2014 on the subject Company Law Settlement Scheme, 2014 (CLSS-2014).
4. The Company Law Board (Fees on Application and Petition) Amendment Rules, 2014 dated 3rd November, 2014.
5. General Circular No. 41/2014 dated 15th October, 2014 on the subject Company Law Settlement Scheme, 2014 (CLSS- 2014)- Clarification u/s 164(2) of the Companies Act, 2013.
6. General Circular 40/2014 dated 15th October, 2014 on the subject Company Law Settlement Scheme, 2014 (CLSS - 2014).
7. Notification dated 18th September, 2014 for National Advisory Committee on Accounting Standards.
8. General Circular No.34/2014 dated 12th August, 2014 on the subject Company Law Settlement Scheme, 2014.
9. General Circular No.32/2014 dated 23rd July, 2014 on the subject clarification on transitional period for resolutions passed under the Companies Act, 1956.
10. Companies (Miscellaneous) Amendment Rules, 2014 dated 17th July, 2014 on the subject the Central Government inserted rule 11 after rule 10 to the Companies (Miscellaneous) Rules, 2014.
11. Notification S.O. 1524(E) dated 13th June, 2014 on the subject establish the office of the Official Liquidator at Hyderabad for discharging the functions of the Official Liquidator in the whole State of Telengana.
12. Notification S.O. 1525(E) dated 13th June, 2014 on the subject establishes the office of the Registrar of Companies at Hyderabad for discharging the functions of the Registrar of Companies in the whole State of Telengana.
13. The Companies (Removal of Difficulties) Fourth Order, 2014 dated 6th June, 2014.
14. The Companies (Removal of Difficulties) Third Order, 2014 dated 2nd June, 2014.

15. The Companies (Removal of Difficulties) Second Order, 2014 dated 2nd June, 2014.
16. Corrigendum: "the Companies (Removal of Difficulties) Second order, 2014" read as "the Companies (Removal of Difficulties) Order, 2014" dated 27th May, 2014.
17. Notification S.O. 1352(E) dated 21st May, 2014 on the subject Central Government hereby delegates to the Regional Directors at Mumbai, Kolkata, Chennai, Noida, Ahmedabad, Hyderabad and Shillong.
18. Notification S.O. 1354(E) 21st May, 2014 on the subject Central Government hereby delegates the powers and functions of the Central Government in respect of allotment of Director Identification Number.
19. Notification S.O. 1353(E) dated 21st May, 2014 on the subject Central Government hereby delegates to the Registrar of Companies.
20. Notification S.O dated 27th March, 2014 on the subject nomenclature of various forms prescribed under the provisions of Companies Act, 2013.
21. General Circular No.07/2014 dated 01st April, 2014 on the subject Dissemination of Information with regards to provisions of the Companies Act, 2013 as notified till date vis-a-vis the corresponding provisions of the Companies Act, 1956.
22. Companies (Removal of Difficulties) Order, 2013 S.O. 2821(E) dated 20th September, 2013 on the subject continuance of matters, proceedings or cases before the Company Law Board until their transfer to the Tribunal under section 434.
23. Table containing provisions of Companies Act, 2013 as notified up to date and corresponding provisions thereof under Companies Act, 1956.

The text of the Circulars, Orders and Amended Rules issued under this Chapter appended as under:

1

F. No. 2/19/2011-CL-V

**Ministry of Corporate Affairs
Government of India**

**'A' Wing, 5th Floor, Shastri Bhawan
New Delhi – 110 001**

Dated 04th June, 2015

ORDER

Subject : – Constitution of Companies Law Committee

The Government hereby constitutes a Companies Law Committee consisting of the following :-

S. No.	Name of Person/Institution	Position
1.	Secretary, Ministry of Corporate Affairs	Chairperson
2.	Ms. Reva Khetarpal, former Judge, Delhi High Court	Member
3.	Sh. Manoj Fadnis, President, The Institute of Chartered Accountants of India	Member
4.	Sh. Atul H Mehta, President, The Institute of Company Secretaries of India	Member
5.	Dr. A.S. Durga Prasad, President, The Institute of Cost Accountants of India	Member
6.	Shri Bharat Vasani, Chief Legal Group General Counsel, Tata Sons Ltd, Industry nominee	Member
7.	Shri Y.M. Deosthalee, Chairman, L & T Finance Holdings, Industry nominee	Member
8.	Joint Secretary (Policy), Ministry of Corporate Affairs	Member-Convener

2. The Committee may invite or co-opt subject matter experts relating to corporate law or any other subject matter, as well as experts from SEBI, RBI, C & AG as needed. The Committee may also invite any other person or body in the interest of broad-based consultation.

3. The terms of reference of the Committee are as follows:

- (i) to make recommendations to the Government on issues arising from the implementation of the Companies Act, 2013 and
- (ii) to examine the recommendations received from the Bankruptcy Law Reforms Committee, the High Level Committee on CSR, the Law Commission and other agencies, while undertaking (i) above.

4. Non-official members of the Committee will be eligible for travelling, conveyance and other

allowances as per extant Government instructions, wherever the sponsoring agency is unable to bear their expenditure. Secretarial support to the Committee will be given by the Ministry of Corporate Affairs.

5. The Committee shall submit its recommendations within six months of its first meeting.

(Alok Samantrai)

Director, Inspection and Investigation

Phone: 2338 9602

To

The Members of the Committee

Copy also to:-

- (i) PS to CAM
- (ii) Sr. PPS to Secretary
- (iii) PS to AS
- (iv) PSs to JS(M), JS(B), JS(SP), JS(K)
- (v) All RDs/ROCS/OLs
- (vi) President ASSOCHAM/FICCI/CII (vii)Guard File
- (viii) Website of the Ministry

2

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 17th November, 2014

G.S.R. 815(E).—In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 642 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules further to amend the Companies (Central Government's) General Rules and Forms, 1956, namely :—

1. (1) These rules may be called the Companies (Central Government's) General Rules and Forms Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Central Government's) General Rules and Forms, 1956, in Rule 12A, for the brackets and words "(Accounts) in the Department of Company Affairs", the words "in the Ministry of Corporate Affairs" shall be substituted.

[F. No. 5/80/2012-CL.V]

AMARDEEP SINGH BHATIA

Jt. Secy.

Note: The principal notification was published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 432(E), dated the 18th January, 1956 and subsequently amended vide the following notifications:—

<i>Serial Number</i>	<i>Notification Number</i>	<i>Notification Date</i>
1.	S.R.O. 2535	01-11-1956
2.	S.R.O. 3135	21-12-1956
3.	S.R.O. 237	19-01-1957
4.	S.R.O. 2105	29-01-1957
5.	S.R.O. 3038	28-09-1957
6.	S.R.O. 3867	07-12-1957
7.	G.S.R. 48	22-02-1958
8.	G.S.R. 723	23-08-1958
9.	G.S.R. 750	30-08-1958
10.	G.S.R. 1026	01-11-1958
11.	G.S.R. 14	03-01-1959
12.	G.S.R. 548	09-05-1959
13.	G.S.R. 1140	17-10-1959
14.	G.S.R. 1224	07-11-1959

15.	G.S.R. 1364	12-12-1959
16.	G.S.R. 220	27-02-1960
17.	G.S.R. 595	28-05-1960
18.	G.S.R. 195	18-02-1961
19.	G.S.R. 814	24-06-1961
20.	G.S.R. 1105	09-09-1961
21.	G.S.R. 1408	25-11-1961
22.	G.S.R. 653	12-05-1962
23.	G.S.R. 344	02-03-1963
24.	G.S.R. 628	13-04-1963
25.	G.S.R. 97	16-01-1965
26.	G.S.R. 822	12-06-1965
27.	G.S.R. 1570	30-10-1965
28.	G.S.R. 368	19-03-1966
29.	G.S.R. 421	18-03-1966
30.	G.S.R. 499	09-04-1966
31.	G.S.R. 743	21-05-1966
32.	G.S.R. 847	04-06-1966
33.	G.S.R. 1266	13-08-1966
34.	G.S.R. 130	20-01-1968
35.	G.S.R. 667	30-06-1973
36.	G.S.R. 327(E)	10-06-1975
34.	G.S.R. 414(E)	16-07-1975
38.	G.S.R. 2596	01-11-1975
39.	G.S.R. 2828	13-12-1975
40.	G.S.R. 154	31-01-1976
41.	G.S.R. 248(E)	24-03-1976
42.	G.S.R. 627	14-05-1977
43.	G.S.R. 24(E)	09-01-1979
44.	G.S.R. 1256	06-10-1979
45.	G.S.R. 555(E)	04-09-1982
46.	G.S.R. 479(E)	22-04-1988
47.	G.S.R. 694(E)	10-06-1988

