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MCA UPDATES FOR THE MONTH OF FEBRUARY 2020**RULES****1. Companies (Compromises, Arrangements and Amalgamations)Amendment Rules, 2020 (February 04, 2020)**

MCA had notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2020, shall come into force on the date of their publication in the Official Gazette i.e 03-02-2020. The amendment includes a provision for majority shareholders to buy out minority stockholders. Accordingly, A member of the company shall make an application for arrangement, for the purpose of takeover offer in terms of sub-section (11) of section 230, when such member along with any other member holds not less than three-fourths of the shares in the company, and such application has been filed for acquiring any part of the remaining shares of the company. The notification by the ministry said that for such an application of takeover, the applicant will have to submit the report of a registered valuer disclosing the details of the valuation of the shares proposed to be acquired by the member. Additionally, the amendment prescribes that the whole process has to be carried out under the scheme of arrangement mechanism.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Rules1_04022020.pdf

2. Nidhi (Amendment) Rules, 2020 (February 04, 2020)

MCA has notified the Nidhi (Amendment) Rules, 2020 which shall come into force on 10th February, 2020. Amendments are made to substitute new Forms NDH-1, NDH-2 & NDH-3 in place of the existing PDF format Forms. The FORM NO. NDH-1 is for Return of Statutory Compliances [Pursuant to section 406 of the Companies Act, 2073 and pursuant to sub rule (2) of rule 5 of the Nidhi Rules, 2014. The FORM NO. NDH-2 is for Application for extension of time [Pursuant to sub-rule (3) of rules of Nidhi Rule 6., 2014] and FORM NO. NDH-3 is for Return of Nidhi Company for the half year ended [Pursuant rule 27 of the Nidhi Rules 2014].

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Rules2_04022020.pdf

3. NCLT (Amendment) Rules, 2020 (February 04, 2020)

MCA has published the National Company Law Tribunal (Amendment) Rules, 2020 to insert new Rule to deal with grievances with respect to the takeover offer of Unlisted Companies. New Rule 80A according to which an application in Form NCLT-1 shall be filed before the tribunal by an aggrieved party in the event of any grievances with respect to the takeover offer of companies other than listed companies in such manner as may be prescribed and the Tribunal may, on application, pass such order as it may deem fit. The Application fees in case of takeover offer of companies which are not listed shall be Rs.5000. The list of documents to be attached with the above application shall include an Affidavit verifying the petition, Memorandum of appearance with copy of the Board's Resolution or the executed vakalatnama, as the case may be, Documents in support of the grievance against the takeover.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Rules3_04022020.pdf

4. Companies (Issue of Global Depository Receipts) Amendment Rules, 2020 **(February 13, 2020)**

MCA has notified the amended rules which may be called the Companies (Issue of Global Depository Receipts) Amendment Rules, 2020 and shall come into force on the date of their publication in the Official Gazette i.e. 13-02-2020. Amendments are carried out to insert a new proviso in Rule 7 has been inserted which states that the proceeds of the issue of depositories receipts maybe remitted in an IFSC banking unit and utilized in accordance with the instructions issued by the RBI on time to time. Further, the depository receipts can be issued by way of a public offering or private placement or in any other manner prevalent in the concerned jurisdiction and may be listed or traded on the listing or trading platform in the concerned jurisdiction.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/notices_13022020.pdf

5. Nidhi (Second Amendment) Rules, 2020 **(February 14, 2020)**

MCA has notified the Nidhi (Second Amendment) Rules, 2020 which shall come into force on the date of their publication in the official Gazette i.e 14-02-2020. Through this amendment, Rule 23A has been amended to extend the time limit of declaring a Public Company as Nidhi Company within 9 months. As per the new amendment, a public company shall declare it as Nidhi and every Nidhi incorporated under the Act shall get itself declared within a period of 1 year from the date of its incorporation or within a period of 9 months from the date of commencement of Nidhi (Amendment) Rules, 2019, whichever is later. The period was initially 6 months from commencement of Nidhi rules which is hereby extended for another 3 months.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/rule_14022020.pdf

6. Companies (Registration Office and Fees) Amendment Rules, 2020

(February 19, 2020)

MCA has notified the Companies (Registration Offices and Fees) Amendment Rules, 2020 which shall come into force on the date of their publication in the Official Gazette i.e 19-02-2020. Through this amendment, MCA has released revised Form No. GNL-2. As the Companies can file certain documents with the Registrar of Companies by filing this e-Form GNL-2 and in case there is no e- Form prescribed for filing any document with Registrar, then company or liquidator can file such documents through this e-Form.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/rule_19022020.pdf

7. Companies (Incorporation) Amendment Rules, 2020

(February 22, 2020)

MCA revises the effective date of implementation of the revised Incorporation procedure through the Companies (Incorporation) Amendment Rules, 2020 to 23rd February, 2020 (earlier it was February 15, 2020). Accordingly, for Reservation of name or change of name, an application shall be made through the web service by using web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32), and for change of name by using web service RUN (Reserve Unique Name) along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, which may either be approved or rejected, as the case may be, by the Registrar, Central Registration Centre after allowing re-submission of such web form within fifteen days for rectification of the defects, if any, with effect from the 23rd February, 2020. Now the Form AGILE-PRO (Application for Goods and Services Tax Identification Number, Employees State Insurance Corporation Registration plus Employees Provident Fund Organization Registration, Profession Tax Registration and Opening of Bank Account) can be filed for Incorporation of a Company.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/rule_22022020.pdf

8. Companies (Appointment and Qualification of Directors) Amendment Rules, 2020

(February 28, 2020)

