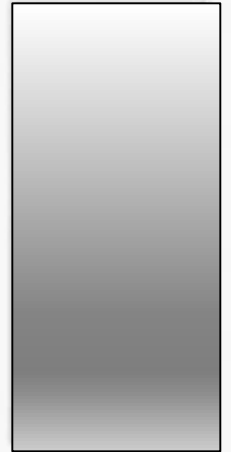


LEGALITE ADVISORS

IMPORTANT LEGAL UPDATES FOR JUNE, 2021



Companies Act

- ❑ **The Ministry of Corporate Affairs (“MCA”) – circular no. 12/2021— on relaxation of timeline for filing forms related to creation or modification of charges under the Companies Act, 2013, dated June 30, 2021 (“Circular”).**
 - The MCA, *vide* the Circular and in continuation of its circular no. 07/2021 dated May 03, 2021 on the captioned has extended the period which shall not be reckoned for the purpose of calculating the period available to file e-form CHG-1 and e-form CHG-9, due to the persistent difficulties faced by the companies owing to the COVID-19 pandemic.
 - Accordingly, the forms for which the creation or modification of charge took place before April 01, 2021, the 1st day of calculation after March 31, 2021 shall start from August 01, 2021, thereby completely taking out the months from May-July, 2021 from the calculation perspective.
 - Further, the forms for which the creation or modification of charge fell between April 01, 2021 and July 31, 2021, the 1st day of calculation after March 31, 2021 shall start from August 01, 2021, thereby completely taking out the period from the creation/modification of charge to July 31, 2021 from the calculation perspective.
 - Tabular representation is as under to understand the previous and new timelines:

Companies Act (Contd...)

Event Date	Period out of purview for calculating the total period available to file under circular no 07/2021	Extension of timelines under this Circular
<p>In case charge was created/modified prior to April 01, 2021 and timeline for filing of such form had not already expired.</p>	<p>In case the forms have not been filed already, then 1st day after March 31, 2021 shall be June 01, 2021 from which the filing the last date for form filing should be calculated</p>	<p>The said starting date of June 01, 2021 has now been extended to August 01, 2021.</p> <p>This has extended the omission period by a month, thereby giving the companies one extra month to file the forms CHG-1/CHG-9.</p>
<p>In case charge was created/modified after April 01, 2021.</p>	<p>If the charge has been created /modified between April 01, 2021 and May 31, 2021 and in case the forms have not been filed already, then 1st day after</p>	<p>If the charge has been created /modified between April 01, 2021 and July 31, 2021 and in case the forms have not been filed already, then 1st day after creation/modification of charge shall be August 01, 2021 from which the filing the last date for form filing should be calculated.</p>

Companies Act (Contd...)

In case charge was created/modified prior to April 01, 2021 and timeline for filing of such form had not already expired.	creation/modification of charge shall be June 01, 2021 from which the filing the last date for form filing should be calculated	Thus, for the charges created/modified during peak period of second wave of COVID-19 pandemic, the relaxation has been further extended so that a longer period can be omitted from the purview of calculation of period to file the CHG-1/CHG-9.

Link of the Circular

[https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjE2ODk=&docCategory=Notificati
onsAndCirculars&type=download](https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjE2ODk=&docCategory=Notificati
onsAndCirculars&type=download)

Companies Act (Contd...)

- ❑ **The Ministry of Corporate Affairs (“MCA”) – circular no. 11/2021— on relaxation on levy of additional fees in filing of certain forms under the Companies Act, 2013 and Limited Liability Partnership Act, 2018, dated June 30, 2021 (“Circular”).**
 - The MCA, *vide* the Circular has, further extended the timeline for filing certain forms (other than charge related forms) due to the persistent difficulties faced by the companies, owing to the COVID-19 pandemic.
 - Accordingly, the e-forms, other than the charge related forms which were/are due to be filed between the period ranging from April 01, 2021 and July 31, 2021 can now be filed by August 31, 2021. The MCA, *vide* circular no. 06, 2021 dated May 03, 2021 had allowed the e-forms to be filed by July 31, 2021 that were due to be filed between the period ranging from April 01, 2021 and May 31, 2021 and the aforesaid extension comes as a relief to the companies apprehending late submission fees.
 - **Link of the Circular :**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjE2OTA=&docCategory=NotificationsAndCirculars&type=download>

Companies Act (Contd...)