48.	G.S.R. 782(E)	13-07-1988
49.	G.S.R. 908(E)	07-09-1988
50.	G.S.R. 1032(E)	26-10-1988
51.	G.S.R. 449(E)	17-04-1989
52.	G.S.R. 510(E)	24-05-1990
53.	G.S.R. 795(E)	18-09-1990
54.	G.S.R. 289(E)	31-05-1991
55.	G.S.R. 614(E)	03-10-1991
56.	G.S.R. 754(E)	26-12-1991
57.	G.S.R. 312(E)	06-03-1992
58.	G.S.R. 353(E)	26-03-1992
59.	G.S.R. 484(E)	11-05-1992
60.	G.S.R. 581(E)	27-08-1993
61.	G.S.R. 621(E)	24-09-1993
62.	G.S.R. 286(E)	01-03-1994
63.	G.S.R. 598(E)	28-07-1994
64.	G.S.R. 697(E)	20-09-1994
65.	G.S.R. 283(E)	21-03-1995
66.	G.S.R. 424(E)	26-05-1995
67.	G.S.R. 251(E)	21-06-1996
68.	G.S.R. 97(E)	28-02-1997
69.	G.S.R. 126(E)	01-03-1997
70.	G.S.R. 16(E)	06-01-1999
71.	G.S.R. 23(E)	12-01-1999
72.	G.S.R. 130(E)	23-02-1999
73.	G.S.R. 788(E)	29-11-1999
74.	G.S.R. 58(E)	17-01-2000
75.	G.S.R. 363(E)	27-04-2000
76.	G.S.R. 638(E)	26-07-2000
77.	G.S.R. 836(E)	24-10-2000
78.	G.S.R. 24(E)	15-01-2001
79.	G.S.R. 35(E)	24-01-2001
80.	G.S.R. 51(E)	31-01-2001
81.	G.S.R. 96(E)	14-02-2001
82.	G.S.R. 330(E)	07-05-2002
83.	G.S.R. 5(E)	03-01-2003
84.	G.S.R. 479(E)	12-06-2003

85.	G.S.R. 580(E)	24-07-2003
86.	G.S.R. 56(E)	10-02-2006
87.	G.S.R. 555(E)	14-09-2006
88.	G.S.R. 399(E)	30-05-2007
89.	G.S.R. 500(E)	24-07-2007
90.	G.S.R. 720(E)	16-11-2007
91.	G.S.R. 655(E)	12-09-2008
92.	G.S.R. 788(E)	14-11-2008
93.	G.S.R. 824(E)	28-11-2008
94.	G.S.R. 835(E)	04-12-2008
95.	G.S.R. 868(E)	22-12-2008
96.	G.S.R. 872(E)	23-12-2008
97.	G.S.R. 876(E)	24-12-2008
98.	G.S.R. 183(E)	20-03-2009
99.	G.S.R. 257(E)	17-04-2009
100.	G.S.R. 284(E)	24-04-2009
101.	G.S.R. 643(E)	07-09-2010
102.	G.S.R. 649(E)	08-09-2010
103.	G.S.R. 78(E)	10-02-2011
104.	G.S.R. 259(E)	26-03-2011
105.	G.S.R. 351(E)	29-04-2011
106.	G.S.R. 407(E)	26-05-2011
107.	G.S.R. 408(E)	26-05-2011
108.	G.S.R. 514(E)	07-07-2011
109.	G.S.R. 533(E)	14-07-2011
110.	G.S.R. 618(E)	10-08-2011
111.	G.S.R. 716(E)	23-09-2011
112.	G.S.R. 749(E)	05-10-2011
113.	G.S.R. 313(E)	24-04-2012
114.	G.S.R. 411(E)	31-05-2012
115.	G.S.R. 548(E)	10-07-2012
116.	G.S.R. 577(E)	19-07-2012
117.	G.S.R. 588(E)	26-07-2012
118.	G.S.R. 705(E)	21-09-2012
119.	G.S.R. 931(E)	24-12-2012

General Circular No.44/2014

No.2/13/2014-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi.

Dated: 14.11.2014

To

AII Regional Directors,
All Registrars of Companies,
All Stakeholders.

Subject : COMPANY LAW SETTLEMENT SCHEME, 2014 (CLSS-2014)

Sir,

In continuation to the Ministry's General Circular No. 34/2014 dated 12.08.2014 and 40/2014 dated 15/10/2014 on the subject cited above, this Ministry has, on consideration of requests received from various stakeholders, has decided to extend the Company Law Settlement Scheme (CLSS 2014) upto 31st December, 2014.

2. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Narayanan)

Assistant Director (Policy)
23387263

Copy to : -

1. E-Governance Section and Web Contents Officer to place this circular on the Ministry's website.
2. Guard File

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 3rd November, 2014

G.S.R. 772(E).—In exercise of the powers conferred by section 642 read with sub-section (2) of section 637A of the Companies Act, 1956 (1 of 1956) and the removal of difficulty Orders issued by the Central Government under section 470 of the Companies Act, 2013, the Central Government hereby makes the following rules further to amend the Company Law Board (Fees on Applications and Petitions) Rules, 1991 namely:-

1. (1) These rules may be called the Company Law Board (Fees on Applications and Petitions) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Company Law Board (Fees on Applications and Petitions) Rules, 1991, in the Schedule, after serial number 33 the following shall be inserted, namely:

"34	2(41) of the Companies Act, 2013	Allowing any period other than April to March as financial year.	5,000
35	58 and 59 of the Companies Act, 2013	Rectification of register of members	500
36	73(4) of the Companies Act, 2013 read with section 76	Directing the company to pay the sum due or for any loss or damage incurred as a result of such non-payment.	100
37	74(2) of the Companies Act, 2013	Allow further time as considered reasonable to the company to repay the deposit.	5,000"

[F. No. 1/19/2014-CL-V]

AMARDEEP SINGH BHATIA*Jt. Secy.*

Note: The Principal Notification was published vide No: GSR 290(E) dated 31.5.1991 and subsequently amended by:

Serial Number	Notification Number	Notification Date
1.	GSR 787(E)	29-9-1992
2.	GSR 219(E)	6-3-2000
3.	GSR 510(E)	22-7-2002
4.	GSR 547(E)	10-7-2012

General Circular No. 41/2014

No. 2/13/ 2014-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi.

Dated: 15.10.2014

To

All Regional Directors,
All Registrars of Companies,
All Stakeholders.

**Subject: COMPANY LAW SETTLEMENT SCHEME, 2014 (CLSS- 2014) -
Clarification u/s 164(2) of the Companies Act, 2013.**

Sir,

Representations have been received from stakeholders seeking clarification as to whether immunity from disqualification of directors pursuant to clause (a) of sub-section (2) of section 164 of the Companies Act, 2013 will be applicable with respect to companies who have filed Balance Sheets and Annual Returns on or after 01/04/2014, but before coming into force of CLSS-2014 with effect from 15.08.2014 as contained in General Circular No. 34/2014 dated 12/08/2014.

2. The matter has been examined and it is hereby clarified that in case of companies, who have filed their balance sheets and annual returns on or after 01/04/2014 but prior to launch of CLSS-2014, disqualification under clause(a) of sub-section (2) of section 164 of the Companies Act, 2013 shall apply only for prospective defaults, if any, by such companies.
3. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Narayanan)

Assistant Director (Policy)
23387263

Copy to : -

1. E - Governance Section and Web Contents Officer to place this circular on the Ministry's website.
2. Guard File

General Circular No. 40/2014

F.NO. 02/13/2014 CL-V

Government of India

Ministry of Corporate Affairs

A Wing, 5th Floor, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi-110001.

Dated : 15.10.2014

To

All Regional Directors

All Registrar of Companies

All Stakeholders

Subject: COMPANY LAW SETTLEMENT SCHEME, 2014 (CLSS - 2014)

Sir,

In continuation to the Ministry's General Circular No. 34/2014 dated 12.08.2014 on the subject cited above, this Ministry has, on consideration of requests received from various stakeholders, has decided to extend the Company Law Settlement Scheme (CLSS 2014) upto 15th November, 2014.

Yours faithfully,

(KMS Narayanan)
Assistant Director
23387263

Copy to :

1. E- governance Section web contents officer to place this circular on the Ministry's website.
2. Guard File.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 18th September, 2014

S.O. 2425(E).- In exercise of the powers conferred by sub-section (1) of section 210A of the Companies Act, 1956 (1 of 1956), the Central Government hereby constitutes an Advisory Committee to be called the National Advisory Committee on Accounting Standards, consisting of the following persons to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under the said Act, namely:-

- | | |
|--|---|
| (1) Shri Amarjit Chopra, Chartered Accountant | Chairperson
[Nominated under clause (a) of sub - section(2) of section 210A] |
| (2) Dr. A.S. Durga Prasad
President, Nominee of The Institute of Cost and Works Accountants of India | Member
[nominated under clause (b) of sub-section (2) of section 210A] |
| (3) Shri R. Sridharan, President
Nominee of The Institute of Company Secretaries of India | Member
[nominated under clause (b) of sub-section (2) of section 210A] |
| (4) CA. K. Raghu, President
Nominee of The Institute of Chartered Accountants of India | Member
[nominated under clause (b) of sub - section (2) of section 210A] |
| (5) Joint Secretary
Ministry of Corporate Affairs | Member
[Nominated under clause (c) of sub - section (2) of section 210A] |
| (6) Shri Sudarshan Sen
Chief General Manager-in-Charge
Nominee of Reserve Bank of India | Member
[nominated under clause (d) of sub-section (2) of section 210A] |
| (7) Shri P Sesh Kumar, Director
General (Commercial)
Nominee of Comptroller and Auditor General of India | Member
[nominated under clause (e) of sub- section (2) of section 210A] |
| (8) Prof. I.M Pandey
Ex-faculty
Indian Institute of Management
Ahmedabad | Member
[nominated under clause (f) of sub-section (2) of section 210A] |
| (9) Joint Secretary, Tax
Policy Law-II
Nominee of Central Board of Direct Taxes | Member
[nominated under clause (g) of sub-section (2) of section 210A] |
| (10) Shri Rostow Ravanan
Nominee of Confederation of Indian Industry | Member
[nominated under clause (h) of sub-section (2) of section 210A] |

- | | | |
|------|--|--|
| (11) | Shri Adesh Gupta
Nominee of Federation of Indian Chambers
of Commerce and industry | Member
[nominated under clause (h) of
sub-section (2) of section 210A] |
| (12) | Dr. Ashok Haldia
Nominee of Associated Chambers of
Commerce and Industry of India | Member
[Nominated under clause (h) of
sub-section (2) of section 210A] |
| (13) | Shri S.Ravindran, Executive
Director
Nominee of Securities Exchange
Board of India. | Member
[nominated under clause (i) of
sub-section (2) of section 210A] |

2. The Chairperson and members shall hold office for a period of one year from the date of publication of this notification in the Official Gazette or till the constitution of National Financial Reporting Authority under Section 132 of the Companies Act, 2013 (18 of 2013) whichever is earlier.

