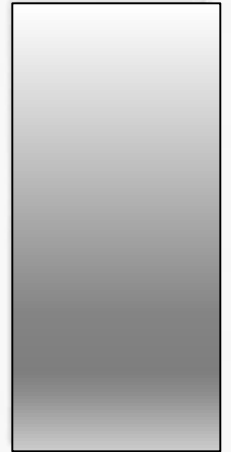


LEGALITE ADVISORS

IMPORTANT LEGAL UPDATES FOR MARCH, 2022



Companies Act

- **The Ministry of Corporate Affairs (“MCA”) – notification no. G.S.R. (E) on the Companies (Accounts) Second Amendment Rules, 2022 (“Amendment Rules) dated March 31, 2022 (“Notification”).**
 - The MCA *vide* this Notification further amends the Companies (Accounts) Rules, 2014 (“**Principal Rules**”). The Amendment Rules shall come into force on the date of their publication in the Official Gazette.
 - *Vide* the Notification, MCA has deferred the requirement of full audit trials timeline to financial year 2023. Accordingly, the following amendment has been introduced *vide* the said Amendment Rules. In the Companies Accounts Rules, 2014:
 - Rule 3 of the Companies Accounts Rules, 2014, prescribes the manner for maintaining the books of account in electronic mode. *Vide* the said Notification, the financial year from which every company which is required to maintain its books of accounts in a manner prescribed thereunder been changed from 1st day of April, 2022 to 1st day of April, 2023.
 - Consequent amendments have been made to the proviso of rule 3(i) and to the proviso of rule 12 (1B) of the Principal Rules. Thus, by way of amendment to the proviso to rule 12(1B), the date for filing form CSR-2 for FY 2021 is May 31, 2022 instead of March 31, 2022.
 - **Link of the Notification.**
<https://www.mca.gov.in/bin/dms/getdocument?mds=IzW7fqstVJYuFz6gHMSkKw%253D%253D&type=open>

Companies Act (Contd...)

- **The Ministry of Corporate Affairs (“MCA”) – notification no. G.S.R. (E) on the Limited Liability Partnership (Second Amendment) Rules, 2022 dated March 04, 2022 (“Notification”).**
 - As part of Government of India’s Ease of Doing Business’ initiative, the MCA has *vide* this Notification introduced Limited Liability (Second Amendment) Rules, 2022 (“**LLP Amendment Rules**”) to further amend the existing Limited Liability Partnership Rules, 2009 (“**LLP Rules**”). The LLP Amendment Rules shall come into force on the date of its publication in the Official Gazette.
 - Following are *inter alia* the major amendments introduced *vide* the LLP Amendment Rules:
 - **Rule 11 of the LLP Rules.**
 - ✓ The limit on the number of individuals who can make an application for allotment of DPIN in Form FiLLiP has been increased from 2 (Two) to 5 (Five). The objective behind the said amendment is to facilitate more individuals to apply for DPIN in form FiLLiP in a much easier manner.
 - ✓ The limited liability partnerships shall not have to apply for PAN (*Permanent Account Number*) and TAN (*Tax Deduction Account Number*) separately and it will be included in the incorporation process itself just like it is in the case of companies.

Companies Act (Contd...)

➤ Rule 19 of the LLP Rules.

- ✓ Earlier whenever an application for the name change of LLP was to be made Rule 19 (4) of the LLP Rules required the person making an application to attach:
 - (a) the authority under which he is making such an application;
 - (b) a copy of the incorporation certificate of the limited liability partnership or the company or the registration certificate of the entity, as the case may be.

Through LLP Amendment Rules the requirement of attaching the authority under which such person is making an application has been done away with. This will reduce the compliance burden of the limited liability partnerships.

➤ Rule 24 of the LLP Rules.

- ✓ Through LLP Amendment Rules, where the corporate insolvency resolution process has been initiated against the limited liability partnership under the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) or under the Limited Liability Partnership Act, 2008 the Statement of Account and Solvency may be signed on behalf of limited liability partnership by interim resolution professional or resolution professional, or liquidator or limited liability partnership administrator.

Companies Act (Contd...)

➤ Rule 25 of the LLP Rules.

- ✓ Rule 25 (2) of the LLP Rules, which states that the annual return of a limited liability partnership having turnover upto Rs 5 crores during the corresponding financial year or contribution upto Rs. 50 lacs shall be accompanied with a certificate from a designated partner, other than the signatory to the annual return, to the effect that annual return contains true and correct true and correct information. In all other cases, the annual return shall be accompanied with a certified from a Company Secretary in practice to the effect that he has verified particulars from the books and records of the limited liability partnership and found them to be true and correct.

“Provided that where the corporate insolvency resolution process has been initiated against the limited liability partnership under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) or the Limited Liability Partnership Act, 2008 (06 of 2009) having turnover upto five crore rupees during the corresponding financial year or contribution upto fifty lakh rupees has come under liquidation under the said Code, 2016 or the said Act, 2008, the said annual return may be signed on behalf of limited liability partnership by interim resolution professional or resolution professional, or liquidator or limited liability partnership administrator and no certification by a designated partner shall be required.”

Companies Act (Contd...)

