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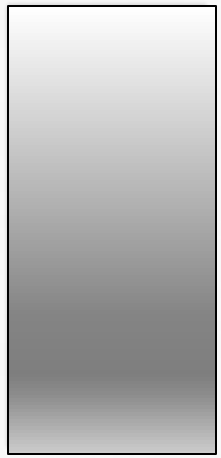
IMPORTANT LEGAL UPDATES FOR APRIL, 2020



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Companies Act

- **The Ministry of Corporate Affairs ("MCA") – general circular no. 19/2020 on extension of the last date of filing Form NFRA-2 dated April 30, 2020 ("Circular").**

  - The MCA *vide* the Circular, has further extended the time limit for filing Form NFRA-2 (i.e. Annual return to be filed by auditor with the National Financial Reporting Authority ("**NFRA**"), for the reporting period financial year 2018-2019 upto 210 (Two Hundred and Ten) days (as against the initial extension of 150 (One Hundred and Fifty) days from the date of deployment of the said form on the website of NFRA.

  - **Link of the Circular.**
    http://www.mca.gov.in/Ministry/pdf/Circular19_30042020.pdf

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Companies Act (Contd…)

- **The Ministry of Corporate Affairs ("MCA") – notification no G.S.R. 268 (E) on the Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2020 dated April, 29 2020 ("Notification").**

- The MCA *vide* the Notification, has further amended the Companies (Appointment and Qualification of Directors) Rules, 2014 ("**Principal Rules**") which shall come into force with effect from publication of the Notification in the official gazette i.e. April 29, 2020.

- The Notification has amended rule 6(1)(a) of the Principal Rules, according to which an independent director who is appointed in a company, shall within a period of 7 (Seven) months (as against erstwhile 5 (Five) months) apply online to the institute for inclusion of his name in the data bank for a period of 1 (One) year or 5 (Five) years or for his life-time and from time to time shall take steps to renew it as long as he continues hold the office as an independent director in any company.

  - **Link of the Notification.**
    http://www.mca.gov.in/Ministry/pdf/Rules_29042020.pdf

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Companies Act (Contd…)

- **The Ministry of Corporate Affairs ("MCA") – general circular no. 18/2020 for clarification on holding of annual general meeting ("AGM") by companies whose financial year has ended on December 31, 2019 dated April 21, 2020 ("Circular").**

  - The Companies Act, 2013 ("**Act**") allows a company to hold an AGM within a period of 6 (Six) months (9 (Nine) months in case of first AGM) from the closure of financial year and not later than 15 (Fifteen) months from the date of last AGM.

  - In view of the disruption caused by pandemic COVID-19, the MCA *vide* the Circular has allowed companies whose financial year ended on December 31, 2019, to hold AGM within a period of 9 (Nine) months from the closure of the financial year (i.e. by September 30, 2020) and the same shall not be viewed as a violation of the provisions of the Act.

  - **Link of the Circular.**
    http://www.mca.gov.in/Ministry/pdf/Circular18_21042020.pdf

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Companies Act (Contd…)

- **The Ministry of Corporate Affairs ("MCA") – general circular nos. 14/2020 ("Circular-14") and 17/2020 ("Circular-17") on clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 ("Act") and rules made thereunder on account of threat posed by COVID-19 dated April 13, 2020 (Circular-14 and Circular-17 shall be collectively referred to as ("Circular").**

  - On account of current COVID-19 situation and receipt of several representations, the MCA, *vide* the Circular-14, has allowed companies to hold extraordinary general meetings ("**EGMs**") through video conferencing ("**VC**") or other audio visual means ("**OAVM**"), complemented with e-voting facility/simplified voting through registered emails, without requiring the shareholders to physically assemble at a common venue.

  - In continuation of the Circular-14, the MCA *vide* Circular-17 has provided further clarity regarding issue of notices to members for the EGMs through VC or OAVM.

  - Following is the encapsulation of the clarifications provided by both the Circulars in respect of holding the EGMs through VC or OAVM :

    ✓ In case where holding of an EGM by any company is unavoidable on or before June 30, 2020, the following procedure needs to be adopted, in addition to any other requirement provided under the Act or the rules made thereunder:

    ✓ ***For companies which are required to provide the facility of e-voting under the Act, or any other company which has adopted for such facility*:**

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Companies Act (Contd…)

- Such companies may hold EGM through VC and OAVM provided a recorded transcript of the same is maintained in safe custody by the company. In case of a public company, the recorded transcript shall be hosted on the website (if any) of the company for transparency.

- While scheduling the meeting, the convenience of different persons located in different time zones is to be taken into consideration.

- For ease of participation of the members, the meeting through VC/OAVM facility shall allow 2 (Two) way conferencing or webex and to pose questions concurrently or within the time given to submit the questions in advance on the email address of the company. This facility must have a capacity to allow atleast 1000 (One Thousand) members to participate on first-come-first-served basis, however the principle of first-come-first-served basis would not be applicable for the large shareholders (i.e. shareholders holding 2% (Two Percent) or more shareholding), viz. promoters, institutional investors, directors, key managerial personnel, the chairpersons of the Audit Committee, Nomination and Remuneration Committee and Stakeholders Relationship Committee, auditors, etc. and can attend the meeting without restriction.

- The facility for joining the meeting shall be kept open for atleast 15 (Fifteen) minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 (Fifteen) minutes after such scheduled time.

- The facility of remote e-voting shall be provided in accordance with the Act and the rules, before the actual date of the meeting.

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Companies Act (Contd…)

- The members attending through VC/OAVM shall be counted for the purpose of reckoning the quorum under section 103 (i.e. Quorum for Meetings) of the Act.

- If members present at the meeting have not cast their vote on resolutions through remote e-voting and are otherwise not debarred from doing so, then such members can vote through e-voting system or by show of hands in the meeting.

- Unless the articles of the company otherwise provide, the Chairman for the meeting shall be appointed in the following manner:

  - Less than 50 (Fifty) members present at the meeting, then the Chairman shall be appointed in accordance with section 104 (i.e. Chairman of Meetings).

  - In all other cases, the Chairman shall be appointed by a poll conducted in the manner provided hereinabove.

- The Chairman is only required to ensure that e-voting is available for voting during the meeting via VC or OAVM. This leeway is given to facilitate voting and overcome the requirement of show of hands and voting via poll. It is clarified that the provisions under rules pertaining to voting via electronic means and the framework prescribed under both the Circulars shall apply to items for voting via postal ballot, until 30th June 2020 or further notice, whichever is earlier.