3. This notification shall come in to force on 18th September, 2014.

[F. NO. 1/5/2001-CL.V (Part V)]

AMARDEEP SINGH BHATIA

Jt. Secy.

General Circular No. 34/2014

F. NO. 82/13/2014 CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr. R. P. Road, New Delhi

Dated : 12/08/2014

To,

All Regional Directors

All Registrars of Companies

Subject: COMPANY LAW SETTLEMENT SCHEME, 2014

Sir,

As you are aware, the Companies Act requires companies to file annual documents (Annual Return and Financial Statements) on the MCA21 electronic registry within prescribed time limits. Sections 92, 137 and 403 of the Companies Act, 2013, which correspond to sections 159, 220 and 611 of the Companies Act, 1956 may be referred to in this regard. These annual documents are considered very important in context of an up-to-date Registry, it is observed that a large percentage of companies have not filed their statutory documents making them liable for penalties and prosecution for such non-compliance.

2. The Companies Act, 2013 lays down a stricter regime for the defaulting companies with higher additional fees. The quantum of punishment has been enhanced under the above mentioned provisions of the Act vis-a-vis the earlier Act i.e. Companies Act, 1956. A specific provision for enhanced fine in case of repeated default has also been included in the form of section 451 of the Act. Additionally, the provisions of section 164(2) of the Act, *inter alia*, providing for disqualification of directors In case a company has not filed financial statements or annual returns for any continuous period of three financial years has been extended to all companies.

3. The Ministry has received representations from various stakeholders requesting for grant of transitional period/one-time opportunity to enable them to file their pending annual documents to avoid attraction of higher fees/fine and other penal action, especially disqualification of their Directors prescribed under the new provisions of the Act.

4. In order to give such an opportunity to the defaulting companies to enable them to make their default good by filing these belated documents, the Central Government in exercise of powers conferred under section 403 and 460 of the Companies Act, 2013 has decided to introduce a Scheme namely "Company Law Settlement Scheme 2014" [CLSS-2014] condoning the delay in filing the above mentioned documents with the Registrar, granting immunity for prosecution and charging a reduced additional fee of 25% of the actual additional fees payable as per section 403 read with Companies(Registration Offices and Fee) Rules, 2014 for filing those belated documents under the Companies Act, 1956/2013 and the Rules made thereunder.

5. In addition, the scheme gives an opportunity to Inactive companies to get their companies declared as 'dormant company' under section 455 of the Act (Chapter XXIX) by filing a simple application at reduced fees. The said provision enables Inactive companies to remain on the Register of Companies with minimal compliance requirements.

6. The details of the Scheme are as under: -

- (i) The scheme shall come into force on the 15th August 2014 and shall remain in force up to 15th October, 2014.
- (ii) Definitions - In this Scheme, unless the context otherwise requires, -
 - (a) "Act" means the Companies Act, 2013 and Companies Act, 1956 (where ever applicable).
 - (b) "Company" means a company as defined in clause of 20 of section 2 of the Companies Act, 2013.
 - (c) "defaulting company" means a company defined under the Companies Act, 2013, and which has made a default in filing of annual statutory documents.
 - (d) "designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company.
 - (e) "immunity certificate" means the certificate referred to In sub-paragraph (vi) Of the Scheme.
 - (f) "inactive Company" means as defined In Explanation (i) to sub-section (1) of section 455(1) of Companies Act, 2013.
- (iii) Applicability: - Any "defaulting company is permitted to file belated documents which were due for filing till 30th June 2014 in accordance with the provisions of this Scheme:
- (iv) Manner of payment of fees and additional fee on filing belated document for seeking Immunity under the Scheme - The defaulting company shall pay statutory filing fees as prescribed under the Companies (Registration Offices and fee) Rules, 2014 along with additional fees of 25% of the actual additional fee payable on the date of filing of each belated document.
- (v) Withdrawal of appeal against prosecution launched for the offences: If the defaulting company has filed any appeal against any notice issued or complaint filed before the competent court for violation of the provisions under the Companies Act, 1956 and/or Companies Act, 2013 in respect of which application is made under this scheme, the applicant shall before filing an application for Issue of immunity certificate, withdraw the appeal and furnish proof of such withdrawal along with the application.
- (vi) Application for issue of Immunity in respect of document(s) filed under the Scheme -The application for seeking immunity in respect of belated documents filed under the Scheme may be made electronically. In the e-Form CLSS-2014 annexed, after the document(s) are taken on file, or on record or approved by the Registrar of Companies as the case may be. The e-Form for filing application to obtain such a certificate will be available on the MCA21 portal from 1st September, 2014 and may be filed thereafter but not later than three months from the date of closure of the Scheme. There shall not be any fee payable on this Form.

Provided that this immunity shall not be applicable in the matter of any appeal pending before the court of law and in case of management disputes of the company pending before the court of law or tribunal.

- (vii) Order by designated authority granting Immunity from penalty and prosecution - The designated authority shall consider the application and upon being satisfied shall grant the Immunity certificate in respect of documents filed under this Scheme.
- (viii) Scheme not to apply in certain cases - (a) This scheme shall not apply to the filing of belated documents other than the following:
- a. Form 20B - Form for filing annual return by a company having share capital.
 - b. Form 21A - Particulars of Annual return for the company not having share capital.
 - c. Form 23AC, 23ACA, 23AC-XBRL and 23ACA-XBRL - Forms for filing Balance Sheet and Profit & Loss account.
 - d. Form 66 - Form for submission of Compliance Certificate with the Registrar.
 - e. Form 238 - Form for Intimation for Appointment of Auditors.
- (ix) This Scheme shall not apply
- a. to companies against which action for striking off the name under sub-section (5) of section 560 of Companies Act, 1956 has already been initiated by the Registrar of Companies or
 - b. where any application has already been filed by the companies for action of striking off name from the Register of Companies or
 - c. where applications have been filed for obtaining Dormant Status under section 455 of the Companies Act, 2013
 - d. to vanishing companies.
- (x) After granting the immunity, the Registrar concerned shall withdraw the prosecution(s) pending if any before the concerned Court(s);
- (xi) **Scheme for Inactive Companies:** The defaulting inactive companies, while filing due documents under CLSS-2014 can, simultaneously, either:
- a. apply to get themselves declared as Dormant Company under section 455 of the Companies Act, 2013 by filing e-form MSC-1 at 25% of the fee for the said form; OR
 - b. apply for striking off the name of the company by filing e- Form FTE at 25% of the fee payable on form FTE
- (xii) **Applicability of clause (a) sub-section {2} of Companies Act, 2013 in case of companies availing the Scheme:-** In case of defaulting companies which avail of this Scheme and file all belated documents, the provisions of clause (a) of subsection (2) of section 164 of the Companies Act, 2013 shall apply only for the prospective defaults, if any, by such companies.
7. At the conclusion of the Scheme, the Registrar shall take necessary action under the Companies Act, 1956/ 2013 against the companies who have not availed this Scheme and are in default in filing these documents in a timely manner.

Yours faithfully,

Sd/-

(KMS Narayanan)
Assistant Director
23387263

General Circular No. 32/2014

No.1/25/13-CL-V

Government of India

Ministry of Corporate Affairs

5th Floor, A Wing, Shastri Bhavan
Dr R.P. Road, New Delhi.

Dated: - 23rd July, 2014

To

All Regional Directors
All Registrars of Companies
All Stakeholders

**Subject: Clarification on transitional period for resolutions passed
Under the Companies Act, 1956.**

Sir,

It has been brought to the notice of the Government that many companies have passed resolutions during financial year 2013-14 under the relevant provisions of the Companies Act, 1956 (Old Act) which are/were at different stages of implementation after coming into force of corresponding provisions of the new Companies Act, 2013 (New Act). Ministry has received suggestions that while section 6 of the General Clauses Act, 1897 protects the validity of such resolutions, it will be advisable if a suitable communication is also issued in the matter by the Ministry by way of abundant caution

2. The matter has been examined in the light of similar issues clarified earlier. It is clarified that resolutions approved or passed by companies under relevant applicable provisions of the Old Act during the period from 1st September, 2013 to 31st March, 2014, can be implemented, in accordance with provisions of the Old Act, notwithstanding the repeal of the relevant provision subject to the conditions (a) that the implementation of the resolution actually commenced before 1st April, 2014 and (b) that this transitional arrangement will be available upto expiry of one year from the passing of the resolution or six months from the commencement of the corresponding provision in New Act whichever is later. It is also clarified that any amendment of the resolution must be in accordance with the relevant provision of the New Act.

