

MCA UPDATES

1. Clarification on spending CSR Funds for COVID-19 awareness – Circular 1 dated 13th January 2021

MCA on 13th January, 2021 issued Circular No. 1 /2021 clarifying that spending of CSR funds for carrying out awareness campaign/ programmes or public outreach campaigns on COVID -19 vaccination programme is an eligible CSR activity subject to fulfilment of the Companies (CSR Policy) Rules, 2014.

However, MCA announced major amendments on CSR on 22nd January, 2021.

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/CSR2021_13012021.pdf

2. Clarification on holding AGM through Video Conferencing Circular 2 dated 14th January 2021

MCA had on 5th May 2020 allowed companies to conduct their AGMs which were due in the year 2020 through Video Conferencing (VC) facilities. **MCA vide Circular No.2/ 2021** clarified that further that companies are allowed to conduct their AGM in year 2021 also through VC facilities and it also clarified that this relaxation is not construed as any extension of time for holding of AGMs as per the provisions of the Act.

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.02_14012021.pdf

3. Scheme for condonation of delay for companies restored during Dec 2020 u/s 252 of the CA 2013- Circular 3 dated 15th January 2021

MCA has introduced a scheme for condonation of delay for companies restored during Dec 2020 u/s 252 of the CA 2013. Earlier CFSS 2020 (Company Fresh Start Scheme), 2020 which was rolled out by MCA on 30th March 2020 and was closed on 31st December, 2020. Many representation was made to MCA to extend CFSS 2020 but the same was not extended by MCA.

Representations were also made to MCA by many companies to provide relief as the company had preferred appeal before National Company Law Tribunal (NCLT) u/s 252 of the Act against the Order of striking Off the company and the Order of NCLT was received during 01 December, 2020 to 31st December, 2020 ("Such revived companies") and they could not avail the benefit of CFSS 2020 as the same was closed on 31st December, 2020.

After examination of matter, **MCA on 15th January, 2021 issued Circular No.3/2021** and announced a Scheme for such revived companies in respect of filing of e-forms which have been delayed by such revived companies (Except forms related to increase in authorised capital and charge related forms like CHG 1, CHG 4, CHG 8 and CHG 9) without any additional fees upto 31st March 2021.

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However the Circular reads that this scheme is only for waiver of additional fees for overdue filings and not for immunity from civil/ criminal proceedings.

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.3_15012021.pdf

4. Invitation of Comments on the Report of the Company Law Committee on Decriminalization of the Limited Liability Partnership Act, 2008.

MCA has issued a Notice on 18th January 2021, inviting comments on the Report of the Company Law Committee on Decriminalization of the Limited Liability Partnership Act, 2008 (LLP Act, 2008)

The Company Law Committee was constituted by the MCA in September, 2019 under the chairmanship of Secretary, Ministry of Corporate Affairs, inter alia, to study the existing framework under the LLP Act, 2008 and **to suggest measures to plug the gaps and to identify specific provisions and to decriminalize** the provisions of the Limited Liability Partnership Act, 2008 based on their gravity and to take other concomitant measures to bring about Greater Ease of living for corporate stakeholders. Suggestions are invited by MCA on the recommendations of the Committee latest by 02nd February, 2021 through email at email id : lp.amendment@mca.gov.in

The link for the aforesaid circular and the Report of CLC are as mentioned below:

http://www.mca.gov.in/Ministry/pdf/InvitationNotice_18012021.pdf

<http://www.mca.gov.in/Ministry/pdf/Report%20of%20the%20Company%20Law%20Committee%20on%20Decriminalization%20of%20The%20Limited%20Liability%20Partnership%20Act,%202008.pdf>

5. The Companies (CSR Policy) Amendment Rules, 2021 notified on 22nd January, 2021

MCA had notified on 22nd January 2020, the Companies (Corporate Social Responsibilities Policies) Amendment Rules, 2020 (CSR Amendment Rules, 2020) altering the provisions made under the Companies (Corporate Social Responsibilities Policies) Rules, 2014 (the Original CSR Rules, 2014).

Major changes are as follows and link of our detailed article is provided below:

1. Rule 2 on Definition is amended with many new Definition.
2. Rule 4 on “CSR Activities” is substituted with “CSR Implementation”.
3. Rule 5(2) on “Role of CSR Committee” is substituted with new Roles.
4. Rule 6 on “CSR Policy” is omitted as CSR Policy has now been defined under Rule 2.
5. Rule 7 on “CSR Expenditure” is substituted with new Rule 7 on CSR Expenditure.
6. Rule 8 on “CSR Reporting” is substituted with new Rule 8 on “CSR Reporting”.
7. Rule 9 on “Display of CSR activities” on its website is substituted with new Rule 9 and 10.
8. Heading of **Annexure I** is amended and **new Annexure II** is inserted.