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Companies Act (Contd…)

- No requirement of appointment of proxies under section 105 (i.e. Proxies) of the Act and no facility for appointment of proxies would be available for such meetings, since general meetings under this framework will be held through VC/OAVM, where physical attendance of members in any case has been done away with. However, in pursuance of section 112 (i.e. Representation of President and Governors in Meetings) and section 113 (i.e. Representation of Corporations at Meeting of Companies and of Creditors) of the Act, representatives of the members may be appointed for the purpose of voting through remote e-voting or for participation and voting in the meeting held through VC/OAVM.

- Alteast 1 (One) independent director (where the company is required to appoint one), and the auditor or his authorised representative, who is qualified to the auditor shall attend such meeting through VC/OAVM.

- Institutional investors being members of the company, shall be encouraged to attend and vote in the said meeting through VC/OAVM.

- The notices to members may be given only through e-mails registered with the company/the depository participant/depository.

- The notice of the general meeting shall include the following:

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Companies Act (Contd…)

- Disclosures with regard to the manner in which framework provided in Circular-14, would be available for use by the members.
- Clear instructions on how to access and participate in the meeting.
- A helpline number through the registrar & transfer agent, technology provider, or otherwise for those shareholders who need assistance with using the technology before or during the meeting.

  Also, the copy of the meeting notice shall be placed on the website of the company and listed companies to make timely intimations to the exchanges.

- While publishing the public notice the following matters shall also be stated, viz.
  - A statement that the EGM will be convened through VC or OAVM in compliance with applicable provisions of the Act read with both the Circulars. The date and time of the EGM through VC/OAVM. availability of notice of the meeting on the website of the company and the stock exchange.
  - The manner in which the members who (i) are holding shares in physical form or (ii) have not registered their email addresses with the company can cast their vote through remote e-voting or through e-voting system during the meeting.
  - The manner in which the members who have not registered their email addresses with the company can get the same registered with the company. Any other detail considered necessary by the company.

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Companies Act (Contd…)

- Before the start of the meeting the Chairman of the meeting is required to ensure that all efforts feasible under the circumstances are made by the company to enable all the shareholders to participate and vote.

✓ ***For companies which are not required to provide the facility of e-voting under the Act:***

- In unavoidable circumstances, EGM may be held through VC/OAVM and the recorded transcript of the same shall be maintained in safe custody by the company. In case of a public company, the recorded transcript of the meeting, as soon as possible, be also made available on the website (if any) of the company.

- While scheduling the meeting, the convenience of different persons located in different time zones is to be taken into consideration.

- For ease of participation of the members, the meeting through VC/OAVM facility shall allow two way conferencing or webex and to pose questions concurrently or within the time given to submit the questions in advance on the email address of the company. This facility must have a capacity to allow atleast 500 (Five Hundred) members to participate on first-come-first-served basis, however the principle of first-come-first-served basis would not be applicable for the large shareholders (i.e. shareholders holding 2% (Two Percent) or more shareholding), viz. promoters, institutional investors, directors, key managerial personnel, the chairpersons of the Audit Committee, Nomination and Remuneration Committee and Stakeholders Relationship Committee, auditors, etc. and can attend the meeting without restriction.

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Companies Act (Contd…)

- The facility for joining the meeting shall be kept open for atleast 15 (Fifteen) minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 (Fifteen) minutes after such scheduled time.

- The members attending through VC/OAVM shall be counted for the purpose of reckoning the quorum under section 103 (i.e. Quorum for Meetings) of the Act.

- Unless the articles of the company otherwise provide, the Chairman for the meeting shall be appointed in the following manner:

  - Less than 50 (Fifty) members present at the meeting, then the Chairman shall be appointed in accordance with section 104 (i.e. Chairman of Meetings).
  - In all other cases, the Chairman shall be appointed by a poll conducted in the manner provided hereinabove.

- Atleast 1 (One) independent director (where the company is required to appoint one), and the auditor or his authorised representative, who is qualified to the auditor shall attend such meeting through VC/OAVM.

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Companies Act (Contd…)

- No requirement of appointment of proxies under section 105 (i.e. Proxies) of the Act and no facility for appointment of proxies would be available for such meetings, since general meetings under this framework will be held through VC/OAVM, where physical attendance of members in any case has been done away with. However, in pursuance of section 112 (i.e. Representation of President and Governors in Meetings) and section 113 (i.e. Representation of Corporations at Meeting of Companies and of Creditors) of the Act, representatives of the members may be appointed for the purpose of voting through remote e-voting or for participation and voting in the meeting held through VC/OAVM.

- Institutional investors being members of the company, shall be encouraged to attend and vote in the said meeting through VC/OAVM.

- A designated email address shall be provided by the company to all the members at the time of sending the notice of meeting so that the members can convey their vote, when a poll is required to be taken during the meeting on any resolution, at such designated email address.

- The confidentiality of the password and other privacy issues associated with the designated email address shall be strictly maintained by the company at all times. Due safeguards with regard to authenticity of email address(es) and other details of the members shall also be taken by the company.

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Companies Act (Contd…)

- During the meeting held through VC/OAVM facility, where a poll on any item is required, the poll will be taken during the meeting and the members may convey their assent or dissent only at such stage on items considered in the meeting by sending e-mails to the designated e-mail of the company which was circulated by the company in the notice sent to members.

- Where less than 50 (Fifty) members are present in a meeting, the Chairman may decide to conduct a vote by shows of hands, unless a demand for poll is made by any member in accordance with section 109 of the Act. Once such demand is made, the procedure provided in the preceding sub-paragraphs shall be followed.

- In case the counting of votes requires time, the said meeting may be adjourned and called later to declare the result.

- The notices to members may be given only through e-mails registered with the company/ the depository participant/depository.

- The notice of the general meeting shall include the following:

  - Disclosures with regard to the manner in which framework provided in Circular-14 would be available for use by the members.
  - Clear instructions on how to access and participate in the meeting.

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Companies Act (Contd…)

- A helpline number through the registrar & transfer agent, technology provider, or otherwise for those shareholders who need assistance with using the technology before or during the meeting.

  Also, the copy of the meeting notice shall be placed on the website of the company and listed companies to make timely intimations to the exchanges.

