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MCA UPDATES FOR THE MONTH OF OCTOBER 2019

RULES

1. Companies (Meetings of Board and its Powers) Amendment Rules 2019 **(October 11, 2019)**

MCA has notified the Companies (Meetings of Board and its Powers) Amendment Rules 2019 which shall be deemed to come into force on the date of their publication in the official gazette. Amendment to rule 11, in sub rule (2) for the words business of financing companies the words “ business of financing industrial enterprises” shall be substituted.

For More Information: -

<http://www.mca.gov.in/Ministry/pdf/MeetingsBoardPowersAmendRules11102019.pdf>

2. Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment Rules, 2019
(October 15, 2019)

MCA has notified the Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment Rules, 2019 which shall be deemed to come into force on the date of their publication in the official gazette. Amendment to Annexure -III which is replaced by new Annexure III.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/XBRLAmntRules_15102019.pdf

3. Companies (Cost Records and Audit) Amendment Rules, 2019 **(October 15, 2019)**

MCA has notified the Companies (Cost Records and Audit) Amendment Rules 2019 which shall be deemed to come into force on the 1st day of April, 2018. Amendment to Form CRA-1 & Form CRA-3 in Annexure to Cost Audit Report. The companies who have already filed their Cost Audit Report in form CRA-4 for the financial year 2018-19 with the Central Government before the publication of this notification are not required to file their Cost Audit Report for the said financial year. In the Companies (Cost Records and Audit) Rules, 2014, in the Annexure, in Form CRA 1, CRA 3 amendments are notified. MCA has further certified that no person is being adversely affected by giving retrospective effect to this notification. The proposed amendments have been made on account of the introduction of the Goods and Services Tax.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/Cost&AuditAmntRules_15102019.pdf

4. Companies Incorporation Eighth Amendment Rules,2019
(October 18, 2019)

MCA has notified the Companies (Incorporation) Eighth Amendment Rules, 2019 and amends Rule 8A, Rule 25A and Rule 28 of Companies (Incorporation) Rules, 2014 which shall come into force from the date of publication in the Official Gazette i.e 16-10-2019. Through this notification, MCA has excluded the applicant of the trademark from the applicability of names also introduced a new timeline for passing the order by the Regional Director (RD) in case of shifting of Registered Office from one jurisdiction to another jurisdiction of RoC but within the same State, and Filing of Form DIR-12 by an ACTIVE-non-compliant Company is now allowed in certain cases. Accordingly, Appointment of directors in such company where the total number of directors is less than the minimum number on account of disqualification of all or any of the director under section 164, Appointment of the director(s) for implementation of the order passed by the Court or NCLT or NCLAT under the provisions of the Act or under IBC, 2016, Appointment of any director in such company where DINs of all or any its director(s) have been deactivated and for the cessation of any directors. Further, in case of shifting of Registered Office from one jurisdiction to another jurisdiction of RoC but within the same State, the Regional Director (RD) has to pass the orders without hearing within 15 days of receipt of an application.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/CompIncEighthAmndtRules_18102019.pdf

5. Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019
(October 22, 2019)

MCA has notified to have examinations for individuals who want to become independent directors as part of bolstering the corporate governance framework through the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019 which shall come into force w.e.f 01-12-2019. The MCA has allowed the IICA to act as an agency to create and maintain a data bank of independent directors. The provisions of the Amendment Act shall be applicable to individuals who intend to be appointed as independent directors post amendments and shall also cover all existing independent directors to comply within 3 months of commencement of the provisions. An online application is required to be made to IICA for the inclusion of name in the data bank for a period of 1 year / 5 year or lifetime and renewal applications are also required to be made within the expiry of such period as the case may be. Every individual whose name is included in the databank is required to qualify a proficiency test within a period of 1 year. MCA has granted an exemption to the directors or KMP's of the listed Company or unlisted Company having paid-up capital of Rs. 10 crores or more and has already served for more than 10 years from Proficiency Test. Further, the individual has to score a minimum of 60 marks in the proficiency test as may be conducted by the IICA to pass the test.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/CmpFifthAmndtRules_22102019.pdf

6. Companies (Creation and Maintenance of Databank of Independent Directors) Rules, 2019
(October 22, 2019)

MCA has notified the Companies (Creation and Maintenance of Databank of Independent Directors) Rules, 2019. The provisions of these rules, other than rule 2 and 5, shall come into force with effect from the 1st day of December, 2019. The provisions of rule 2 and 5 shall come into force on the date of publication of this notification in the Official Gazette.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/CmpInpdtDirectorsRules_22102019.pdf

7. Companies(Accounts) Amendment Rules, 2019
(October 22, 2019)

MCA has notified the Companies (Accounts) Amendment Rules, 2019 which shall come into force with effect from the 1 day of December, 2019. MCA has inserted a new clause in Rule 8 (5), after clause (iii), as clause (iiia) a statement regarding the opinion of the Board with regard to integrity, expertise and experience (including the proficiency) of the independent directors appointed during the year”. It is further clarified that for the purposes of this clause, the expression “proficiency” means the proficiency of the independent director as ascertained from the online proficiency self-assessment test conducted by the institute notified under sub-section (1) of section 150.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/CmpAccAmndtRules_22102019.pdf