- ❑ **The Ministry of Corporate Affairs (“MCA”) – circular no. 10/2021— clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19, dated June 28, 2021 (“Circular”).**

- The MCA, *vide* the Circular has, due to the persistent difficulties faced by the companies owing to the COVID-19 pandemic, decided to allow the companies to conduct their extraordinary general meetings through video conference or other audio-visual means or transact items through postal ballot until December 31, 2021, in accordance with the framework provided in the following previously issued circulars issued by the MCA:
 - ✓ No. 14/2020 dated April 08, 2020;
 - ✓ No. 17/2020 dated April 13, 2020;
 - ✓ No. 22/2020 dated June 15, 2020;
 - ✓ No. 33/2020 dated September 28, 2020; and
 - ✓ No. 39/2020 dated December 31, 2020.

- **Link of the Circular**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjA1NTg=&docCategory=NotificationsAndCirculars&type=download>

Companies Act (Contd...)

- ❑ **The Ministry of Corporate Affairs (“MCA”) – notification no. G.S.R. 409(E).— on the Companies (Meetings of Board and its Powers) Amendment Rules, 2021 (“Amendment Rules”) dated June 15, 2021 (“Notification”).**
 - The MCA, *vide* the Notification has further amended the Companies (Meetings of Board and its Powers) Rules, 2014 (“**Principal Rules**”) which shall come into force from the date of publication in the official gazette. i.e. June 15, 2021.
 - Rule 4 of the Principal Rules i.e. (**matters not to be dealt with in a meeting through video conferencing or other audio visual means**) has been omitted.
 - With the aforesaid omission, MCA has now allowed all items to be transacted at board meeting held through video conferencing/other audio-visual means. This permanent development was much needed considering the difficulties that have arisen due to the COVID-19 pandemic.
 - **Link of the Notification**
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTkxMzU=&docCategory=NotificationsAndCirculars&type=download>

Companies Act (Contd...)

- ❑ **The Ministry of Corporate Affairs (“MCA”) – notification no. G.S.R. 396(E).— on the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Amendment Rules, 2021 (“Amendment Rules”), dated June 09, 2021 (“Notification”).**
 - The MCA, *vide* the Notification has further amended the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 (“**Principal Rules**”) which shall come into force from the date of publication in the official gazette. i.e. June 09, 2021.
 - The analysis of the amendments brought about by the Amendment Rules are as under:
 - ✓ An insertion has been made in the Rule 3(2) of the Principal Rules *vide* the amendment which envisages that the amount *wrt* all shares held by the Investor Education and Protection Fund Authority (“**Authority**”) in accordance with proviso of sub-section (9) of section 90 of the Companies Act, 2013 (Application to National Company Law Tribunal to lift restrictions *wrt* attachment of rights on shares) and all the resultant benefits arising out of such shares, without any restrictions, shall be credited to the Investor Education and Protection Fund (“**Fund**”).
 - ✓ Further, Rule 6A has been inserted after Rule 6 of the Principal Rules which specifies the manner of transfer of shares under sub-section (9) of section 90 of the Companies Act, 2013.
 - ✓ Proviso to the Rule 6A states as follows:

Companies Act (Contd...)

- Provided that if no such application has been filed within a period of 1 (one) year from the date of the order under sub-section (8) of section 90 of the Companies Act, 2013, such shares shall be transferred, without any restrictions, to the authority constituted under sub-section (5) of section 125 of Companies Act, 2013, in such manner as may be prescribed to the Fund.