- In order to ensure that all the members are aware that a general meeting is proposed to be conducted in compliance with applicable provisions of the Act read with Circular-14, the company shall:

  - contact all those members whose e-mail addresses are not registered with the company over telephone or any other mode of communication for registration of their e-mail addresses before sending the notice for meeting to all its members; or

  - where the contact details of any of the members are not available with the company or could not be obtained as per preceding paragraph, it shall cause a public notice by way of advertisement to be published immediately 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 a wide circulation in that district, preferably both newspapers having electronic editions and specifying in the advertisement the following information:

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Companies Act (Contd…)

- That the company intends to convene a general meeting in compliance with applicable provisions of the Act read with framework provided by both the Circulars, and for the said purpose it proposes to send notices to all its members by email after, atleast, 3 (Three) days from the date of publication of the public notice.

- The details of the email address along with the telephone number on which the members may contact for getting their e-mail addresses registered for participation and voting in the general meeting.

  - The Chairman of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all efforts feasible under the circumstances have indeed been made by the company to enable members to participate and vote on the items being considered in the meeting.

✓ The notices of meeting which have been dispatched prior to the date of Circular-14, in such cases, the framework proposed in Circular-14 may be adopted for the meeting, subject to receipt of consent from members in accordance with section 101(1) of the Act and a fresh notice of shorter duration with due disclosures in consonance with Circular-14 is issued consequently.

✓ All resolutions passed in accordance with this mechanism shall be filed with the Registrar of Companies within 60 (Sixty) days of the meeting, clearly indicating therein that the mechanism provided herein alongwith other provisions of the Act and rules were duly complied with during such meeting.

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Companies Act (Contd…)

- The companies referred to in point (i) and point (ii) hereinabove, shall ensure that all other compliances associated with the provisions relating to general meetings viz. making of disclosures, inspection of related documents by members, or authorizations for voting by bodies corporate etc. as provided in the Act and the articles of association of the company are made through electronic mode.

- **Link of the Notification.**

  ✓ **Circular-14.** http://www.mca.gov.in/Ministry/pdf/Circular14_08042020.pdf
  ✓ **Circular-17.** http://www.mca.gov.in/Ministry/pdf/Circular17_13042020.pdf

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Companies Act (Contd…)

- **The Ministry of Corporate Affairs ("MCA") – general circular no. 16/2020 on filings under section 124 (i.e. Unpaid Dividend Account) and section 125 (i.e. Investor Education and Protection Fund) of the Companies Act, 2013 ("Act") r/w IEPFA (Accounting, Audit, Transfer and Refund) Rules, 2016 in view of emerging situation due to outbreak of COVID-19 dated April 13, 2020 ("Circular").**

  - Due to the outbreak of COVID-19 and various difficulties faced by the stakeholders in procedures related to transfer of money remaining unpaid or unclaimed for a period of 7 (Seven) years in terms of provisions of section 124(5) of the Act and transfer of shares under section 124(6) of the Act read with the IEPFA (Accounting, Audit, Transfer and Refund) Rules, 2016, the MCA, has clarified that the relaxations accorded by MCA for filing in MCA-21 registry without additional fees till September 30, 2020 shall also include various IEPF e-forms viz. (IEPF-1, IEPF-1A, IEPF-2, IEPF-3, IEPF-4, IEPF-7) and e-verification of claims filed in e-form IEPF-5.

  - **Link of the Circular.**
    http://www.mca.gov.in/Ministry/pdf/Circular16_13042020.pdf

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Companies Act (Contd…)

- **The Ministry of Corporate Affairs ("MCA") – general circular no. 15/2020 on COVID-19 related frequently asked questions ("FAQs") on corporate social responsibility ("CSR") dated April 10, 2020 ("Circular").**

  - On receipt of several representations wrt clarifications on eligibility of CSR expenditure related to COVID-19 activities, the MCA *vide* this Circular has issued a set of FAQs for better understanding of the stakeholders, which are enumerated hereunder.

    ✓ **Whether contribution made to 'PM CARES Fund' shall qualify as CSR expenditure?**

    Yes, any contribution made to Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund ("**PM CARES Fund**"), which is set up by the Government of India with the primary objective of dealing with any kind of emergency or distress situation such as that posed by COVID-19, shall qualify as CSR expenditure under schedule VII of Companies Act, 2013 ("**Act**") which is further clarified *vide* office memorandum F. No. CSR-05/1/2020-CSR-MCA dated March 28, 2020.

    ✓ **Whether contribution made to 'Chief Minister's Relief Funds' or 'State Relief Fund for COVID-19' shall qualify as CSR expenditure?**

    No, any contribution to 'Chief Minister's Relief Fund' or 'State Relief Fund for COVID-19' shall not qualify as admissible CSR expenditure, since it is not included in Schedule VII of the Act.

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Companies Act (Contd…)

- ✓ **Whether contribution made to State Disaster Management Authority shall qualify as CSR expenditure?**

  Yes, contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the Act, which is also clarified *vide* general circular No. 10/2020 dated March 23, 2020.

- ✓ **Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?**

  Yes, the MCA *vide* general circular No. 10/2020 dated March 23, 2020 has clarified that spending CSR funds for COVID-19 related activities shall qualify as CSR expenditure. The said funds may be spent for various activities related to COVID-19 under items nos. (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) and (xii) (disaster management, including relief, rehabilitation and reconstruction activities) of Schedule VII of the Act, since items in Schedule VII are broad based and may be interpreted liberally for this purpose.

- ✓ **Whether payment of salary/wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?**

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Companies Act (Contd…)

No, payment of salary/wages to employees and workers during the lockdown period (including imposition of other social distancing requirements) shall not qualify as admissible CSR expenditure, since such payments in normal circumstances are contractual and statutory obligations of the company. Similarly, payment of salary/ wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during lockdown.

- ✓ **Whether payment of wages made to casual /daily wage workers during the lockdown period can be adjusted against the CSR expenditure of the companies?**

  No, payment of wages to temporary or casual or daily wage workers during the lockdown period shall not count towards CSR expenditure, since the said payments are part of the moral/ humanitarian/ contractual obligations of the company and is applicable to all companies irrespective of whether they have any legal obligation for CSR contribution under section 135 of the Act.