<https://www.amitadesai.com/wp-content/uploads/2021/01/CSR-22-Jan-2021-major-amendments-Amita-Desai.pdf>

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/CSRAmendmentRules_22012021.pdf

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- 6. The Companies (Amendment) Act, 2019 (CAA 2019) -the Central Government appointed 22nd day of January, 2021 as the date on which provisions of Section 21 of CAA 2019 shall come into force- Notification dated 22nd January, 2021**

Corporate Social Responsibility (CSR)

Central Government Notified that 22nd January, 2021 is the date on which the provisions of section 21 of the Companies (Amendment) Act, 2019 shall come into force which is related to provision of the Corporate Social Responsibility (CSR).

No date was appointed for this provisions since 31st July 2019 when the CAA 2019 was notified.

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/CommencementNotificationCAA_23012021.pdf

- 7. The Companies (Amendment) Act, 2020 (CAA 2020) -the Central Government appointed 22nd day of January, 2021 as the date on which the certain provisions of CAA 2020 shall come into force- Notification dated 22nd January, 2021**

Central Government Notified that 22nd January, 2021 is the date on which certain provisions of the Companies Amendment Act, 2020 came into force which amended following provisions of the Companies Act 2013, which are majorly powers of Central Government (CG).

For our detailed articles on this amendment click the link below:

<https://www.amitadesai.com/wp-content/uploads/2021/01/CAA-2020-22-Jan-2021-News-Alert-on-Notification-of-14-Sections-of-CAA-2020.pdf>

<https://www.amitadesai.com/wp-content/uploads/2021/01/2.-CAA-2020-notified-certain-provisions-of-CAA-2020-News-on-22-Jan-2020.pdf>

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/CommencementNotification_23012021.pdf

- 8. The Companies (Incorporation) Amendment Rules, 2021- Notified on 25th January, 2021**

Conversion of public company into private company- amendment is made in Rule 41 regarding Order of Hon'ble Regional Director (RD) in the matter of Application under section 14 for such conversion of status of the Company.

(a) Rectify the defect or submit additional information in 15 days.

The amendment is clarifying the **time line of 15 days to submit e-Form RD-GNL-5** to rectify defects or incompleteness in the Application which are called for by the Regional Director and to re-submit the Application for conversion of public company into private company,

(b) The original provision u/r 41 (9) (i) is deleted, which was assumed that approval is made.

That if the RD do not pass any Order either approving or rejecting the application along with reasons within 30 days from the date of hearing, failing which it shall be deemed that application has been approved and approval order shall be automatically issued to the applicant.

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(c) The original provisions u/r 41 (9) (ii) is amended, giving more power to RD.

- Giving power to RD, **even if no consensus is received** of an objection for such conversion of the company from public to private, if **RD is satisfied** having regard to all the circumstances of the case, that the conversion would not be against the interest of the company or is not being made with a view to contravene or to avoid complying with the provisions of the Act , **then he can approve the conversion** with reasons to be recorded in writing.
- The provision is deleted which was stating that **if in 60 days from filing the application while hearing or not, if consensus is not arrived then RD must reject the application**

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/CompaniesAmendmentRules_25012021.pdf

9. Relaxation on levy of additional fees in filing of e-Form AOC-4 (Balance Sheet) for standalone, consolidated and XBRL

MCA wide **Circular No.4 dated 29th January, 2021** gave relaxation in additional fees of Rs.100/- per day till 15th February, 2021, which would have been levied after 29th January, 2021 for filing of Balance Sheet for FY 2019-20 in AOC-4 Form for Standalone, Consolidated and XBRL. Many representations were made to MCA for extending the time for holding the Annual General Meeting for adoption of Audited Accounts for FY 2019-20, however the same was not extended. However considering the difficulties faced by professionals, MCA has wisely decided not to earn fees due to such delays which is due to Pandemic and extended time till 15 February, 2021 for filing it with normal fees.

*ICAI has also extended time for its members to generate Unique Document Identification Number (UDIN) for signature on Audit Reports till 15th February, 2021.

The link for the aforesaid circular is as mentioned below:

http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.4_29012021.pdf

10. ICSI has issued a Guidance Note on the Meetings of the Board of Directors wef October 01, 2017 is now amended upto 31st December, 2020, link of the same is as follows:

Link for the same is as under:

https://www.amitadesai.com/wp-content/uploads/2021/02/GN_on_Meetings_of_BOD_3122020.pdf

11. ICSI has issued a Guidance Note on the General Meetings of the Board of Directors wef October 01, 2017 is now amended upto 31st December, 2020, link of the same is as follows:

Link for the same is as under:

https://www.amitadesai.com/wp-content/uploads/2021/02/GN_on_General_Meetings_31122020.pdf

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