CIRCULARS

1. General Circular 11/2019 **(October 25, 2019)**

MCA has issued another much-awaited circular w.r.t Relaxation of additional fees and extension of the last date of filing of form IEPFA-1A and form IEPF-2. Keeping in view the requests received from various stakeholders seeking extension of time on account of various factors for filing form IEPF-1A [Statement of Amounts credited to Investor Education and Protection Fund Pursuant to Rule 5(4A)] and form IEPF-2 [Statement of unclaimed and unpaid amounts], it has also been decided to relax the additional fee payable by companies on filing form IEPF-1A up to 31.12.2019 and form IEPF-2 up to 30.11.2019. After expiry of the due date, the additional fee shall be payable.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/GeneralCircular1_25102019.pdf

2. General Circular 12/2019
(October 25, 2019)

The Ministry has extend the last date for filing of CRA-4 (cost audit report) for all eligible Companies for the FY 2018-19, without the payment of additional fee till December 31, 2019 under the Companies Act, 2013.

For More Information: -

http://www.mca.gov.in/Ministry/pdf/GeneralCircular_25102019.pdf

3. General Circular 13/2019 **(October 29, 2019)**

MCA has issued the much-awaited circular w.r.t Relaxation of additional fees and extension of the last date of filing of Annual Filing Forms under the provisions of the Companies Act, 2013. On the basis of the representations received from the stakeholders seeking an extension of time for filing of financial statements for the financial year ended 31.03.2019 on account of various factors, it has been decided to extend the due date for filing of e-forms AOC-4, AOC (CFS) AOC-4 XBRL up to 30.11.2019 and e-form MGT-7 up to 31.12.2019, by companies without the levy of an additional fee. The original dates of filing of e-forms AOC-4, AOC (CFS) AOC-4 XBRL and e-form MGT-7 is 30 days and 60 days respectively from the date of Annual General Meeting of the Company.

For More Information:-

http://www.mca.gov.in/Ministry/pdf/GeneralCircular_29102019.pdf

NOTIFICATIONS

1. Notification for Delegation of powers to Tribunal -Section 458 read with section 418 of the Companies Act 2013 **(October 14, 2019)**

MCA in the exercise of the powers conferred by Section 458(1) of the Companies Act, 2013, has delegated its powers and functions under Section 418(1) to provide officers and other employees to the Tribunal and the Appellate Tribunal referred to in the said sub-section to the President and Chairperson of the said Tribunal and the Appellate Tribunal, as the case may be, subject to conditions as specified in the recruitment rules of the respective posts as approved and notified by the Central Government. Earlier these powers were enjoyed by the MCA and all officers & employees are provided accordingly.

For More Information:-

http://www.mca.gov.in/Ministry/pdf/DelegationPowersTribunal_14102019.pdf

2. Data Bank Notification Relating to IICA

(October 22, 2019)

MCA has notified that the Indian Institute of Corporate Affairs at Manesar (Haryana), as an institute to create and maintain a data bank containing names, addresses, and qualifications of persons who are eligible and willing to act as independent directors, for the use of the company making the appointment of such directors. This notification shall come into force with effect from the 1st day of December, 2019. Every individual whose name is included in the databank is required to qualify a proficiency test within a period of 1 year. MCA has granted an exemption to the directors or KMP's of the listed Company or unlisted Company having paid-up capital of Rs. 10 crores or more and has already served for more than 10 years from Proficiency Test. Further, the individual has to score a minimum of 60 marks in the proficiency test as may be conducted by the IICA to pass the test.

For More Information:-

http://www.mca.gov.in/Ministry/pdf/NotificationIICA_22102019.pdf

3. **Notification - Section 396 dt 30.10.2019 for ROC Jammu -Jurisdiction of UT of JK and UT of Ladakh**
(October 30, 2019)

In exercise of the powers conferred by sub-sections (1) and (2) of section 396 of the Companies Act, 2013, the Registrar of Companies Jammu shall have jurisdiction in respect of Union territory of Jammu and Kashmir and Union territory of Ladakh, for the purpose of registration of companies and discharging the functions under the aforesaid Act. This notification shall come into force with effect from 31st October, 2019.

For More Information:-

http://www.mca.gov.in/Ministry/pdf/J&KNotificationSect396_30102019.pdf

4. Notification dt 30.10.2019-ROC Jammu-Jurisdiction of Adjudication of Penalties-UT of JK and UT of Ladakh

(October 30, 2019)

In exercise of the powers conferred by section 454 of the Companies Act, 2013 read with the Companies (Adjudication of Penalties) Rules, 2014, the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Corporate Affairs, published vide number S.O.831 (E), dated the 24th March, 2015, namely:-

In the said notification, in the Table, against serial number 5 for the entries, the following entries shall be substituted, namely,-

5	“Registrar of Companies-cum Official Liquidator, Jammu	Union territory of Jammu and Kashmir and Union territory of Ladakh”
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This notification shall come into force with effect from 31st October, 2019.

