

CA FINAL LAW
AMENDMENTS for Nov 2019
for NEW & OLD syllabus both

Company Law Amendments

Amendment No 1: Sec 157: Filing of DIN by Company with ROC

Amendment & reference

In section 157 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—
“(2) If any company fails to furnish the Director Identification Number under sub-section (1), such company shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees, and every officer of the company who is in default shall be liable to a penalty of not less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”

Implication

Amendment No 2: Sec 159: Penalty for noncompliance of provisions of DIN

Amendment & reference

For section 159 of the principal Act, the following Substitution of section shall be substituted, namely:

Penalty for default of certain provisions.

“159. If any individual or director of a company makes any default in complying with any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues.”

Implication

Amendment No 3: Sec 164: Disqualification of Director

Amendment & reference

In section 164 of the principal Act, in sub-section (1), after clause (h), the following clause shall be inserted, namely:

“(i) he has not complied with the provisions of sub-section (1) of section 165.”

Implication

Amendment No 4: Sec 165: Maximum number of directorships

Amendment & reference

In section 165 of the principal Act, in sub-section (6), for the portion beginning with “punishable with fine” and ending with “contravention continues”, the words “liable to a penalty of five thousand rupees for each day after the first during which such contravention continues” shall be substituted.

Implication

Amendment No 5: Sec 197: Managerial remuneration

Amendment & reference

In section 197 of the principal Act:

(a) sub-section (7) shall be omitted;

(b) for sub-section (15), the following sub-section shall be substituted, namely:

“(15) If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees.”

Implication

Deleted provision: 7) Notwithstanding anything contained in any other provision of this Act but subject to the provisions of this section, an independent director shall not be entitled to any stock option and may receive remuneration by way of fees provided under sub-section (5), reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

Why Deleted?:

Earlier	Now
(15) If any person contravenes the provisions of this section, he shall be punishable with fine which shall not be less than 1 lakh rupees but which may extend to 5 lakh rupees.	If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of 1 lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of 5 lakh rupees

Amendment No 6: Sec 203: Whole time key managerial person

1.3

Amendment & reference

In section 203 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:
“(5) If any company makes any default in complying with the provisions of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and where the default is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees.”

Implication

Amendment No 7: Sec 191: Compensation to NED for loss of office

Amendment & reference

In section 191 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:
“(5) If a director of the company makes any default in complying with the provisions of this section, such director shall be liable to a penalty of one lakh rupees.”

Implication

Amendment No 8: Sec 238: Registration of scheme

Amendment & reference

In section 238 of the principal Act, in sub-section (3), for the words “punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees”, the words “liable to a penalty of one lakh rupees” shall be substituted.

Implication

Amendment No 9: Sec 248: Removal of name of company by ROC

Amendment & reference

In section 248 of the principal Act, in sub-section Amendment of (1):

- (a) in clause (c), for the word and figures “section 455,”, the words and figures “section 455; or” shall be substituted;
- (b) after clause (c) and before the long line, the following clauses shall be inserted, namely: “(d) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (1) of section 10A; or
- (e) the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.”.

Implication

Amendment No 10: Sec 247: Registered valuer

Amendment & reference

The Central Government makes the Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018 to amend the Companies (Registered Valuers and Valuation) Rules, 2017.

In the Companies (Registered Valuers and Valuation) Rules, 2017 (hereinafter referred to as “the said rules”)

- (i) in rule 1, - for the marginal heading, the following marginal heading shall be substituted, namely: “Short title, commencement and application”;

- (ii) after sub-rule (2), the following sub-rule shall be inserted, namely:

“(3) These rules shall apply for valuation in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its liabilities under the provision of the Act or these rules.

Explanation: It is hereby clarified that conduct of valuation under any other law other than the Act or these rules by any person shall not be affected by virtue of coming into effect of these rules.”.

Implication

- (1) These rules may be called the Companies (Registered Valuers and Valuation) Rules, 2017.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- (3) These rules shall apply for valuation in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its liabilities under the provision of the Act or these rules.

- (iii) In the said rules, in rule 3, in sub-rule (2):

- (a) in clause (a), the word “not” shall be omitted;
- (b) in clause (c), after the brackets and letter “(e)”, the brackets and letter “(f),” shall be inserted.