This issues with the approval of the competent authority.

Yours faithfully

Sd/-

(KMS Narayanan)

Assistant Director (Policy)

23387263

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website
2. Guard File

10

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 17th July, 2014

G.S.R. 506(E). – In exercise of the powers conferred by sub-section (1) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Miscellaneous) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Miscellaneous) Amendment Rules, 2014.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Companies (Miscellaneous) Rules, 2014 after rule 10, the following rule shall be inserted, namely:—

“11. Applications or forms pending before Central Government, Regional Director or Registrar of Companies.- Any application or form filed with the Central Government or Regional Director or Registrar (hereinafter referred to as ‘the authority’) prior to the commencement of these rules but not disposed of by such authority for want of any information or document shall, on its submission, to the satisfaction of the authority, be disposed of in accordance with the rules made under the Companies Act, 1956 (1 of 1956).”

[F. No. 1/25/2013-CL-V]

AMARDEEP SINGH BHATIA
Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), vide number G.S.R 253 (E), dated the 31st March, 2014.

11

MINISTRY OF CORPORATE AFFAIRS NOTIFICATION

New Delhi, the 13th June, 2014

S.O. 1524(E).— In exercise of powers conferred by section 448 of the Companies Act, 1956 (1 of 1956), the Central Government hereby establish the office of the Official Liquidator at Hyderabad having territorial jurisdiction for the purposes of the said Act for discharging the functions of the Official Liquidator in the whole State of Telengana and appoints the Official Liquidator at Hyderabad as Official Liquidator for the liquidation of companies under the said Act in the State of Telengana.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[F. No. 7/4/20H-CL.I(A)]

AMARDEEP SINGH BHATIA,
Jt. Secy.

12

MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the 13th June, 2014

S.O. 1525(E).— In exercise of powers conferred by sub-section (1) and sub-section (2) of Section 396 of the Companies Act, 2013 (18 of 2013), the Central Government hereby establish the office of the Registrar of Companies at Hyderabad having territorial jurisdiction in the whole State of Telengana for discharging the functions of the Registrar of Companies under the various provisions of the said Act and appoints the Registrar of Companies, Hyderabad as Registrar of Companies for the purpose of registration of companies under the said Act in the State of Telengana.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[F. No. 7/4/2014-CL.I (B)]

Sd/-
AMARDEEP SINGH BHATIA
Jt. Secy.

13

MINISTRY OF CORPORATE AFFAIRS
ORDER

New Delhi, the 6th June, 2014

S.O. 1460 (E).- In exercise of the powers conferred by sub-section (1) of Section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order, namely:-

1. (1) This Order may be called the Companies (Removal of Difficulties) Fourth Order, 2014.

(2) It shall come into force from the date of notification in the Official Gazette.

2. Jurisdiction, powers, authority and functions of Company Law Board.- Until a date is notified by the Central Government under sub-section (1) of Section 434 of the Companies Act, 2013 (18 of 2013), the Company Law Board constituted in pursuance of sub-section (1) of Section 10E of the Companies Act, 1956 (1 of 1956) shall exercise the jurisdiction, powers, authority and functions of the Tribunal under sub-section (2) of Section 74 of the said Act.

[F. No. 1/8/2013-CL-V]

AMARDEEP SINGH BHATIA
Jt. Secy.

14

MINISTRY OF CORPORATE AFFAIRS**ORDER**

New Delhi, the 2nd June, 2014

S.O.1429(E).- In exercise of the powers conferred by sub-section (1) of Section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order namely:-

1. (1) This Order may be called the Companies (Removal of Difficulties) Third Order, 2014.
(2) It shall come into force at once.

2. Jurisdiction, powers, authority and functions of Company Law Board.- Until the National Company Law Tribunal is constituted under Section 408 of the Companies Act, 2013 (18 of 2013), the Board of company Law Administration constituted in pursuance of sub-section (1) of Section 10E of the Companies Act, 1956 (1 of 1956) shall exercise the jurisdiction, powers, authority and functions under the first proviso to clause (41) of Section 2 of the Companies Act, 2013 (18 of 2013).

[F. No. 2/9/2014-CL-V]

AMARDEEP SINGH BHATIA
Jt. Secy.

15

MINISTRY OF CORPORATE AFFAIRS**ORDER**

New Delhi, the 2nd June, 2014

S.O.1428(E).- In exercise of the powers conferred by sub-section (1) of Section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove certain difficulties that have arisen in giving effect to the provisions of Section 73 of the said Act, namely:-

1. (1) This order may be called the Companies (Removal of Difficulties) Second Order, 2014.
(2) It shall come into force at once.

2. Jurisdiction, Powers, authority and functions of Company Law Board.- Until a date is notified by the Central Government under sub-section (1) of section 434 of the Companies Act, 2013 (18 of 2013), the Company Law Board constituted in pursuance of sub-section (1) of Section 10E of the Companies Act, 1956 (1 of 1956) shall exercise the jurisdiction, powers, authority and functions under sub-section (4) of Section 73 of the Companies Act, 2013 (18 of 2013).

[F. No. 2/8/2014-CL-V]

AMARDEEP SINGH BHATIA,
Jt. Secy.

16

MINISTRY OF CORPORATE AFFAIRS**CORRIGENDUM**

New Delhi, the 27th May, 2014

S.O. 1406 (E). – In the notification of the Government of India in the Ministry of Corporate Affairs S.O. 1177(E), dated the 29th April, 2014 published in the Gazette of India, Extraordinary, Part II, Section 3 of sub-section (ii) dated 30th April 2014, in line six, for “(1) This order may be called the Companies (Removal of Difficulties) Second Order, 2014” read “ (1) This order may be called the Companies (Removal of Difficulties) Order, 2014”.

[F. No. 2/6/2014-CL-V]

AMARDEEP SINGH BHATIA*Jt. Secy.*

17

NOTIFICATION

New Delhi, the 21st May, 2014

S.O. 1352(E).— In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, Ministry of Corporate Affairs, dated the 10th July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide number S.O. 1539(E), dated the 10th July, 2012, in so far as it relates to items (a) to (f) and item (n), except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates to the Regional Directors at Mumbai, Kolkata, Chennai, Noida, Ahmedabad, Hyderabad and Shillong, the power and functions vested in it under the following sections of the said Act, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said sections, if in its opinion such a course of action is necessary in the public interest, namely :—

- (a) clause (i) of sub-section (4) of Section 8 (for alteration of memorandum in case of conversion into another kind of company);
- (b) sub-section (6) of Section 8;
- (c) sub-sections (4) and (5) of Section 13;
- (d) Section 16;
- (e) Section 87;
- (f) sub-section (3) of Section 111;
- (g) sub-section (1) of Section 140; and
- (h) Proviso (i) to sub-section (1) of Section 399.

2. This notification shall come into force with effect from the date of its publication in the Official Gazette.

[F.No. 1/6/2014-CL.-V]

Sd/-

AMARDEEP SINGH BHATIA*Jt. Secy.*

18

MINISTRY OF CORPORATE AFFAIRS NOTIFICATION

New Delhi, the 21st May, 2014

S.O. 1354(E). – In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, Ministry of Corporate Affairs, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), *vide* number G.S.R. 650(E), dated the 19th October, 2006 except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates the powers and functions of the Central Government in respect of allotment of Director Identification Number under Sections 153 and 154 of the said Act to the Regional Director, Joint Director, Deputy Director or Assistant Director posted in the office of Regional Director at Noida.

2. This notification shall come into force with effect from the date of its publication in the Official Gazette.

[F. No. 1/6/2014-CL-V]

Sd/-

AMARDEEP SINGH BHATIA*Jt. Secy.*

19

MINISTRY OF CORPORATE AFFAIRS NOTIFICATION

New Delhi, the 21st May, 2014

S.O. 1353 (E).—In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, Ministry of Corporate Affairs, dated the 10th July, 2012, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) *vide* number S.O. 1538 (E), dated the 10th July, 2012, in so far as it relates to items (a) to (b) and items (d) to (e), except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates to the Registrar of Companies, the power and functions vested in it under the following sections of the said Act, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers and functions under the said sections, if in its opinion, such a course of action is necessary in the public interest, namely:—

- (a) sub-section (2) of Section 4;
- (b) sub-section (1) of Section 8;
- (c) clause (i) of sub-section (4) of Section 8, except for alteration of memorandum in case of conversion into another kind of company;
- (d) sub-section (5) of Section 8; and
- (e) sub-section (2) of Section 13.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[F.No. 1/6/2014-CL-V]

Sd/-

AMARDEEP SINGH BHATIA*Jt. Secy.*

Nomenclature of various forms prescribed under the provisions of Companies Act, 2013 being notified

In order to facilitate easy understanding of the e-forms being rolled out under the provisions of Companies Act, 2013 and Rules made thereunder, the stakeholders are hereby informed that unlike numbering of various forms under the Companies Act, 1956, forms under the new Act are mandatorily numbered alpha-numeric. Initial of forms is to be started with alphabet of two or three letters based on the subject of the Chapter, followed by serial number of the form. This will define the nature of the forms and would be easy to recognise.