- **Link of the Notification:**
[https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTkxMzQ=&docCategory=Notifications
AndCirculars&type=download](https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTkxMzQ=&docCategory=NotificationsAndCirculars&type=download)

Companies Act (Contd...)

- ❑ **The Ministry of Corporate Affairs (“MCA”) – notification no. G.S.R 392(E).— on the Companies (Incorporation) Fourth Amendment Rules, 2021 (“Amendment Rules”) dated June 07, 2021 (“Notification”).**
 - The MCA, *vide* the Notification has further amended the Companies (Incorporation) Rules, 2014 (“**Principal Rules**”) which shall come into force from the date of publication in the official gazette. i.e. June 07, 2021.
 - The major highlights of the Notification are as enumerated hereunder:

Existing provisions under Principal Rules.	New provisions introduced by the Notification.	Key changes.
Application for registration of Goods and Service Tax Identification Number (GSTIN), Employee State Insurance Corporation (ESIC) registration 2,5[,Employees’ Provident Fund organisation (EPFO) Registration and	Application for registration of Goods and Service Tax Identification Number (GSTIN), Employee State Insurance Corporation (ESIC) registration 2,5[,Employees’ Provident Fund organisation (EPFO) Registration and	In 38A of the Principal Rules, in the marginal heading, for the words, “ and Opening of Bank Account ”, the words, “ Opening of Bank Account and Shops and Establishment Registration ”, shall be substituted.

Companies Act (Contd...)

Existing provisions under Principal Rules.	New provisions introduced by the Notification.	Key changes.
Professional Tax Registration and Opening of Bank Account	profession Tax Registration and Opening of Bank Account and Shop and Establishment Registration	<p>This is a progressive step towards getting shops and establishment registration during incorporation which would further aid new companies to getting multiple registrations at one go.</p> <p>Consequently, the form's name has also been changed from "AGILE-PRO" to "AGILE-PRO-S"</p>

- **Link of the Notification**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjAxMzc=&docCategory=NotificationsAndCirculars&type=download>

Securities Law

- **The Securities and Exchange Board of India (“SEBI”) – press release PR No. 22/2021 on the SEBI Board Meeting held in Mumbai, dated June 29, 2021 (“PR”).**
 - The SEBI Board (“**Board**”), that met in Mumbai recently, inter-alia, took the following decisions, apart from approving its annual report for 2020-21 to be submitted to the Central Government.
 - ✓ **Review and Merger of SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Non-Convertible Redeemable Preference Shares) Regulations, 2013 into a single Regulation – SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.**
 - The Board considered and approved the proposals relating to the review and merger of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Non-Convertible Redeemable Preference Shares) Regulations, 2013 into a single Regulation to be called– SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.
 - Some of the salient features of the combined regulations are mentioned in the PR. This would make the tracking of compliances easier for such companies who are seeking to issue debt securities and non-convertible preference shares as the multiplicity of regulations often created stress and an apprehension of non-compliance in the minds of the companies. Even the regulator would now find it easier to regulate and monitor the norms around issue and listing of the aforesaid securities.

Securities Law (Contd...)

✓ **Review of Regulatory provisions related to Independent Directors.**

The Board approved amendments to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”) pertaining to regulatory provisions related to Independent Directors (“**IDs**”), which include the following:

○ **Appointment/Re-appointment and Removal of IDs:**

- Appointment/Re-appointment and removal of IDs shall be through a special resolution of shareholders for all listed entities.
- The process to be followed by nomination and remuneration committee (NRC), while selecting candidates for appointment as IDs, has been elaborated and made more transparent including enhanced disclosures regarding the skills required for appointment as an ID and how the proposed candidate fits into that skillset.
- The composition of NRC has been modified to include 2/3rd (two-third) IDs instead of existing requirement of majority of IDs.
- Shareholder approval for appointment of all directors including IDs shall be taken at the next general meeting, or within 3 (three) months of the appointment on the board of directors, whichever is earlier.

Securities Law (Contd...)