➤ **Web-based process for the formation of a limited liability partnership.**

- ✓ *Vide* the Amendment Rules, a web-based process has been introduced for filing forms for the incorporation of a limited liability partnership. The said process is similar to the process for the incorporation of a company viz. SPICE+ under the Companies Act, 2013.
- ✓ The drafts of the web-based forms which are required to be filed for the formation of a limited liability partnership have been provided in the Notification, a link of which has been provided hereunder.

▪ **Link of the Notification.**

<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTk1NzI3MTA=&docCategory=Notifications&type=open>

Securities Law

- **The Securities and Exchange Board of India (“SEBI”) – circular no. SEBI/HO/CFD/CMD1/CIR/P/2022/40 on clarification on applicability of regulation 23 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions, dated March 30, 2022 (“Circular”).**
 - SEBI *vide* the Circular has provided clarification on applicability of regulation 23 of SEBI (Listing and Disclosure Requirements) Regulations, 2015 in relation to Related Party Transactions (“**LODR Regulations**”), which shall come into force with effect from April 01, 2022.
 - By way of background, regulation 23 of the LODR Regulations was amended *vide* notification dated November 9, 2021 (“**Circular-1**”), *inter alia*, enhancing the scope of related party, related party transactions (“**RPTs**”) and the materiality threshold for seeking shareholders approval.
 - On receipt of representations from listed entities and industry bodies, it has been decided to provide the following clarifications and guidance for smooth implementation of the amended Regulation 23 of the LODR Regulations:
 - ✓ For an RPT that has been approved by the audit committee and shareholders prior to April 1, 2022, there shall be no requirement to seek fresh approval from the shareholders.

Securities Law (Contd...)

- ✓ Regulation 23(8) of the LODR Regulations specifies that all existing material related party contracts or arrangements entered into prior to the date of notification of these regulations and which may continue beyond such date shall be placed for approval of the shareholders in the first general meeting subsequent to notification of these regulations.

In accordance with the said regulation, an RPT that has been approved by the audit committee prior to April 1, 2022 which continues beyond such date and becomes material as per the revised materiality threshold shall be placed before the shareholders in the first general meeting held after April 1, 2022.

- ✓ An RPT for which the audit committee has granted omnibus approval, shall continue to be placed before the shareholders if it is material in terms of Regulation 23(1) of the LODR Regulations.
- The explanatory statement contained in the notice sent to the shareholders for seeking approval for an RPT shall provide relevant information so as to enable the shareholders to take a view whether the terms and conditions of the proposed RPT are not unfavourable to the listed entity, compared to the terms and conditions, had similar transaction been entered into between two unrelated parties. The information so provided shall include but not be limited to the information specified in Circular-1 so as to enable to the shareholders to take an informed decision.

Securities Law (Contd...)

- **Link of the Circular-1.**

https://www.sebi.gov.in/legal/circulars/nov-2021/disclosure-obligations-of-listed-entities-in-relation-to-related-party-transactions_54113.html

- **Link of the Circular.**

https://www.sebi.gov.in/legal/circulars/mar-2022/clarification-on-applicability-of-regulation-23-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-in-relation-to-related-party-transactions_57398.html

Securities Law (Contd...)

- **The Securities and Exchange Board of India (“SEBI”) – notification no. F. No. SEBI/ LAD-NRO/GN/2022/76 on the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2022, dated March 22, 2022 (“Notification”).**
 - SEBI, *vide* the Notification, has further amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, (“**Principal Regulations**”), which shall come into force from the date of publication in official gazette i.e. March 22, 2022.
 - The Notification has omitted regulation 17 (1B) of the Principal Regulations, which reads as - *With effect from 1st April, 2022 the top 500 listed entities shall ensure that the Chairperson of the board of such listed entity shall be a non-executive director or not be related to the Managing Director or the Chief Executive Officer as per the definition of the term “relative” defined under the Companies Act, 2013: Provided that this sub-regulation shall not be applicable to the listed entities which do not have any identifiable promoters as per the shareholding pattern filed with stock exchanges.*
 - Part E of Schedule II which specify ‘Discretionary Requirements’, the following new Clause D (‘Separate posts of Chairperson and the Managing Director or the Chief Executive Officer’) has be inserted -
 - *“D. Separate posts of Chairperson and the Managing Director or the Chief Executive Officer The listed entity may appoint separate persons to the post of the Chairperson and the Managing Director or the Chief Executive Officer, such that the Chairperson shall (a) be a non-executive*

Securities Law (Contd...)

director; and (b) not be related to the Managing Director or the Chief Executive Officer as per the definition of the term “relative” defined under the Companies Act, 2013.

- **Link of the Notification.**

https://www.sebi.gov.in/legal/regulations/mar-2022/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-second-amendment-regulations-2022_57098.html

Deets / Disclaimer

❑ Deets.

Legalite Advisors LLP | LLPIN : AAJ 8514 | E-mail : la.mumbai@legalite.co.in | Corporate office: A/402, 4th Floor, Vikas Apartment CHSL, Rajawadi, Ghatkopar (E), Mumbai 400077, Maharashtra, India | 📞: +91 9769022955/ +91 8454846257.

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Thank You



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