- ✓ **Whether payment of wages made to casual /daily wage workers during the lockdown period can be adjusted against the CSR expenditure of the companies?**

  Yes, if any ex-gratia payment is made to temporary / casual workers/ daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID-19, the same shall be admissible towards CSR expenditure as a onetime exception provided there is an explicit declaration to that effect by the board of the company, which is duly certified by the statutory auditor.

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Companies Act (Contd…)

- **Link of the Circular.**
  http://www.mca.gov.in/Ministry/pdf/Notification_10042020.pdf

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Ministry of Finance

- **The Ministry of of Finance (Department of Economic Affairs) ("MOF") – notification no. S.O. 1278 (E). on Foreign Exchange Management (Non-debt Instruments) Amendment Rules, 2020 ("Amendment Rules") dated April 22, 2020 ("Notification").**

  - Further, to the press note no. 3 (2020 series) ("**PN**") by the Ministry of Commerce & Industry Department for Promotion of Industry and Internal Trade, on "Review of Foreign Direct Investment policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 pandemic", which also resulted into amendment in the Consolidated FDI Policy, 2017; the MOF, *vide* the Amendment Rules has brought about changes in the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("**Principal Rules**"), and the same shall come into force on the date of their publication in the Official Gazette, i.e. April 22, 2020.

  - In rule 6 (a) of the Principal Rules, the provisos therein shall be substituted with the following provisos, viz:

    - ✓ "*Provided that an entity of a country, which shares land border with India or the beneficial owner of an investment into India who is situated in or is a citizen of any such country, shall invest only with the Government approval;*
    - ✓ *Provided further that, a citizen of Pakistan or an entity incorporated in Pakistan shall invest only under the Government route, in sectors or activities other than defence, space, atomic energy and such other sectors or activities prohibited for foreign investment;*

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Ministry of Finance (Contd…)

- ✓ *Provided also that in the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction or purview of the above provisos, such subsequent change in beneficial ownership shall also require government approval*".

The aforesaid amendment implies that any entity of a country which shares land border with India or the beneficial owner of an investment into India who is situated in or is a citizen of any such country will now require prior Government approval for such investment to be made in India. Further, the restriction on a citizen of Pakistan or an entity incorporated in Pakistan to invest only under the Government route continues alongwith prohibition on investment in certain sectors like defence, space, atomic energy and such other prohibited sectors or activities. Furthermore, any transfer of ownership of any existing or future foreign direct investment in an entity in India, directly or indirectly, which results in the beneficial ownership in such investment falling within the restriction or purview of the above provisos shall require prior Government approval.

- The Notification does leave a lot of things to ponder, especially in respect of meaning of beneficial ownership. However, it is widely believed that the meaning ascribed to beneficial ownership under the Companies Act, 2013 shall be resorted to while adhering to the aforesaid.

- The aforesaid development shall also result in complexities and delay in issuing shares to the employees of the Companies residing abroad under the employee stock option or sweat equity schemes.

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Ministry of Finance (Contd…)

- **Link of the Notification.**
  http://egazette.nic.in/WriteReadData/2020/219107.pdf

- **Link of the PN.**
  https://dipp.gov.in/sites/default/files/pn3_2020.pdf

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Ministry of Finance (Contd…)

- **The Ministry of of Finance (Department of Economic Affairs) ("MOF") – notification no. S.O. 1374 (E). on Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2020 ("Amendment Rules") dated April 27, 2020 ("Notification").**
  - MOF, *vide* the Rules has amended the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("**Principal Rules**"), and the same shall come into force on the date of their publication in the official gazette.
  - In Principal Rules, after rule 7, the following rule shall be inserted and consequently explanation under rule 7 has been deleted, viz:
    - ✓ *"**7A. Acquisition after renunciation of rights**.- A person resident outside India who has acquired a right from a person resident in India who has renounced it may acquire equity instruments (other than share warrants) against the said rights as per pricing guidelines specified under rule 21 (pricing guidelines) of these rules."*

      The aforesaid amendment implies that pricing guidelines shall also apply when a person resident outside India has acquired a from a person resident in India, a right, who has renounced it, and such person resident outside India acquires equity shares (other than share warrants) against the said rights. The said rule intends to bring within the ambit of pricing guidelines situations wherein the renunciation is made by a person resident in India to a person resident outside India, unlike earlier, wherein the explanation to rule 7 kept any renunciation out of the ambit of pricing guidelines.

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Ministry of Finance (Contd…)

- **The Ministry of of Finance (Department of Economic Affairs) ("MOF") – notification no. S.O. 1374 (E). on Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2020 ("Amendment Rules") dated April 27, 2020 ("Notification").**

  - MOF, *vide* the Rules has amended the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 ("**Principal Rules**"), and the same shall come into force on the date of their publication in the official gazette.

  - In Principal Rules, after rule 7, the following rule shall be inserted and consequently explanation under rule 7 has been deleted, viz:

    - ✓ *"**7A. Acquisition after renunciation of rights**.- A person resident outside India who has acquired a right from a person resident in India who has renounced it may acquire equity instruments (other than share warrants) against the said rights as per pricing guidelines specified under rule 21 (pricing guidelines) of these rules."*

      The aforesaid amendment implies that pricing guidelines shall also apply when a person resident outside India has acquired a from a person resident in India, a right, who has renounced it, and such person resident outside India acquires equity shares (other than share warrants) against the said rights. The said rule intends to bring within the ambit of pricing guidelines situations wherein the renunciation is made by a person resident in India to a person resident outside India, unlike earlier, wherein the explanation to rule 7 kept any renunciation out of the ambit of pricing guidelines.

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Ministry of Finance (Contd…)

- In Principal Rules, in schedule I, in the table:

  ✓ against serial number 15.3.1, in the entries under column (2), under sub-heading “Note”, in serial number (3), after the words “first store”, the words “*or start of online retail, whichever is earlier*” shall be inserted

  Impact: The amendment implies that in case of single brand product retail trading, sourcing norms shall not be applicable up to 3 (Three) years from commencement of the business i.e. opening of the first store or start of online retail, whichever is earlier for entities undertaking single brand retail trading of products having 'state-of-art' and 'cutting-edge’.