- **Eligibility Requirement:**

- A cooling off period of 3 (three) years has been introduced for key managerial personnel (and their relatives) or employees of the promoter group companies, for appointment as an ID.
- Relatives of employees of the company, its holding, subsidiary or associate company have been permitted to become IDs, without the requirement of a cooling off period, in line with Companies Act, 2013 (“**Act**”).

- **Resignation of IDs:**

- The entire resignation letter of an ID shall be disclosed along with a list of her/his present directorships and membership in board committees.
- A cooling-off period of 1 (one) year has been introduced for an ID transitioning to a whole-time director in the same company/ holding/subsidiary/associate company or any company belonging to the promoter group.

- **Audit Committee:**

- At least 2/3rd (two-third) of the members of the audit committee shall be independent directors and all related party transactions shall be approved by only Independent Directors on the Audit Committee.

Securities Law (Contd...)

- **Directors and Officers insurance:**
 - The requirement of undertaking Directors and Officers insurance has been extended to the top 1000 companies (by market capitalization).
 - The aforesaid amendments have been decided to be effectuated from January 01, 2022. The Board also agreed to make a reference to the Ministry of Corporate Affairs (MCA), for giving greater flexibility to companies while deciding the remuneration for all directors (including IDs), which may include profit linked commissions, sitting fees, ESOPs, etc., within the overall prescribed limit specified under Act.
- ✓ **Amendments to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015**
 - With a view to streamlining the process of reward payment and to enhance the quantum of reward under the informant mechanism, the Board considered and approved certain amendments to SEBI (Prohibition of Insider Trading) Regulations, 2015. The amendments, inter alia, include the following:
 - The maximum amount of reward has been increased from INR 1,00,00,000 (Indian Rupees One Crore only), at present, to INR 10,00,00,000 (Indian Rupees Ten Crores only).

Securities Law (Contd...)

- If the total reward payable to the informant is less than or equal to INR 1,00,00,000 (Indian Rupees One Crore only), then the reward may be granted by SEBI, after the final order is issued.
- If the total reward payable to the informant is more than INR 1,00,00,000 (Indian Rupees One Crore only), then an interim reward not exceeding INR 1,00,00,000 (Indian Rupees One Crore only), may be granted by SEBI, after the final order is issued. The remaining reward amount will be granted only upon receipt of the monetary sanctions amounting to at least twice the balance of the reward amount payable by SEBI.

- **Link of the PR**

https://www.sebi.gov.in/media/press-releases/jun-2021/sebi-board-meeting_50771.html

Securities Law (Contd...)

- The Securities and Exchange Board of India (“SEBI”) – circular number SEBI/HO/CFD/DCR2/CIR/P/2021/576 on relaxation from the requirement of minimum vesting period in case of death of employee(s) under SEBI (Share Based Employee Benefit) Regulations, 2014 (“SBEB Regulations”), dated June 15, 2021 (“Circular”).
 - Regulation 18(1) and 24(1) of SBEB Regulations that pertains to vesting, provides that there shall be a minimum vesting period of one (1) year in case of employee stock options (“**Options**”) and stock appreciation rights (“**SAR**”). Further, regulation 9(4) of the SBEB Regulations states that in the event of death of the employee while in employment, all the Options, SARs or any other benefit granted to him/her under a scheme till such date, shall vest in the legal heirs or nominees of the deceased employee.
 - However, in view of the prevailing situation due to COVID-19 pandemic to provide relief to the families of the deceased employees of listed companies, it has been decided by SEBI as under:
 - ✓ the provisions under the SBEB Regulations relating to minimum vesting period of one year shall not apply in case of death (for any reason) of an employee and in such instances all the Options, SAR or any other benefit granted to such employee(s) shall vest with his/her legal heir or nominee on the date of death of the employee; and
 - ✓ this relaxation shall be available to all such employees who have been deceased on or after April 01, 2020

Securities Law (Contd...)