There are total 29 chapters under the Companies Act, 2013. Chapters I and XXIII have been notified but no form is prescribed under these chapters. Following table is the summary of chapter wise nomenclature of forms

<i>SI no</i>	<i>Chapter No</i>	<i>Particulars of chapter</i>	<i>Form no start with</i>	<i>Remarks</i>
01	II	INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO	INC	Alphabet followed by numeric number
02	III	PROSPECTUS AND ALLOTMENT OF SECURITIES	PAS	
03	IV	SHARE CAPITAL AND DEBENTURES	SH	
04	V	ACCETANCE OF DEPOSIT BY COMPANIES	DPT	
05	VI	CHARGES	CHG	
06	VII	MANAGEMENT AND ADMINISTRATION	MGT	
07	VIII	DECLARATION ANY PAYMENT OF DIVIDEND	DIV	
08	IX	ACCOUNTS OF COMPANIES	AOC	
09	X	AUDIT AND AUDITORS	ADT	
10	XI	APPOINTMENT AND QUALIFICATIONS OF DIRECTORS	DIR	
11	XII	MEETINGS OF BOARD AND ITS POWERS	MBP	
12	XIII	APPOINTMENT AND REMUNERATION OF PERSONNEL	MR	
13	XXI	COMPANIES AUTHORISED TO REGISTER UNDEDR THIS ACT	URC	

14	XXII	COMPANIES INCORPORATED OUTSIDE INDIA	FC
15	XXIV	REGISTRATION OFFICES AND FEES	GNL
16	XXVI	NIDHIS	NDH
17	XXVIII	SPECIAL COURT	MAC
18	XXIX	MEMORANDUM OF APPEAL	ADJ
19	XXIX	MISCELLANEOUS	MSC

The stakeholders are further informed that a separate roll out plan of chapter wise e-forms will be available on the website on or before 31/03/2014. For further details please visit Ministry website www.mca.gov.in.

Circular No. 07/2014

F.No. 02/01/2014 CL-V
Ministry of Corporate Affairs
Government of India

Wing 5th Floor, Shastri Bhawan
Dr. RP Road, New Delhi-01

Dated: - 1st April, 2014

To,

All Registrars of Companies
All Regional Directors
All Stakeholders

Sub: - Dissemination of Information with regards to provisions of the Companies Act, 2013 as notified till date vis-a-vis the corresponding provisions of the Companies Act, 1956.

Sir,

As you are aware that the Ministry had already notified 99 Sections on 12.09.2013 and 183 Sections of the Companies Act, 2013 are notified w.e.f. 01.04.2014. Certain corresponding Sections and parts of certain Section of the companies Act, 1956 shall continue in force. A table indicating the provisions of the Companies Act, 2013 so notified, corresponding provisions of Companies Act, 1956 and corresponding provisions of Companies Act, 1956 which shall remain in force is enclosed for dissemination for all stakeholders.

Encl: As above.

Yours faithfully,

Sd/-

(KMS. Narayanan)
Assistant Director
23387263

MINISTRY OF CORPORATE AFFAIRS**ORDER**

New Delhi, the 20th September, 2013.

S.O. 2821(E).—Whereas the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on 29th August, 2013 and section 1 thereof came into force on the same date;

And whereas the provisions contained in section 24, section 58 and section 59 of the said Act have come into force on the 12th day of September, 2013;

And whereas section 24 provides for exercise of certain powers regarding prospectus, return of allotment, redemption of preference shares and other matters specifically provided in the said Act by the Central Government, Tribunal or the Registrar;

And whereas section 58 and section 59 of the said Act provide for certain powers of the Tribunal which deal with hearing of an appeal against the refusal of registration or rectification of name of members in the register of members of a company respectively;

And whereas the constitution of the Tribunal after following the procedure specified under Chapter XXVII of the said Act is likely to take some time;

And whereas the provisions of section 55A, section 111 and section 111A of the Companies Act, 1956 (1 of 1956) which correspond to section 24, section 58 and section 59 of the said Act confer abovesaid powers on the Company Law Board constituted under the Companies Act, 1956;

And whereas difficulties have arisen regarding compliance with the provisions of section 24, section 58 and section 59 of the said Act in so far as they relate to exercise of certain powers by the Tribunal during the period it is duly constituted under the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the above said difficulties, namely:-

1. **Short title and commencement.-**

(1) This Order may be called the Companies (Removal of Difficulties) Order, 2013.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. **Continuance of matters, proceedings or cases before the Company Law Board until their transfer to the Tribunal under section 434.-**

It is hereby clarified that until a date is notified by the Central Government under sub-section (1) of section 434 of the Companies Act, 2013 (18 of 2013) for transfer of all matters, proceedings or cases to the Tribunal constituted under Chapter XXVII of the said Act, the Board of Company Law Administration shall exercise the powers of the Tribunal under sections 24, 58 and section 59 in pursuance of the second proviso to sub-section (1) of section 465 of the said Act.

[F.No.1/15/2013-CL-V]

RENUKA KUMAR

Jt. Secy.

Table containing provisions of Companies Act, 2013 as notified up to date and corresponding provisions thereof under Companies Act, 1956

Note : This is a ready reckoner for the information of stakeholders. Please refer to the relevant notifications and circulars issued separately,

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
1.	Section 2		
	Clause (1)	2(1)	Nil
	Clause (2)	211(3C)	Nil
	Clause (3)	2(1A)	Nil
	Clause (4)	2(1B)	Nil
	Clause (5)	2(2)	Nil
	Clause (6)	Nil	Nil
	Clause (7)	Nil	Nil
	Clause (8)	Nil	Nil
	Clause (9)	2(5)	Nil
	Clause (10)	2(6); 252(3)	Nil
	Clause (11)	2(7)	Nil
	Clause (12)	2(8)	Nil
	Clause (13)	209(1)	Nil
	Clause (14)	2(9)	Nil
	Clause (15)	Nil	Nil
	Clause (16)	124	Nil
	Clause (17)	Explanation to section 33(2)	Nil
	Clause (18)	Nil	Nil
	Clause (19)	Nil	Nil
	Clause (20)	2(10) and 3	Nil
	Clause (21)	2(23) and 12(2)(b)	Nil
	Clause (22)	2(23) and 12(2)(a)	Nil
	Clause (24)	2(45)	Nil
	Clause (25)	2(45A)	Nil

S. No.	Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)	Corresponding provisions of Companies Act, 1956	Corresponding provisions of Companies Act, 1956 continue to remain in force
	Clause (26)	Nil	428 The term 'Contributory' shall continue for the purposes winding up,
	Clause (27)	Nil	Nil
	Clause (28)	233B (1)	Nil
	Clause (29)(except sub-clause (iv))	2(11), 2(14), 10	622
	Clause (30)	2(12)	Nil
	Clause (31)	Explanation to 58A (11)	Nil
	Clause (32)	2(12A)	Nil
	Clause (33)	2(128)	Nil
	Clause (34)	2(13)	Nil
	Clause (35)	2(14A)	Nil
	Clause (36)	2(15)	Nil
	Clause (37)	2(15A)	Nil
	Clause (38)	59(2)	Nil
	Clause (39)	Nil	Nil
	Clause (40)	Nil	Nil
	Clause (41) [except first proviso]	2(17)	Nil
	Clause (42)	Nil	Nil
	Clause (43)	Explanation to section 2(29A)	Nil
	Clause (44)	Nil	Nil
	Clause (45)	2(18), 617	Nil
	Clause (46)	2(19), 4	Nil
	Clause (47)	Nil	Nil
	Clause (48)	Nil	Nil
	Clause (49)	Nil	Nil
	Clause (50)	Nil	Nil
	Clause (51)	Nil	Nil
	Clause (52)	2(23A)	Nil
	Clause (53)	2(24)	Nil
	Clause (54)	2(26)	Nil
	Clause (55)	2(27), 41	Nil
	Clause (56)	2(28)	Nil