For More Information:-

http://www.mca.gov.in/Ministry/pdf/J&KAdjNotification_30102019.pdf

5. Notification dt 30.10.2019-Jurisdiction of RD, New Delhi -UT of JK and UT of Ladakh
(October 30, 2019)

MCA has issued notifications for reclassifying the J& K and Ladakh as Union Territories. Accordingly the jurisdiction of Jurisdiction of Regional Director, New Delhi, Registrar of Companies-cum-Official Liquidator, Jammu for Jurisdiction of Adjudication of Penalties and Registrar of Companies, Jammu the Registrar of Companies shall have jurisdiction in respect of Union territory of Jammu and Kashmir and Union territory of Ladakh, for the purpose of registration of companies and discharging the functions under the aforesaid Act. All these notifications shall come into force with effect from 31st October, 2019.

For More Information:-

http://www.mca.gov.in/Ministry/pdf/J&KNotification_30102019.pdf

NOTICES

1. Amendment of Schedule VII of the Companies Act, 2013 Dated 18 October 2019 **(October 18, 2019)**

MCA has made further amendments to Schedule VII of the Companies Act, 2013 and extended the scope of establishment & contributions to incubators in Corporate Social Responsibility (CSR) Activities under Section 135 of the Companies Act, 2013. The notification shall come into force on the date of its publication in the Official Gazette i.e 11-10-2019. Accordingly, the said Schedule VII, for the item (ix) is substituted, to include the following: Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and contributions to public-funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

For More Information:-

http://www.mca.gov.in/Ministry/pdf/Notification_18102019.pdf

General

- 1. MCA has notified an update regarding the Form NDH-4 (Form for filing an application for a declaration as Nidhi Company and for updating status by Nidhi's) which was notified through Nidhi (Amendment) Rules 2019 dated 1st July 2019 shall be available for filing w.e.f 11th October 2019.** The Form NDH-4 is for filing an application for a declaration as Nidhi Company and for updating of status by Nidhi's which has come into force with effect from 15 August, 2019. Now, companies have to claim the Nidhi status by filing NDH-4 form instead of separate registration at the time of incorporation. Further, For every new Nidhi Company, Form NHD - 4 is required to be filed within sixty days after the expiry of one year from the date of its incorporation and for existing companies within a period of six months from the date of commencement of Nidhi Rules 2019. Stakeholders may please take note and plan accordingly.
- 2. MCA has displayed on its web page that the last date for filing DIR-3 KYC for the Financial year 2018-19 has expired on 14th October 2019. MCA also initiated the process of deactivating the non-compliant DINs is in progress and will be completed shortly.** MCA has also withdrawn the form DIR-3 KYC and web service DIR-3 KYC and these forms will not be available for filing during the pendency of this activity. Filing of DIR-3 KYC and DIR-

3 KYC WEB can be made after completion of the scheduled activity, as above when the form & service are re-deployed on the portal after payment of applicable fees of Rs. 5,000/-. Stakeholders may kindly note and plan accordingly.

3. **MCA has notified an update regarding the Forms relating to Nidhi Companies which shall be available for filing as eForms w.e.f 1st November, 2019.** MCA is going to notify the Forms NDH-1 (Return of Statutory Compliances), Form NDH-2 (Application for Extension of Time) and Form NDH-3 (Half Yearly Return) which notified vide the Nidhi Rules 2014 shall be available for filing as eForms w.e.f 1st November 2019. These forms were hitherto filed as attachments to forms GNL-2 and RD-1 up to 31st October, 2019. However, with the introduction of the eForms, these forms shall now be filed independently and shall no longer be required to be filed with any other form. Stakeholders may please take note and plan accordingly.
4. **MCA has issued an important update on its website with regard to 'Identification and flagging of Disqualified Directors u/s164(2)(a) of the Companies Act, 2013'.** It has been informed to the public at large that the various Registrar of Companies has initiated the process of identification and flagging of Disqualified Directors u/s 164(2)(a) of the Companies Act, 2013 for their default of non-filing of Annual Return & Financial Statement for a continuous period of 3 years i.e 2015-16, 2016-17 & 2017-18. in this regard all the defaulting directors are hereby cautioned to find the pending statutory returns and do necessary compliances as per the provisions of the Act, otherwise, an action shall be initiated under Section 164 of the Companies Act, 2013 and Rules made thereunder. The DIN's of such directors are not allowed to be used for filing any e-forms on the MCA21 portal. The Disqualified Directors under section 164(2) shall be for the next 5 years up to the year 2023.

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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