- **Link of the Circular:**

https://www.sebi.gov.in/legal/circulars/jun-2021/relaxation-from-the-requirement-of-minimum-vesting-period-in-case-of-death-of-employee-s-under-sebi-share-based-employee-benefit-regulations-2014_50545.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – circular number SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2021/579 framework for administration and supervision of Investment Advisers (“IA”) under the SEBI (Investment Advisers) Regulations, 2013 (“IA Regulations”), dated June 18, 2021 (“Circular”).**
 - Per regulation 14 of IA Regulations, SEBI may *inter-alia*, recognize any body or body corporate for the purpose of regulating IAs and delegate administration and supervision of the IAs on such terms and conditions as may be specified. Accordingly, an entity granted recognition under the IA Regulation shall be designated as “**Investment Adviser Administration and Supervisory Body**” (“**IAASB**”) and shall be entrusted with the administration and supervision of IAs. In this regard, BSE Administration & Supervision Limited (BASL), a wholly owned subsidiary of BSE Limited, has been granted recognition as IAASB for a period of 3 (three) years from June 01, 2021.
 - IAASB shall inter-alia, have following responsibilities:
 - ✓ Supervision of IAs including both on-site and offsite;
 - ✓ Grievance redressal of clients and IAs;
 - ✓ Administrative action including issuing warning and referring to SEBI for enforcement action;
 - ✓ Monitoring activities of IAs by obtaining periodical reports;
 - ✓ Submission of periodical reports to SEBI; and
 - ✓ Maintenance of database of IAs

Securities Law (Contd...)

- The board of the IAASB shall, at all times, be chaired by a public interest director and shall also have, at all times, a director who will bring investor perspective. SEBI shall continue to concurrently administer and supervise all registered IAs and IAASB shall be subject to periodic inspection by SEBI.
- Post aforesaid recognition, SEBI registered IAs are required to ensure compliance with the following:

i. Membership of IAASB:

In order to ensure compliance with regulation 6(n) of the IA Regulations, which pertains to consideration of application and eligibility criteria, and to keep their registration in force, existing IAs shall seek membership of IAASB in such manner as may be specified by the IAASB, within 3 (three) months of the recognition of IAASB by SEBI.

ii. Payment of fees:

The fees payable to SEBI has been modified by way of amendment to IA Regulations, with effect from April 01, 2021, details of the same are provided in the link below. Accordingly, unless specified otherwise by SEBI, existing IAs shall be required to pay membership fees to IAASB in a manner prescribed by IAASB, at the time of payment of fees to SEBI as per Second Schedule to the IA Regulations, to keep their registration in force. Any subsequent payment of membership fees shall be in the manner specified by IAASB

Securities Law (Contd...)

iii. Reporting:

All SEBI registered IAs shall submit periodic reports to IAASB in such manner as may be specified by IAASB.

- **Link of the Circular:**

https://www.sebi.gov.in/legal/circulars/jun-2021/framework-for-administration-and-supervision-of-investment-advisers-under-the-sebi-investment-advisers-regulations-2013_50605.html

- **Link to fees payable by IAs:**

https://www.sebi.gov.in/legal/regulations/jan-2021/securities-and-exchange-board-of-india-investment-advisers-amendment-regulations-2021_49541.html

Reserve Bank Of India

- ❑ **The Reserve Bank of India (“RBI”) – notification no. RBI/2021-2022/63 - FIDD.MSME & NFS.BC.No.12/06.02.31/2021-22 on new definition of micro, small and medium enterprises (“MSME”), dated June 25, 2021 (“Notification”).**
- With the Government of India extending the validity of existing MSMEs, *vide* their notification no. S.O. 2347(E). dated 16.06.2021, from March 31, 2021 to December 31, 2021, RBI has extended the validity of Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) of the MSMEs obtained till June 30, 2020, upto December 31, 2021. This will aid the MSMEs approaching the lenders for credit.
- **Link of the Notification:**
<https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=12122&Mode=0>

Deets / Disclaimer

❑ Deets.

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Thank You



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