S. No.	Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)	Corresponding provisions of Companies Act, 1956	Corresponding provisions of Companies Act, 1956 continue to remain in force
	Clause (57)	2(29A)	Nil
	Clause (58)	Nil	Nil
	Clause (59)	2(30)	Nil
	Clause (60)	2(31), 5, 7	Nil
	Clause (61)	Nil	448
	Clause (62)	Nil	Nil
	Clause (63)	Nil	Nil
	Clause (64)	2(32)	Nil
	Clause (65)	Explanation to section 192A	Nil
	Clause (66)	2(33)	Nil
	Clause (67)[except sub-clause (ii)]	2(34)	Nil
	Clause (68)	2(35)	Nil
	Clause (69)	Explanation (a) to section 62(6)	Nil
	Clause (70)	2(36)	Nil
	Clause (71)	2(37)	Nil
	Clause (72)	4A	Nil
	Clause (73)	2(39)	Nil
	Clause (74)	Nil	Nil
	Clause (75)	2(40)	Nil
	Clause (76)	Nil	Nil
	Clause (77)	2(41), 6 and schedule IA	Nil
	Clause (78)	Explanation to 198	Nil
	Clause (79)	2(42)	Nil
	Clause (80)	2(43)	Nil
	Clause (31)	2(45AA)	Nil
	Clause (82)	2(45B)	Nil
	Clause (83)	Nil	Nil
	Clause (84)	2(46)	Nil
	Clause (85)	Nil	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
	Clause (86)	Nil	Nil
	Clause (87)	2(47), 4	Nil
	Clause (88)	Explanation II to Section 79A	Nil
	Clause (89)	2(48)	Nil
	Clause (90)	2(49A)	Nil
	Clause (91)	Nil	Nil
	Clause (92)	12(2)(c)	Nil
	Clause (93)	Nil	Nil
	Clause (94)	Explanation to Section 269	Nil
	Clause (95)	2(31A), 2A	Nil
2.	Section 3	12	Nil
3.	Section 4	13,14,15,15A,15B, 20,37	Nil
4.	Section 5	26,27,28,29,30	Nil
5.	Section 6	9	Nil
6.	Section 7 (except sub-section (7))	33,34(1),35	Nil
7.	Section 8 except sub-section (9)	25	Nil
8.	Section 9	34(2)	Nil
9.	Section 10	36	Nil
10.	Section 11	149	Nil
11.	Section 12	17A, 146,147	Nil
12.	Section 13	16,17,18,19,21,23	Nil
13.	Section 14 (except second proviso to subsection (1) and sub-section (2))	31 (except proviso to sub-section (1) and Sub-section (2A); 43	Proviso to sub- section (1) of section 31; sub- section (2A) of Section 31
14.	Section 15	40	Nil
15.	Section 16	22	Nil
16.	Section 17	39	Nil
17.	Section 18	32	Nil
18.	Section 19	42	Nil
19.	Section 20	51,52,53	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
20.	Section 21	54	Nil
21.	Section 22	47,48	Nil
22.	Section 23	67	Nil
23.	Section 24	55A	Nil
24.	Section 25	64	Nil
25.	Section 26	55,56,57,58,59,60 Sch.II	Nil
26.	Section 27	61	Nil
27.	Section 28	Nil	Nil
28.	Section 29	68 B	Nil
29.	Section 30	66	Nil
30.	Section 31	68	Nil
31.	Section 32	60B	Nil
32.	Section 33	56(3)	Nil
33.	Section 34	63	Nil
34.	Section 35	62	Nil
35.	Section 36	68	Nil
36.	Section 37	Nil	Nil
37.	Section 38	68A	Nil
38.	Section 39	69,75	Nil
39.	Section 40	73,76	Nil
40.	Section 41	Nil	Nil
41.	Section 42	67	Nil
42.	Section 43	2(46A), 85, 86	Nil
43.	Section 44	82	Nil
44.	Section 45	83	Nil
45.	Section 46	84	Nil
46.	Section 47	87	Nil
47,	Section 49	91	Nil
48.	Section 50	92	Nil
49.	Section 51	93	Nil
50.	Section 52	78	Nil
51.	Section 53	79	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
52.	Section 54	79A	Nil
53.	Section 55 except sub-section (3)	80 and 80A (except Proviso to section 80A(1) and section 80A(2)}	Proviso to section 80A(1) and section 80A(2)
54.	Section 56	108,108A to 108 I, 109,110,113	Nil
55.	Section 57	116	Nil
56.	Section 58	111	Nil
57.	Section 59	111A	Nil
58.	Section 60	148	Nil
59.	Section 61 except proviso to clause (b) of sub-section (1)	94	Nil
60.	Section 62 except sub-sections (4) to (6)	81 except sub-sections (4) to (7)	sub-sections (4) to (7) of section 81 and section 94A
61.	Section 63	Proviso to 205 (3)	Nil
62.	Section 64	94A(3), 95,97	Nil
63.	Section 65	98	Nil
64.	Section 67	77	Nil
65.	Section 68	77A	Nil
66.	Section 69	77AA	Nil
67.	Section 70	77B	Nil
68.	Section 71 except sub-sections (9)to (11)	117,117A,117B,117C, 118,119, 122 and 117C(4) and (5) Except 117B(4) and 117C (4) and (5)	117B(4)
69.	Section 72	109A,109B	Nil
70,	Section 73	58A, 58AA, 58AAA, 58B, 59	Nil
71.	Sub-section (1) of section 74	Nil	Nil
72.	Section 76	58A	Nil
73.	Section 77	125,128, 129,132, 133, 145	Nil
74.	Section 78	134	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
75.	Section 79	127,135	Nil
76.	Section 80	126	Nil
77.	Section 81	130	Nil
78.	Section 82	138	Nil
79.	Section 83	139,140	Nil
80.	Section 84	137	Nil
81.	Section 85	131,136,143,144	Nil
82.	Section 86	142	Nil
83.	Section 87	141	Nil
84.	Section 88	150,151,152,152A, 153,153A, 153B, 157,158	Nil
85.	Section 89	187C	Nii
86.	Section 90	187D	Nil
87.	Section 91	154	Nil
88.	Section 92	159,160,161,162,SchV	Nil
89.	Section 93	Nil	Nil
90.	Section 94	163	Nil
91.	Section 95	164	Nil
92.	Section 96	165,166, 170	Nil
93.	Section 100	169 (9)	Nil
94.	Section 101	171,172	Nil
95.	Section 102	173	Nil
96.	Section 103	174	Nil
97.	Section 104	175	Nil
98.	Section 105	176, Schedule IX	Nil
99.	Section 106	181,182,183	Nii
100.	Section 107	177, 178	Nii
101.	Section 108	Nil	Nil
102.	Section 109	179,180,184,185	Nil
103.	Section 110	192A	Nil
104.	Section 111	183	Nil
105.	Section 112	187A, 187B	Nil
106.	Section 113	187	Nil
107.	Section 114	189	Nil
108.	Section 115	190	Nil
109.	Section 116	191	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
110.	Section 117	192	Nil
111.	Section 118	193,194,195,197	Nil
112.	Section 119 [except subsection (4)]	196	Nil
113.	Section 120	Nil	Nil
114.	Section 121	Nil	Nil
115.	Section 122	Nil	Nil
116.	Section 123	Section 205 Sub-section (3) of section 205A	Nil
		Section 206	
117.	Section 126	206A	Nil
118.	Section 127	207	Nil
119.	Section 128	209	
		214	Nil
120.	Section 129	210,211,212,213, 221,222, 223	Nil
121.	Section 133	211 (3C)	Nil
122.	Section 134	215,216,217,218	Nil
123.	Section 135	Nil	Nil
124.	Section 136	219	Nil
125.	Section 137	220	Nil
126.	Section 138	Nil	Nil
127.	Section 139	224, 224A, 619	Nil
128.	Section 140 [except second proviso to sub-section (4) and sub-section (5)]	225 except proviso to sub-section (3)	Proviso to sub- section (3) of section 225
129.	Section 141	226	Nil
130.	Section 142	224(8)	Nil
131.	Section 143	227, 228, 263A	Nil
132.	Section 144	Nil	Nil
133.	Section 145	229,230	Nil
134.	Section 146	231	Nil
135.	Section 147	232, 233, 233A	Nil
136.	Section 148	233B	Nil
137.	Section 149	252, 253, 258, 259	Nil
138.	Section 150	Nil	Nil

S. No.	Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)	Corresponding provisions of Companies Act, 1956	Corresponding provisions of Companies Act, 1956 continue to remain in force
139.	Section 151	Proviso to sub-section (1) of section 252	Nil
140	Section 152	254,255,256,264	Nil
141	Section 153	266A	Nil
142	Section 154	266B	Nil
143	Section 155	266C	Nil
144	Section 156	266D	Nil
145	Section 157	266E	Nii
146	Section 158	266F	Nil
147	Section 159	266G	Mil
148	Section 160	257	Nil
149	Section 161	260,262,313	Nil
150	Section 162	263	Nil
151	Section 163	265	Nil
152	Section 164	202. 274	Nil
153	Section 165	275,276,277,278,279	Nil
154	Section 166	312	Nil
155	Section 167	283	Nil
156	Section 168	Nil	Nil
157	Section 169 except sub-section (4)	284 except sub-section (4)	Sub-section (4) of section 284
158	Section 170	303, 307	Nil!
159	Section 171	304	Nil
160	Section 172	Nil	Nil
161	Section 173	285, 286	Nil
162	Section 174	287, 288	Nil
163	Section 175	289	Nil
164	Section 176	290	Nil!
165	Section 177	292A	Nil
166	Section 178	Nil	Nil
167	Section 179	Section 291 Section 292	Nil
168	Section 180	293	Nil
169	Section 181	Nil	Nil
170	Section 182	293A	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
171	Section 183	293B	Nil
172	Section 184	299, 305	Nii
173	Section 185	295, 296	Nil
174	Section 186	372A	Nil
175	Section 187	49	Nil
176	Section 188	294, 294A, 294AA, 297, 314	Nil
177	Section 189	301	Nil
178	Section 190	302	Nil
179	Section 191	319,320,321	Nil
180	Section 192	Nil	Nil
181	Section 193	Nil	Nil
182	Section 194	Ni!	Ni!
183	Section 195	Nil	Nil
184	Section 196	197A, 267, 311,317, 384, 385,388	Nil
185	Section 197	198,201,309,310,387	Nil
186	Section 198	349	Nil
187	Section 199	Nil	Ni!
18S	Section 200	637AA	Nil
189	Section 201	640B	Nil
190	Section 202	318	Nil
191	Section 203	269,316,386	Nil
192	Section 204	Nil	Nil
193	Section 205	Nil	Nil
194	Section 206	234 [except sub-section (8)]	Nil
195	Section 207	209A	Nil
196	Section 208	Nil	Nil
197	Section 209	234A	Nil
198	Section 210	235	Nil

