



B K KHARE & Co
CHARTERED ACCOUNTANTS

Monthly Newsletter
Regulatory

Wednesday, 2nd Dec 2020
Volume 6, Issue 10

MCA Updates



Relaxations due to COVID-19

In view of the ongoing COVID-19 pandemic, the Ministry of Corporate Affairs (MCA) provided additional relaxations to companies and LLPs. This is done to ease the burden of compliance under various provisions of the Companies Act, 2013 and the Limited Liability Partnership Act, 2008. →

SEBI Updates



Amendments To SEBI Circular On Schemes Of Arrangement, Etc. By Listed Entities

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations) states that a scheme of arrangement/ amalgamation/ merger/ reconstruction/ reduction of capital undertaken by a listed entity (Scheme) must be in compliance with the applicable securities laws.

The Listing Regulations, inter alia, provides that a listed entity involved in a Scheme or desirous of undertaking a Scheme, shall obtain an observation letter or a no objection letter, as the case may be, from the stock exchanges before filing the Scheme with the relevant bench of National Company Law Tribunal.

The 2020 Amendment Circular has been issued with a view to strengthen the scrutiny and compliance and ensuring that Schemes are referred to SEBI only after the stock exchanges are certain that the Schemes are in compliance with SEBI Act, 1999, rules, regulations and circulars issued thereunder. The 2020 Amendment Circular shall be applicable to all listed entities proposing Schemes with effect from 17 November 2020. →

SEBI proposes extending risk management committee requirement to top 1,000 listed companies

Considering the multitude of risks faced by listed entities, SEBI has said that the risk management has emerged as a very important function of the board and the COVID-19 pandemic has reinforced the need for a robust risk management framework. In view of the increasing importance of risk management function, SEBI has proposed the "requirement of constituting a risk management committee which may be extended from the top 500 to the top 1,000 listed entities, on the basis of market capitalisation." →

[Connect with Us](#)

This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. BK Khare & Co cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.

[Subscribe](#)



SEBI Updates

Amendments To SEBI Circular On Schemes Of Arrangement, Etc. By Listed Entities

Scope of Scrutiny of Audit Committee widened

In addition to recommending the Scheme to the Board of Directors of the listed entity after taking into consideration the valuation report, the audit committee is now required to comment upon the business and economic rationale, need for the merger/ demerger/ amalgamation/ arrangement, synergies of business of the entities involved in the Scheme, its impact on the shareholders and cost benefit analysis of the Scheme.

Independent Directors

Similar to the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the 2020 Amendment Circular creates an obligation on the Committee of Independent Directors to recommend the Scheme to the Board of Directors after analyzing whether the Scheme is detrimental to the interest of the shareholders.

Valuation report from the registered valuer

Under the 2017 Circular, listed entities were required to obtain a valuation report from an independent chartered accountant whereas under the Companies Act, 2013, a valuation report was required to be obtained from a registered valuer.

The 2020 Amendment Circular enables a registered valuer who may or may not be a chartered accountant to provide a valuation report in relation to the Scheme. This amendment has been made in line with the requirements of Section 247 of the Companies Act, 2013.

No objection letter

The 2017 Circular provided flexibility to stock exchanges to provide either an 'observation letter' or 'no objection letter' in relation to the draft Scheme. However, the 2020



Amendment Circular directs the stock exchanges to provide their 'no-objection letters' in co-ordination with each other, instead of providing their observations on the Scheme.

Additional disclosures in the news paper

The 2020 Amendment Circular provides certain additional disclosures to be provided by the entity seeking listing of its specified securities on the stock exchanges. Disclosures in connection with latest restated audited financials, summary table of related party transactions in last 3 years, business model/overview and strategy, internal risk factors, criminal proceedings against the promoters, disciplinary action taken by SEBI or stock exchanges against the promoters in the last 5 financial years etc. needs to be disclosed in the news paper prior to making final listing application to SEBI/stock exchanges.

Listing of equity shares with differential voting rights

The 2020 Amendment Circular has repealed the above-mentioned provisions to bring the 2017 Circular in line with the amendments notified in the SEBI (Issue of Capital and Disclosure Requirements) Regulations 2018, Listing Regulations, the SEBI (Buy-back of Securities) Regulations 2018, SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011 and SEBI (Delisting of Equity Shares) Regulations, 2009.

Conclusion

A Listed Company is subject to stricter levels of scrutiny, compliance and transparency and the role of the audit committee/independent directors is further enhanced.



SEBI proposes extending risk management committee requirement to top 1,000 listed companies

According to SEBI, risk management committee would formulate a detailed risk management policy which will include a framework for identification of internal and external risks specifically faced by the listed entity.

The risks include financial, operational, sectoral, sustainability (specifically, environmental, social and governance related risks and impact), information and cyber security.

The committee should be responsible for taking measures for risk mitigation, business contingency plan as well as monitoring and overseeing implementation of the risk management policy.

It should also be responsible for keeping the Board informed about the nature and content of its discussions, recommendations and actions to be taken. SEBI has suggested that risk management committee should also have powers to seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary. The risk management committee should coordinate its activities with the audit committee in instances where there is any overlap with audit activities.

It should ensure that appropriate methodology, processes and systems are in place to monitor and evaluate risks associated with the business of the listed entity.



MCA Updates

Extension of Fresh Start Scheme and LLP Scheme

Extension of Fresh Start Scheme and LLP Scheme

The Companies Fresh Start Scheme, 2020 (CFSS Scheme) and the LLP Settlement Scheme, 2020 (LLP Scheme) allowing delayed filing of e-forms without additional payment of fees have been extended until December 31, 2020.

Extension of time for convening board/general meetings through AV

Board meeting for approval of certain restricted matters (approval of financial statements, etc.) and all general meetings (annual/extra-ordinary) can be convened through audio-visual means up to December 31, 2020 (instead of September 30, 2020).

Extension of time for registration of Directors details

Every person who has been appointed/intends to get appointed as an independent director in a company is required to apply for inclusion of his/her name in an ID Data Bank. The MCA has extended the last date for registration until December 31, 2020 (this was earlier September 30, 2020).

Extension of period for investment/deposit of amounts in lieu of maturing debentures

The companies who have issued secured debentures are required to invest or deposit (as prescribed) at least 15% of such monies maturing during that financial year, by April 30 of each year. This time limit has been extended until December 31, 2020.