  ✓ Under serial number F.8.1, for the entries in column (2), under the heading “Sector/Activity”, the following entry shall be substituted:

  “*Insurance Company*”;

  ✓ for serial number F. 8.2 and the entries relating thereto, the following serial number and entries shall be substituted, viz:-

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Ministry of Finance (Contd…)

(1)	(2)	(3)	(4)
"F.8.2	Intermediaries or Insurance Intermediaries including insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time.	100%	Automatic"

Impact: The aforesaid amendment implies that although foreign investment in insurance sector is permitted upto 49% (Forty-nine Percent) through automatic route, foreign investment in intermediaries or insurance intermediaries including insurance brokers, re-insurance brokers and more specifically elaborated as aforesaid, is now allowed upto 100% (Hundred Percent) through automatic route.

- ✓ After serial number F.8.2 as so substituted, the following serial number and entries shall be inserted, viz :-

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Ministry of Finance (Contd…)

(1)	(2)
"F.8.3	*(a) No Indian Insurance company shall allow the aggregate holdings by way of total foreign investment in its equity shares by foreign investors, including portfolio investors, to exceed forty-nine percent of the paid up equity capital of such Indian Insurance Company.* *(b) The foreign investment up to forty-nine percent of the total paid-up equity of the Indian Insurance Company shall be allowed on the automatic route subject to approval or verification by the Insurance Regulatory and Development Authority of India.* *(c) Foreign investment in this sector shall be subject to compliance with the provisions of the Insurance Act, 1938 and the condition that Companies receiving FDI shall obtain necessary license or approval from the Insurance Regulatory and Development Authority of India for undertaking insurance and related activities.* *(d) An Indian Insurance company shall ensure that its ownership and control remains at all times in the hands of resident Indian entities as determined by Department of Financial Services or Insurance Regulatory and Development Authority of India as per the rules or regulation issued by them from time to time.*

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Ministry of Finance (Contd…)

(1)	(2)
"F.8.3	*(e) Foreign portfolio investment in an Indian Insurance company shall be governed by the provisions contained in Chapter-IV, rule 10 and rule 11 read with Schedule-II of these rules and provisions of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014.* *(f) Any increase in foreign investment in an Indian Insurance company shall be in accordance with the pricing guidelines specified in these rules.* *(g) The foreign equity investment cap of 100 per cent shall apply on the same terms as above to insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time. However, the condition of Indian owned and controlled, as specified in clause (d) above, shall not be applicable to Intermediaries and Insurance Intermediaries and composition of the Board of Directors and key management persons shall be as specified by the concerned regulators from time to time.*

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Ministry of Finance (Contd…)

(1)	(2)
"F.8.3	*(h) The foreign direct investment proposals shall be allowed under the automatic route subject to verification by the Authority and the foreign investment in intermediaries or insurance intermediaries shall be governed by the same terms as provided under rules 7 and 8 of the Indian Insurance Companies (Foreign Investment) Rules, 2015, as amended from time to time:* *Provided that where an entity like a Bank, whose primary business is outside the insurance area, is allowed by the Authority to function as an insurance intermediary, the foreign equity investment caps applicable in that sector shall continue to apply, subject to the condition that the revenues of such entities from the primary (non-insurance related) business must remain above 50 per cent of* their total revenues in any financial year. *The insurance intermediary that has majority shareholding of foreign investors shall undertake the following:* *(i) be incorporated as a limited company under the provisions of the Companies Act, 2013;* *(ii) at least one from among the Chairman of the Board of Directors or the Chief Executive Officer or Principal Officer or Managing Director of the insurance intermediary shall be a resident Indian citizen;*

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Ministry of Finance (Contd…)

(1)	(2)
"F.8.3	*(iii) shall take prior permission of the Authority for repatriating dividend;* *(iv) shall bring in the latest technological, managerial and other skills;* *(v) shall not make payments to the foreign group or promoter or subsidiary or interconnected or associate entities beyond what is necessary or permitted by the Authority;* *(vi) shall make disclosures in the formats to be specified by the Authority of all payments made to its group or promoter or subsidiary or interconnected or associate entities;* *(vii) composition of the Board of Directors and key management persons shall be as specified by the concerned regulators;* *(j) The other condition under the heading 'Banking-Private Sector' specified against serial number F.2.1 shall be applicable in respect of bank promoted insurance companies.* *(k) Terms 'Control', 'Equity Share Capital', 'Foreign Direct Investment' (FDI), 'Foreign Investors', 'Foreign Portfolio Investment', 'Indian Insurance Company', 'Indian Company', 'Indian Control of an Indian Insurance Company', 'Indian Ownership', 'Non-resident Entity', 'Public Financial Institution', 'Resident Indian Citizen', 'Total Foreign Investment' will have the same meaning as provided in Notification No. G.S.R 115 (E), dated the 19th February, 2015 issued by Department of Financial Services and regulations issued by Insurance Regulatory and Development Authority of India from time to time."*

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Ministry of Finance (Contd…)

Impact:

- The aforesaid amendment *inter-alia* provides that the aggregate holdings by way of total foreign investment in equity shares of an Indian Insurance Company ("**IIC**") by foreign investors, including portfolio investors, shall not exceed 49% (Forty-nine Percent) of the paid up equity capital of such IIC.

- Further, any investment in IIC upto 49% (Forty-nine percent) through automatic route shall be subject to approval or verification by the Insurance Regulatory and Development Authority of India.

- Foreign portfolio investment in an IIC shall be governed by relevant provisions of Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, as aforesaid and any increase in foreign investment in an IIC shall be in accordance with the pricing guidelines specified in the Principal Rules.

- The amendment also lift restriction on the ownership and control to be retained by resident Indian entities at all times. As far as the intermediaries and insurance intermediaries are concerned. Further, in case of insurance intermediary that majority shareholding of foreign investors, certain additional compliances has been prescribed as discussed hereunder.

- Pricing guidelines provided in rule 21 of Principal Rules will be required to be complied in case of any increase of foreign investment.