S. No.	Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)	Corresponding provisions of Companies Act, 1956	Corresponding provisions of Companies Act, 1956 continue to remain in force
199	Section 211	Nil	Nil
200	Section 212 [except sub-section (8) to (10)]	Nil	Nil
201	Section 214	236	Nil
202	Section 215	238	Nil
203	Section 216 [except sub-section (2)]	247 [except sub-section 1A]	Sub-section (1A) of section 247
204	Section 217	240	Nil
205	Section 219	239	Nil
206	Section 220	240A	Nil
207	Section 223	241, 246	Nil
208	Section 224 [except sub-section (2) and (5)]	242, 244	Section 243
209	Section 225	245	Nil
210	Section 228	Sub-section (8) of Section 234	Nil
211	Section 229	Nil	Nil
212	Section 366	565	Nil
213	Section 367	574	Nil
214	Section 368	575	Nil
215	Section 369	576	Nil
216	Section 370 [except proviso]	Section 577 except proviso	Proviso to section 577
217	Section 371	Section 578	Nil
218	Section 374	Nil	Nil
219	Section 379	Nil	Nil
220	Section 380	592, 593	Nil
221	Section 381	594	Nil
222	Section 382	595	Nil
223	Section 383	596	Nil
224	Section 384	600	Nil
225	Section 385	601	Nil
226	Section 386	602	602
227	Section 387	603	Nil
228	Section 388	604	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
229	Section 389	605	Nil
230	Section 390	605A	Nil
231	Sub-section (1) Section 391	607	Nil
232	Section 392	598, 606	Nil
233	Section 393	599	Nil
234	Section 394	619A	Nil
235	Section 395	Nil	Nil
236	Section 396	609	Nil
237	Section 397	610 A	Nil
238	Section 398	610B	Nil
239	Section 399 except reference of word Tribunal in sub-section (2)	610	Nil
240	Section 400	Nil	Nil
241	Section 401	610D	Nil
242	Section 402	610E	Nil
243	Section 403	611, Schedule X	Nil
244	Section 404	612	Nil
245	Section 405	615	Nil
246	Section 406	620A	Nil
247	Section 407	Explanation to 10FD	Nil
248	Section 408	10FB, 10FC	Nil
249	Section 409	10FD	Nil
250	Section 410	10FR	Nil
251	Section 411	Nil	Nil
252	Section 412	10FX	Nil
253	Section 413	10FE, 10FT	Nil
254	Section 414	10FG, 10FW	Nil
255	Section 439	621, 624	Nil
256	Section 442	Nil	Nil
257	Section 443	624A	Nil
258	Section 444	624B	Nil
259	Section 445	Nil	Nil
260	Section 446	626	Nil
261	Section 447	Nil	Nil

<i>S. No.</i>	<i>Provisions of Companies Act, 2013 as notified (98+1+183= 282 Sections)</i>	<i>Corresponding provisions of Companies Act, 1956</i>	<i>Corresponding provisions of Companies Act, 1956 continue to remain in force</i>
262	Section 448	628	Nil
263	Section 449	629	Nil
264	Section 450	629A	Nil
265	Section 451	Nil	Nil
266	Section 452	630	Nil
267	Section 453	631	Nil
268	Section 454	Nil	Nil
269	Section 455	Nil	Nil
270	Section 456	635A	Nil
271	Section 457	635AA	Nil
272	Section 458	637	Nil
273	Section 459	637AA	Nil
274	Section 460	637 B	Nil
275	Section 461	638	Nil
276	Section 462	Nil	Nil
277	Section 463	633	Nil
278	Section 464	11	Nil
279	Section 467	641	Nil
280	Section 468	643	Nil
281	Section 469	642	Nil
282	Section 470	Nil	Nil
	Schedule I	Schedule 1	Nil
	Schedule II	Schedule XIV	Nil
	Schedule III	Schedule VI	Nil
	Schedule IV	Nil	Nil
	Schedule V	Schedule XIII	Nil
	Schedule VI	Nil	Nil
	Schedule VII	Nil	Nil

Schedule II

The schedule deals with computation of depreciation.

So far following notifications have been issued in order to amend the schedule:

1. Notification G.S.R. 237(E) dated 31st March, 2014
2. Notification G.S.R. 627(E) dated 29th August, 2014

1

MINISTRY OF CORPORATE AFFAIRS NOTIFICATION

New Delhi, the 31st March, 2014

G.S.R.. 237 (E).—In exercise of the powers conferred by sub-section (2) of Section 123 read with sub-sections (1) of Section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following alterations to Schedule II to the said Act, namely:—

1. **In Schedule II,—**

(1) in Part 'A', in Para 3, for sub-paragraphs (i) to (iii), the following sub-paragraphs shall be substituted, namely:—

“10 The useful life of an asset shall not be longer than the useful life specified in Part 'C' and the residual value of an asset shall not be more than five per cent of the original cost of the asset:

Provided that where a company uses a useful life or residual value of the asset which is different from the above limits, justification for the difference shall be disclosed in its financial statement,

“(ii) For intangible assets, the provisions of the accounting standards applicable for the time being in force shall apply, except in case of intangible assets (Toll Roads) created under 'Build, Operate and Transfer', 'Build, Own, Operate and Transfer' or any other form of public private partnership route in case of road projects. Amortisation in such cases may be done as follows:—

Projected Revenue from Intangible Asset (till the end of the concession period) (C)

(a) **Mode of amortization**

$$\text{Amortisation Rate} = \frac{\text{Amortisation Amount}}{\text{Cost of Intangible Assets (A)}} \times 100$$

Amortisation Amount

$$= \text{Cost of Intangible Assets (A)} \times \frac{\text{Actual Revenue for the year (B)}}{\text{Projected Revenue from Intangible Asset (till the end of the concession period)(C)}} \times 100$$

(b) Meaning of particulars are as follows :

Cost of Intangible Assets (A) = Cost incurred by the company in accordance with the accounting standards.

Actual Revenue for the year (B) = Actual revenue (Toll Charges) received during the accounting year.

Projected Revenue from Intangible Asset (C) = Total projected revenue from the Intangible Assets as provided to the project lender at the time of financial closure /agreement.

The amortisation amount or rate should ensure that the whole of the cost of the intangible asset is amortised over the concession period.

Revenue shall be reviewed at the end of each financial year and projected revenue shall be adjusted to reflect such changes, if any, in the estimates as will lead to the actual collection at the end of the concession period.

(c) Example:—

Cost of creation of Intangible Assets : Rs. 500 Crores
 Total period of Agreement : 20 Years
 Time used for creation of Intangible Assets : 2 Years
 Intangible Assets to be amortised in : 18 Years

Assuming that the Total revenue to be generated out of Intangible Assets over the period would be Rs. 600 Crores, in the following manner:—

<i>Year No.</i>	<i>Revenue (In Rs. Crores)</i>	<i>Remarks</i>
Year 1	5	Actual
Year 2	7.5	Estimate
Year 3	10	Estimate
Year 4	12.5	Estimate
Year 5	17.5	Estimate
Year 6	20	Estimate
Year 7	23	Estimate
Year 8	27	Estimate
Year 9	31	Estimate
Year 10	34.	Estimate

Year 11	38	Estimate
Year 12	41	Estimate
Year 13	46	Estimate
Year 14	50	Estimate
Year 15	53	Estimate
Year 16	57	Estimate
Year 17	60	Estimate *
Year 18	67.5	Estimate *
Total	600	

'*' will be actual at the end of financial year.

Based on this the charge for first year would be Rs. 4.16 Crore (approximately) (i.e. Rs. 5/Rs. 600 x Rs. 500 Crores) which would be charged to profit and loss and 0.83% (i.e. Rs. 4.16 Crore/ Rs. 500 Crore x 100) is the amortisation rate for the first year.

Where a company arrives at the amortisation amount in respect of the said Intangible Assets in accordance with any method as per the applicable Accounting Standards, it shall disclose the same".

(2) in Part 'C', in Para 5, in item IV. in sub-item (i), for clause (b), the following clause shall be substituted, namely:—

"(b) Continuous process plant for which no special rate has been prescribed 25 years".
Under (ii) below [NESD]

(3) Under the heading 'Notes', appearing after Part "C' paragraph 5 shall be omitted.

2. "This notification shall come into force with effect from 01 April, 2014.

[F. No. 17/60/2012-CL-V]

Sd/-

RENUKA KUMAR

Jt. Secy

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 29th August, 2014

G.S.R.627(E).- In exercise of the powers conferred by sub section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following amendments further to amend Schedule II of the said Act with effect from the date of publication of this notification in the Official Gazette, namely:-

1. In Schedule II of the Companies Act, 2013,-

(a) in Part 'A', in paragraph 3, for sub- paragraph (i), the following sub-paragraph shall be substituted, namely:-

"(i) The useful life of an asset shall not ordinarily be different from the useful life specified in Part C and the residual value of an asset shall not be more than five percent. of the original cost of the asset:

Provided that where a company adopts a useful life different from what is specified in Part C or uses a residual value different from the limit specified above, the financial statements shall disclose such difference and provide justification in this behalf duly supported by technical advice",.