MCA has notified the Companies (Appointment and Qualification of Directors) Amendment Rules, 2020 which shall come into force on the date of their publication in the Official Gazette i.e 28-02-2020. The time period for making an online application to the IICA for the inclusion of his name in the data bank for a period is extended from 3 months to five months i.e 29-02-2020 to 30-04-2020. Further, exemption from passing the online proficiency self-assessment test is extended to all individuals who have served as a director or key managerial personnel, for a total period of not less than ten years, as on the date of inclusion of his name in the databank, either in listed public company; or unlisted public company having a paid-up share capital of rupees ten crores or more; or body corporate listed on a recognized stock exchange. Through this amendment bodies corporate are also included in the list.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/rule_28022020.pdf

CIRCULARS

1. General Circular 04/2020

(February 17, 2020)

MCA has allowed the Filing of forms in the registry of MCA-21 by the Insolvency Professional (IP), Interim Resolution Professional (IRP) or Resolution Professional (RP) or Liquidator as appointed under Insolvency Bankruptcy Code, 2016. MCA has specified the requirement of filing Form INC-28 by Interim Resolution Professional/Resolution Professional/ Liquidator, as appointed by Hon'ble Bench of NCLT/ NCLAT, after the admission of the petition filed under Insolvency and Bankruptcy Code, 2016. Before the initiation of Form INC-28, most of the corporates under CIRP had to face the issue of filing the relevant e-forms on the MCA portal, since the power of the Board of Directors get suspended, once the CIRP process is initiated against the company. As per the Circular, the Insolvency Professional is required to attach the order copy of NCLT/NCLAT in Form INC-28, which after verification from ROC, the same will get approved and Insolvency Professional will be allowed, to file the e-forms of the Company (under CIRP) by affixing his DSC. Once the form INC-28 is approved by the respective ROC, the name of Insolvency Professional will be reflected as 'Chief Executive Officer' under the Authorized Signatory details of the Company. The status of the Company will be shown as under CIRP or Liquidation, based on the filing of the e-form. On completion of the insolvency process or after getting stay order, the Insolvency Professional is required to file e-form INC-28 once again, to change the status of the Company on the MCA portal.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Circular_17022020.pdf

NOTIFICATIONS

1. Commencement notification dated 03.02.2020 **(February 04, 2020)**

In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013, the Central Government hereby appoints February 03, 2020 as the date on which the provisions of sub-sections (11) and (12) of section 230 of the Companies Act, 2013 shall come into force.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Notification_04022020.pdf

ORDERS

1. Companies (Auditor's Report) Order, 2020 (February 25, 2020)

The Companies in which CARO is applicable shall include in their Auditor's Report the matters specified in the amended order for the financial years commencing on or after April 01, 2019.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Orders_25022020.pdf

GENERAL

1. **MCA has given a public notice on the website of the MCA, to inform all the Stakeholders that Nidhi Company related Forms NDH-1 (Return of Statutory Compliances), Form NDH-2 (Application for Extension of Time) and Form NDH-3 (Half Yearly Return) shall have to be filed only as e-forms, with effect from 11th February, 2020 onwards.** Accordingly, the e-forms shall be available on the MCA-21 portal on 11th February, 2020. Stakeholders are also advised to please note that any such Nidhi forms filed on or after 11th February, 2020 as attachments to GNL-2 e-form and RD-1 e-form shall not be processed by ROCs and RDs and shall be rejected accordingly. Stakeholders are advised to note and plan accordingly.

Regulations

1. IBBI (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2020 (February 12, 2020)

The IBBI has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2020 which shall come into force on the date of their publication in the Official Gazette 12-02-2020. As the Regulations require the Insolvency Professionals (IP) to file a set of forms, namely, IP1, CIRP1, CIRP2, CIRP3, CIRP4, CIRP5, and CIRP6 covering the life cycle of a CIRP along with the enclosures thereto, on an electronic platform of the Board within the prescribed time. The filing of a Form under this regulation after the due date of submission, whether by correction, updation or otherwise, shall be accompanied by a fee of five hundred rupees per Form for each calendar month of delay after 1st January, 2020. Through this Amendment, IBBI has extended the last date of submission of delayed forms with fees from 01-01-2020 to 01-04-2020.

For More Information: -

<https://ibbi.gov.in/uploads/legalframework/54b677bbfbfd816601997558939e0857.pdf>

Guidelines

1. Guidelines for Appointment of Insolvency Professionals as Administrators under the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018 (February 27, 2020)

IBBI has issued Guidelines for Appointment of Insolvency Professionals as Administrators under the Securities and Exchange Board of India (Appointment of Administrator procedure for Refunding to the Investors) Regulations, 2018. The SEBI Regulations provide for the appointment of Insolvency Professionals (IPs) as Administrators for the purposes specified therein. These Guidelines have been prepared in consultation with SEBI to facilitate the appointment of IPs as Administrators. The IBBI and the SEBI have mutually agreed upon to use a Panel of IPs for appointment as Administrators for effective implementation of the Regulations. The IBBI shall prepare a Panel of IPs keeping in view the requirements of SEBI and the Regulations and the SEBI shall appoint the IPs from the Panel as Administrators, as per its requirement in accordance with the Regulations. The Panel shall have a Zone wise list of IPs. An IP will be included in the Panel against the Zone where his registered office (address as registered with the IBBI) is located. It is proposed that the IP, who has the highest experience of liquidation and bankruptcy, will get a score of 100. The IP, who has the least experience, will get a score of 0. The difference between the highest and the lowest experience will be equated to 100 and other IPs will get a score between 0 and 100 depending on their experience.

For More Information: -

<https://ibbi.gov.in/uploads/legalframework/b170e0eac8657f5ee91d3557eaacd848.pdf>

Hope the information will assist you in your Professional endeavours. In case of any query / information, please do not hesitate to write back to us at E: pcschinki@gmail.com and M: +91 9050320565.

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Best Regards '

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