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Ministry of Finance (Contd…)

- Insurance intermediary with majority shareholding of foreign investors shall undertake following:
  - Incorporation as a limited company under Companies Act, 2013;
  - Ensuring that chairman of the board or chief executive officer or principal officer of managing director is a resident Indian citizen;
  - Obtain prior permission of Insurance Regulatory and Development Authority of India ("**IRDA**"), for repatriating dividend;
  - Introduce latest technological, managerial and other skills;
  - Abstain from making payments to the foreign group or promoter or subsidiary or interconnected or associate entities beyond what is necessary or permitted by IRDA;
  - Disclose in the formats prescribed by IRDA in relation to all payments made to its group or promoter or subsidiary or interconnected or associate entities;
  - Ensure composition of the board of directors and key managerial personnel as specified by concerned regulators;

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Ministry of Finance (Contd…)

- In Principal Rules, in schedule II, for the entries in paragraph 1(a)(iii), the following entries shall be substituted, viz:-

*"The Foreign Portfolio Investors ("**FPIs**") investing in breach of the prescribed limit shall have the option of divesting their holdings within five trading days from the date of settlement of the trades causing the breach. In case the FPI chooses not to divest, then the entire investment in the company by such FPI and its investor group shall be considered as investment under Foreign Direct Investment ("**FDI**") and the FPI and its investor group shall not make further portfolio investment in the company concerned. The FPI, through its designated custodian, shall bring the same to the notice of the depositories as well as the concerned company for effecting necessary changes in their records, within -seven trading days from the date of settlement of the trades causing the breach. The divestment of holdings by the FPI and the reclassification of FPI investment as FDI shall be subject to further conditions, if any, specified by Securities and Exchange Board of India ("**SEBI**") and the Reserve Bank ("**RBI**") in this regard. The breach of the said aggregate or sectoral limit on account of such acquisition for the period between the acquisition and sale or conversion to FDI within the prescribed time, shall not be reckoned as a contravention under these rules.".*

Impact:

- In case where investment made by FPIs breaches the prescribed limit, they shall have the option to divest their holdings within 5 (Five) trading days from the date of settlement of the trades that caused the breach.

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Ministry of Finance (Contd…)

- In case the FPIs do not opt to divest, the entire investment in the company by such FPI and its investor group shall be considered as investment under FDI and the FPI and its investor group shall not be allowed to make further portfolio investment in the company concerned and the same shall be brought to the notice of the depositories as well as the concerned company for effecting necessary changes in their records, within 7(seven) trading days from the date of settlement of the trades causing such breach.

- Any breach of the said aggregate or sectoral limit on account of such acquisition for the period between the acquisition and sale or conversion to FDI within the prescribed time, shall not be reckoned as a contravention under Principal Rules.

- **Link of the Notification.**
  http://egazette.nic.in/WriteReadData/2020/219200.pdf

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Securities Law

- **The Securities and Exchange Board of India ("SEBI") – circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/71 on relaxation from compliance of regulation 44(5) of SEBI ((Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") on holding of Annual General Meeting ("AGM") by top 100 (One Hundred) listed entities by market capitalization, due to the COVID –19 pandemic dated April 23, 2020 ("Circular").**

  - Under the LODR Regulations norms, top 100 (One Hundred) listed entities by market capitalization are required to hold their AGM within a period of 5 (Five) months from the date of closing of the financial year. However, SEBI *vide* its circular dated March 26, 2020 had relaxed this requirement by 1 (One) month for listed entities whose financial year ends on March 31, 2020.

  - The Circular which shall come into force with immediate effect draws reference to Ministry of Corporate Affairs who has, *vide* circular no.18/2020 dated April 21, 2020, clarified that *"…if the companies whose financial year (other than the first financial year) has ended on December 31, 2019 hold their AGM for such financial year within a period of nine months from the closure of the financial year (i.e., by September 30, 2020), the same will not be treated as a violation."*

  - Accordingly, SEBI also relaxed regulation 44(5) of the LODR Regulations whereby the top 100 (One Hundred) listed entities by market capitalization whose financial year ended on December 31, 2019 may hold their AGM within a period of 9 (Nine) months from the closure of the financial year (i.e., by September 30, 2020).

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Securities Law (Contd…)

- **Link of the Circular.**
  https://www.sebi.gov.in/legal/circulars/apr-2020/relaxation-in-relation-to-regulation-44-5-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-lodr-on-holding-of-annual-general-meeting-agm-by-top-100-listed-entitie-_46552.html

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Securities Law (Contd…)

- **The Securities and Exchange Board of India ("SEBI") – circular no. SEBI/HO/CFD/DCR2/CIR/P/2020/69 on relaxation from compliance of regulation 24(i)(f) of SEBI (Buy-back of Securities) Regulations, 2018 ("Buy-back Regulations"), due to the COVID–19 pandemic, dated April 23, 2020 ("Circular").**

  - Owing to COVID–19 pandemic and on receipt of a number of suggestions for relaxation of conditions with respect to raising of funds from the securities market, market regulatory SEBI, *vide* the Circular, has decided to temporarily relax the period of restriction which barred companies from raising further capital from the securities market for a period of 1 (One) year from the buyback period expiry.

  - Accordingly, to enable relatively quicker access to capital, SEBI has temporarily relaxed the period of restriction provided in regulation 24(i)(f) of the Buy-back Regulations. Accordingly the words 'one year' shall be read as 'six months' in the said regulation. Although the Circular shall come into force with immediate effect, the relaxation shall be applicable till December 31, 2020.

  - **Link of the Circular.**
    https://www.sebi.gov.in/legal/circulars/apr-2020/relaxation-in-regulation-24-i-f-of-the-sebi-buy-back-of-securities-regulations-2018-due-to-the-covid-19-pandemic_46547.html

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Securities Law (Contd…)

- **The Securities and Exchange Board of India ("SEBI") – circular number SEBI/HO/CFD/CIR/CFD/DIL/67/2020 on relaxation from compliance with certain provisions wrt rights issue of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("ICDR Regulations") due to the COVID-19 pandemic dated April 21, 2020 ("Circular").**

  - SEBI, pursuant to suggestions received from industry bodies and market participants for easing of conditions relating to raising of funds from the securities market, due to difficulties faced amidst COVID-19, has decided to introduce temporary relaxations in the provisions related to rights issues as contained ICDR Regulations as follows, with immediate effect. However, these temporary relaxations are applicable to rights issues that open on or before March 31, 2021, and are not applicable to issuance of warrants.

A. Relaxations with respect to the eligibility conditions related to fast track rights issues (regulation 99):

- The Circular provides that nothing under regulation 71(1), (2), (4) and (5) (pertinent to filing of the draft letter of offer and letter of offer) shall be applicable, if the issuer satisfies the eligibility conditions mentioned under regulation 99 of ICDR Regulations for making a rights issue through the fast track route. Certain temporary relaxations with respect to aforesaid regulation 99 are as follows:

  ✓ The requirement related to period of listing of equity shares of the issuer and the compliance with the equity listing agreement or the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, as applicable, for at least 3 (Three) years has been reduced to listing for 18 (Eighteen) months.