(b) after Part 'C', under the heading Notes,-

(i) for paragraph 4 the following paragraph shall be substituted namely:-

"4(a) Useful life specified in Part C of the Schedule is for whole of the asset and where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

(b) The requirement under sub- paragraph (a) shall be voluntary in respect of the financial year commencing on or after the 1st April, 2014 and mandatory for financial statements in respect of financial years commencing on or after the 1st April, 2015."

(c) in paragraph 7, in sub-paragraph (b) for the words "shall be recognized", the words "may be recognized" shall be substituted.

[F.NO. A- 17/60/2012- CL-V]

AMARDEEP S. BHATIA

Jt. Secy.

Note : Schedule II of the Companies Act, 2013 came into force with effect from the 1st April, 2014 and was amended (with effect from 1st April, 2014) vide notification S.O. 237(E), dated the 31st March, 2014.

Schedule V

This schedule relates to the conditions to be fulfilled for the appointment of Director

So far the following clarification has been issued:

1. General Circular No. 07/2015 dated 10th April, 2015

I. Remuneration to managerial person under Schedule XII of the Companies Act, 1956 – Transition Period

Issues Involved

Whether the listed companies and their subsidiaries paying remuneration, without approval of Central Government, in excess of limits specified in para II Para (C) of Schedule XIII of Companies Act, 1956 to the managerial person can be continued under Companies Act, 2013?

Clarification Issued

Stakeholders have drawn attention to the provisions of Schedule XIII (sixth proviso to Para (C) of Section 11 of Part II) of the Companies Act, 1956 (Earlier Act) and as clarified vide Circular number 14111/2012-CL-VII dated 16th August, 2012, which allowed listed companies and their subsidiaries to pay remuneration, without approval of Central Government, in excess of limits specified in para II Para (C) of such Schedule if the managerial person met the conditions specified therein.

Similar provisions are not available in the Schedule V of the Companies Act, 2013, stakeholders sought clarification that a managerial person appointed in accordance with such provision of Schedule XIII of Earlier Act may receive relevant remuneration for the period as approved by the company in accordance with such provisions of Earlier Act.

The Ministry of Corporate Affairs in this regard clarified that a managerial person receiving such remuneration may continue to receive remuneration for his remaining term in accordance with terms and conditions approved by company as per relevant provisions of Schedule XIII of earlier Act even if the part of his/her tenure falls after 1st April, 2014.

General Circular No. 07/2015**F. No.1/5/2013-CL-V****Government of India****Ministry of Corporate Affairs**5th Floor, A Wing, Shastri Bhavan,
Dr R.P. Road, New Delhi

Dated: 10th April, 2015

To

All Regional Directors

All Registrars of Companies

All Stakeholders,

Subject: Remuneration to managerial person under Schedule XIII of the Companies Act, 1956-Clarification with regard to payment for period

Sir,

1. Stakeholders have drawn attention to the provisions of Schedule XIII (sixth proviso to Para (C) of Section II of Part II) of the Companies Act, 1956 (Earlier Act) and as clarified vide Circular number 14/11/2012-CL-VII dated 16th August, 2012, which allowed listed companies and their subsidiaries to pay remuneration, without approval of Central Government, in excess of limits specified in para II Para (C) of such Schedule if the managerial person met the conditions specified therein. Stakeholders have expressed that since similar provisions are not available in the Schedule V of the Companies Act, 2013, there is a need for a clarification that a managerial person appointed in accordance with such provision of Schedule XIII of Earlier Act may receive relevant remuneration for the period as approved by the company in accordance with such provisions of Earlier Act.

2. The matter has been examined in the light of earlier clarifications on transitional matters issued by the Ministry. It is clarified that a managerial person referred to in para 1 above may continue to receive remuneration for his remaining term in accordance with terms and conditions approved by company as per relevant provisions of Schedule XIII of earlier Act even if the part of his/her tenure falls after 1st April, 2014.

3. This issues with the approval of the competent authority.

Yours faithfully

(K. M. S.Narayanan)

Assistant Director (Policy)

23347263

Copy to:-

1. e-Governance Section and web contents Officer to place this circular on the Ministry website
2. Guard File.

Schedule VII

(See sections 135)

This Schedule covers activities which may be included by companies in their Corporate Social Responsibility Policies.

So far the following notifications issued for the amendment of Schedule VIII under this chapter:

1. Notification G.S.R. 130(E) dated 31 st March, 2014
2. Notification G.S.R. 261(E) dated 31 st March, 2014
3. Notification G.S.R. (E) dated 6th August , 2014
4. Notification G.S.R. 741(E) dated 24th October, 2014

Before amendment Schedule VII read as under

Activities which may be included by companies in their Corporate Social Responsibility Policies
Activities relating to:—

- (i) eradicating extreme hunger and poverty;
- (ii) promotion of education;
- (iii) promoting gender equality and empowering women;
- (iv) reducing child mortality and improving maternal health;
- (v) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- (vi) ensuring environmental sustainability;
- (vii) employment enhancing vocational skills;
- (viii) social business projects;
- (ix) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- (x) such other matters as may be prescribed.

After amendment Schedule VII read as under:

Activities which may be included by companies in their Corporate Social Responsibility Policies
Activities relating to:—

- “(i) eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water:

- (ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently able and livelihood enhancement projects;
- (iii) Promoting gender equality, empowering women, setting up homes and hostels tor women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups:
- (iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund setup by the Central Government for rejuvenation of river Ganga;
- (v) Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries: promotion and development of traditional arts and handicrafts;
- (vi) Measures for the benefit of armed forces veterans, war widows and their dependents;
- (vii) Training to promote rural sports, nationally recognized sports, Paralympics sports and Olympic sports:
- (viii) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women:
- (ix) Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
- (x) Rural development projects.
- (xi) slum area development

Explanation.—For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force."

The text of the notifications issued under this Chapter appended as under:

1

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 31 st March, 2014

G.S.R. 130(E).— In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act 2013 (8 of 2013), the Central Government hereby makes the following amendments to Schedule VII of the said Act, namely:

(I) In Schedule VII. for items (i) to (x) and the entries relating thereto, the following items and entries shall be substituted, namely ;—

- “(i) eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water:
- (ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently able and livelihood enhancement projects;
- (iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups:
- (iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water;
- (v) Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries: promotion and development of traditional arts and handicrafts;
- (vi) Measures for the benefit of armed forces veterans, war widows and their dependents;
- (vii) Training to promote rural sports, nationally recognized sports, Paralympics sports and Olympic sports:
- (viii) Contribution to the Prime Minister’s National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women:
- (ix) Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
- (x) Rural development projects.

2. This notification shall come into force with effect from 1st April, 2014.

{F. No. 1/18/2013-CL-V}

Sd/-

RENUKA KUMAR

Jt. Secy.

2

MINISTRY OF CORPORATE AFFAIRS**CORRIGENDA**

New Delhi, the 31st March, 2014

G.S.R. 261(E).—In the notification of the Government of India in the Ministry of Corporate Affairs dated the 27th February, 2014 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide G.S.R. No. 130(E), dated the 28th February, 2014 at page 2, line 20 for “promoting preventive health care” read “promoting health care including preventive health care”.

[F.No. 1/18A/2013-CL.V]

RENUKA KUMAR*Jt. Secy.*

3

Ministry of Corporate Affairs**NOTIFICATION**

New Delhi, the 6th August, 2014

G.S.R.568(E).—In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following further amendments in Schedule VII of the said Act, namely:-

(1) In Schedule VII, after item (x), the following item and entry shall be inserted, namely:

“(xi) slum area development.

Explanation.—For the purposes of this item, the term ‘slum area’ shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.”

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F.No.1/18/2013-CL-V]

Sd/-

AMARDEEP S. BHATIA*Joint Secretary to the Government of India*

Note : The Schedule VII was brought into force with effect from 1st April, 2014 and was amended (effective from 1st April, 2014) vide notification number GSR 130(E) dated 27th February, 2014 and Corrigenda number GSR 261(E) dated 31st March, 2014.

4

MINISTRY OF CORPORATE AFFAIRS**NOTIFICATION**

New Delhi, the 24th October, 2014

G.S.R. 741(E).— In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following further amendments to Schedule VII of the said Act, namely:—

- (i) In item (i), after the words “and sanitation”, the words “including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation” shall be inserted;
 - (ii) In item (iv), after the words “and water”, the words “including contribution to the Clean Ganga Fund setup by the Central Government for rejuvenation of river Ganga;” shall be inserted.
2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. 1/18/2013-CL-V]

AMARDEEP SINGH BHATIA*Jt. Secy.*

Note : The Schedule VII was brought into force with effect from 1st April, 2014 and was amended(effective from 1st April, 2014) vide notification number GSR 130(E) dated 27th February, 2014 and Corrigenda number GSR 261(E) dated 31st March, 2014 and also vide amendment notification number GSR 568(E) dated 6th August, 2014.