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Securities Law (Contd…)

- ✓ The requirement related to period of listing of equity shares of the issuer and the compliance with the equity listing agreement or the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, as applicable, for at least 3 (Three) years has been reduced to listing for 18 (Eighteen) months.

- ✓ The eligibility requirement of average market capitalisation of public shareholding of INR 250 crores has been reduced to INR 100 crores.

- ✓ The Circular has relaxed restrictions on issuer, who was not earlier eligible if any adjudication proceedings were initiated/pending against the issuer/ its promoters/ whole-time directors. However, the Circular clarifies that in case a show cause notice is issued or prosecution proceeding is initiated against issuer or its promoters/ directors/group companies, the issuer shall be eligible to initiate the rights issue upon making necessary disclosures in respect of such action(s) along-with its potential adverse impact on the issuer.

- ✓ The Circular has relaxed compliance with regulation 99(i) to the effect that the issuer or promoter or promoter group or director of the issuer has fulfilled the settlement terms or adhered to directions of the settlement order(s) in cases where it has settled any alleged violation of securities laws through the consent or settlement mechanism with SEBI.

- ✓ Further, the equity shares of the issuer have not been suspended from trading as a disciplinary measure during last 18 (eighteen) months immediately preceding the reference date, as against 3 (Three) years as provided in ICDR Regulations.

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Securities Law (Contd…)

- ✓ Further, for audit qualifications, if any, in respect of any of the financial years for which accounts are disclosed in the letter of offer, the issuer shall provide the restated financial statements adjusting for the impact of the audit qualifications. Further, for the qualifications wherein impact on the financials cannot be ascertained the same shall be disclosed appropriately in the letter of offer. Earlier, rights issue could not be initiated if there are audit qualifications on the audited accounts of the issuer w.r.t financial years for which such accounts are disclosed in the letter of offer.

B. Relaxations with respect to minimum subscription (regulation 86):

- ✓ The minimum subscription to be received in the issue shall be at least 75% (seventy-five per cent) of the offer through the offer document.

  Provided that if the issue is subscribed between 75% to 90%, issue will be considered successful subject to the condition that out of the funds raised, atleast 75% of the issue size shall be utilized for the objects of the issue other than general corporate purpose.

C. Relaxations with respect to the minimum threshold required for not filing draft letter of offer with SEBI (regulation 60):

- ✓ To reduce the time involved in fund raising and ease compliance requirements, listed entities raising funds upto INR 25 crores in a rights issue, will not be required to file draft offer document. The existing threshold in this regard is INR 10 crores.

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Securities Law (Contd…)

- **Link of the Circular.**
  https://www.sebi.gov.in/legal/circulars/apr-2020/relaxations-from-certain-provisions-of-the-sebi-issue-of-capital-and-disclosure-requirements-regulations-2018-in-respect-of-rights-issue_46537.html

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Securities Law (Contd…)

- **The Securities and Exchange Board of India ("SEBI") – circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/63 on additional relaxations / clarifications in relation to compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") due to the COVID – 19 pandemic dated April 17, 2020 ("Circular").**

  - In furtherance to SEBI's circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/38 dated March 19, 2020, and circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/48 dated March 26, 2020, SEBI *vide* the Circular has granted the following relaxations and issued clarifications regarding provisions of LODR Regulations due to the COVID -19 virus pandemic with immediate effect:

    - ✓ **Under regulation 29(2) of LODR Regulations (i.e. prior intimation to stock exchanges about meetings of the board):**

      The time limit of prior intimation of board meetings to the stock exchange has been **reduced to 2 (Two) days, for board meetings held till July 31, 2020**, as against that is required under the LODR Regulations i.e. at least 5 (Five) days before the meeting if financial results are to be considered and 2 (Two) working days in other cases.

    - ✓ **Under regulation 39 (3) of LODR Regulations (i.e. listed entities to submit information regarding loss of share certificates and issue of the duplicate certificates, to the stock exchange within 2 (Two) days of its getting information):**

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Securities Law (Contd…)

Any delay beyond the stipulated time as aforesaid, during the period starting from March 01, 2020 to May 31, 2020, in the said LODR Regulations, will not attract penal provisions laid down by SEBI *vide* circular no. SEBI/HO/CFD/CMD/CIR/P/2018/77 dated May 3, 2018.

✓ **Clarification regarding the use of digital signatures:**

SEBI *vide* the Circular has clarified that any authentication / certification of any filing / submission made to stock exchanges under LODR Regulations can be done using digital signature certifications until June 30, 2020.

✓ SEBI *vide* the Circular has also relaxed the requirements relating to publication of advertisements in newspapers, as required under regulation 52(8) of LODR Regulations till May 15, 2020, for entities which have listed their non-convertible debt securities and non-convertible redeemable preference shares.

- **Link of the Circular.**
  https://www.sebi.gov.in/legal/circulars/apr-2020/additional-relaxations-clarifications-in-relation-to-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-lodr-due-to-the-covid-19-_46525.html

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Securities Law (Contd…)

- **The Securities and Exchange Board of India ("SEBI") – circular no. SEBI/HO/MIRSD/RTAMB/CIR/P/2020/59 on relaxation in adherence to prescribed timelines issued by SEBI due to COVID-19, dated April 13, 2020 ("Circular").**

  - SEBI *vide* the Circular has extended timelines for Registrars to an Issue ("**RTI"**) and Share Transfer Agents ("**STA"**) / Issuer Companies holding SEBI registration under Category 1 or Category 2 of RTI/STA for processing of various investor requests pertaining to physical securities and compliance and disclosures to be made under SEBI regulations and various SEBI circulars.

  - The Circular has relaxed compliance requirements for intermediaries / market participants for equivalent period of lock down declared by Government of India i.e. 21 (Twenty-One) days, over and above the prescribed time limits, respectively, for activities / investor requests / compliance.

  - The Circular specifies the relaxation for the following compliance requirements/investor requests/ disclosure requirements.

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Securities Law (Contd…)

Sr. No.	Particulars
1	Processing of REMAT requests
2	Processing of transmission requests
3	Processing of request for Issue of duplicate share certificates
4	Processing of requests for name deletion/ name change/ transposition/ pending share transfers (re-lodgement cases in the case of share transfers)
5	Processing of requests for consolidation / split / replacement of share certificates / amalgamation of folios
6	Handling investor correspondence / grievances / SCORES complaint
7	Submission of half yearly report to SEBI pursuant to circular no. CIR/MIRSD/7/2012 dated July 5, 2012
8	Compulsory internal audit of RTAs by chartered accountants / company secretary / cost and management accountant holding certificate of practice and certified information systems auditor (CISA) / diploma information systems auditor (DISA) pursuant to circular dated April 20, 2018, issued by SEBI
9	Submission of audit report by CISA / CISM qualified or equivalent auditor by QRTAs to SEBI along with comments of the Board pursuant to Circular dated September 8, 2017 issued by SEBI on Cyber Security and Cyber Security Resilience framework for qualified RTAs (“**QRTAs**”)

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Securities Law (Contd…)

Sr. No.	Particulars
10	Submission of compliance report by QRTAs duly reviewed by the Board of Directors of the QRTA to SEBI on enhanced monitoring of QRTAs pursuant to Circular dated August 10, 2018 issued by SEBI.
11	Regulation 74(5) of the SEBI (Depositories and Participants) Regulations, 2018 (i.e. certification for listing securities on the stock exchange)
12	Regulation 76 of the SEBI (Depositories and Participants) Regulations, 2018 (i.e. reconciliation of the share capital).

- **Link of the Circular.**
  https://www.sebi.gov.in/legal/circulars/apr-2020/relaxation-in-adherence-to-prescribed-timelines-issued-by-sebi-due-to-covid-19_46511.html

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Insolvency And Bankruptcy Code

- **Insolvency and Bankruptcy Board of India ("IBBI") – notification no. No. IBBI/2020-21/GN/REG059 on IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2020 dated April 20, 2020 ("Amendment Regulations") ("Notification").**

  - The IBBI *vide* the Notification has further amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**Principal Regulations**"), which shall come into force from March 29, 2020.

  - Under this Notification, regulation 40C (Special provision relating to time-line) has been inserted after regulation 40B of the Principal Regulations (Filing of Forms) as under, due to the COVID-19 outbreak:

    - ✓ *"Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process."*

  - The aforesaid development ensures that no loss of time due to COVID-19 jeopardizes the implementation of the corporate insolvency resolution process.

  - **Link of the Notification.**
    https://www.ibbi.gov.in/uploads/legalframwork/3d8c8efd906d320e296833445c91a0a4.pdf

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Insolvency And Bankruptcy Code (Contd…)

- **Insolvency and Bankruptcy Board of India ("IBBI") – notification no. No. IBBI/2020-21/GN/REG057 on IBBI (Insolvency Professionals) (Amendment) Regulations, 2020 dated April 20, 2020 ("Amendment Regulations") ("Notification").**

  - The IBBI *vide* the Notification has further amended the IBBI (Insolvency Professionals) Regulations, 2016 ("**Principal Regulations**"), which shall come into force from March 28, 2020.

  - The Notification has brought about the following amendments :

    - ✓ A proviso to regulation 7(2)(ca) has been inserted for extending the time limit for paying to the IBBI, a fee calculated at the rate of 0.25% (Point Two Five Percent) of the professional fee earned for the services rendered by an insolvency professional in the preceding financial year. Accordingly, for the financial year 2019-20, the aforesaid fee has to be paid by June 30, 2020 instead of April 30, 2020.

    - ✓ A proviso to regulation 12(2)(b) and 12(2)(c) has been inserted to provide a wider window of 30 (thirty) days from the commencement of the Amendment Regulations until December 31, 2020, to the insolvency professional entity, for reporting cessation and appointment, respectively of an individual as a director or partner, as the case may be, which is usually 7 (Seven) days. The said relaxation for a limited period has been brought, considering the disturbance in normalcy of operations caused by the COVID-19.

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Insolvency And Bankruptcy Code (Contd…)

- **Link of the Notification.**
  https://www.ibbi.gov.in/uploads/legalframwork/ac467ecac3ad7a0f66433d3cbedfa03d.pdf

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Insolvency And Bankruptcy Code (Contd…)

- **Insolvency and Bankruptcy Board of India ("IBBI") – notification no. No. IBBI/2020-21/GN/REG056 on IBBI (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2020 dated April 20, 2020 ("Amendment Regulations") ("Notification").**

  - The IBBI *vide* the Notification has further amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**Principal Regulations**"), which shall come into force from March 25, 2020.

  - Under this Notification, sub-regulation (4) of regulation 40B (Filing of Forms) has been substituted as under to prescribe penalty for delayed filing after October 1, 2020, which was earlier prescribed for delayed filing after April 01, 2020:

    ✓ *"The filing of a Form under this regulation after 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 October, 2020."*

    Example: A Form is required to be filed by 30th October, 2020. It shall be filed along with a fee as under:

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Insolvency And Bankruptcy Code (Contd…)

If filed on	Fee (in Rupees)
29th October, 2020	0
30th October, 2020	0
31st October, 2020	500
Any day in November, 2020	1,000
Any day in December, 2020	1,500”

- **Link of the Notification.**
  https://www.ibbi.gov.in/uploads/legalframwork/ba2702f58a4ed1841e0e7a9a71ba40ec.pdf

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Insolvency And Bankruptcy Code (Contd…)

- **Insolvency and Bankruptcy Board of India ("IBBI") – notification no. No. IBBI/2020-21/GN/REG060 on IBBI (Liquidation Process) (Second Amendment) Regulations, 2020 dated April 17, 2020 ("Amendment Regulations") ("Notification").**

  - The IBBI *vide* the Notification has further amended the IBBI (Liquidation Process) Regulations, 2016 ("**Principal Regulations**"), which shall come into force from April 17, 2020.

  - Under this Notification, regulation 47A (Exclusion of period of lockdown) has been inserted after regulation 47 of the Principal Regulations (Model time-line for liquidation process) as under, due to the COVID-19 outbreak:

    - ✓ *"Subject to the provisions of the Code, the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any liquidation process."*

  - The aforesaid development ensures that no loss of time due to COVID-19 jeopardizes the implementation of the liquidation process.

  - **Link of the Notification.**
    https://www.ibbi.gov.in/uploads/whatsnew/4697af9d01b6c12c0816f4be28ea6835.pdf

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Deets / Disclaimer

- **Deets.**

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Thank You

There is no wealth like knowledge and no poverty like ignorance - Buddha