Implication: Eligibility for registered valuers

It has been set up for objects other than for rendering professional or financial services, including valuation services and that in the case of a company, it is not a subsidiary, joint venture or associate of another company or body corporate

- (iv) In the said rules, in rule 4:

- (a) in clause (c), the words, brackets and letters “and having qualification mentioned at clause (a) or (b)” shall be omitted;

(b) in Explanation II, the words “and examination or training” shall be omitted;

(c) after Explanation II, the following Explanation shall be inserted, namely:

“Explanation III: For the purposes of this rule and Annexure IV, ‘equivalent’ shall mean professional and technical qualifications which are recognised by the Ministry of Human Resources and Development as equivalent to professional and technical degree.”

Implication: Qualifications and experience

An individual shall have the following qualifications and experience to be eligible for registration under rule 3, namely:

(a) post-graduate degree or post-graduate diploma, in the specified discipline, from a University or Institute established, recognised or incorporated by law in India and at least three years of experience in the specified discipline thereafter; or

(b) a Bachelor’s degree or equivalent, in the specified discipline, from a University or Institute established, recognised or incorporated by law in India and at least five years of experience in the specified discipline thereafter; or

(c) membership of a professional institute established by an Act of Parliament enacted for the purpose of regulation of a profession with at least three years’ experience after such membership ~~and having qualification mentioned at clause (a) or (b).~~

Explanation-I: For the purposes of this clause the ‘specified discipline’ shall mean the specific discipline which is relevant for valuation of an asset class for which the registration as a valuer or recognition as a registered valuers organisation is sought under these rules.

Explanation-II: Qualifying education and experience ~~and examination or training~~ for various asset classes, is given in an indicative manner in Annexure–IV of these rules.

[Explanation III: for the purposes of this rule and Annexure IV, ‘equivalent’ shall mean professional and technical qualifications which are recognised by the Ministry of Human Resources and Development as equivalent to professional and technical degree.]

(v) In the said rules, in rule 10, the words “and he may conduct valuation as per these rules if required under any other law or by any other regulatory authority” shall be omitted.

Implication: Functions of a Valuer

A valuer shall conduct valuation required under the Act as per these rules ~~and he may conduct valuation as per these rules if required under any other law or by any other regulatory authority~~

(vi) In the said rules, in rule 11, the Explanation shall be omitted.

Implication: Transitional Arrangement

Any person who may be rendering valuation services under the Act, on the date of commencement of these rules, may continue to render valuation services without a certificate of registration under these rules upto [31 st January, 2019]

Provided that if a company has appointed any valuer before such date and the valuation or any part of it has not been completed before [31 st January, 2019], the valuer shall complete such valuation or such part within three months thereafter.

~~Explanation: It is hereby clarified that conduct of valuation by any person under any law other than the Act, or these rules shall not be effected by virtue of coming into effect of these rules unless the relevant other laws or other regulatory bodies require valuation by such person in accordance with these rules in which case these rules shall apply for such valuation also from the date specified under the laws or by the regulatory bodies.~~

(vi) In the said rules, in rule 12, in sub-rule (1), in clause (ii), for the words “a professional institute”, the words “it is a professional institute” shall be substituted.

Implication: Eligibility for registered valuers organisations

~~a professional institute~~ [It is a professional institute] established by an Act of Parliament enacted for the purpose of regulation of a profession.

Amendment No 11: Sec 447: Penalty for Fraud

1.6

Amendment & reference

In section 447 of the principal Act, in the second proviso, for the words “twenty lakh rupees”, the words “fifty lakh rupees” shall be substituted.

Implication

Amendment No 12: Sec 446B: Exemptions to specific companies

Amendment & reference

In section 446B of the principal Act, for the portion beginning with “punishable with fine” and ending with “specified in such sections”, the words “liable to a penalty which shall not be more than one half of the penalty specified in such sections” shall be substituted.

Implication

Notwithstanding anything contained in this Act, if a One Person Company or a small company fails to comply with the provisions of sub-section (5) of section 92, sub-section (2) of section 117 or sub-section (3) of section 137, such company and officer in default of such company shall be **liable to a penalty which shall not be more than one half of the penalty specified in such sections.**

Amendment No 13: Sec 454: Adjudication of Penalties

Amendment & reference

In section 454 of the principal Act, —

(i) for sub-section (3), the following sub-section shall be substituted, namely:

(3) The adjudicating officer may, by an order

- (a) impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and
- (b) direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.”;

(ii) in sub-section (4), for the words “such company and the officer who is in default”, the words “such company, the officer who is in default or any other person” shall be substituted;

(iii) in sub-section (8):

- (a) in clause (i), for the words “does not pay the penalty imposed by the adjudicating officer or the Regional Director”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted;
- (b) in clause (ii)—
 - (i) for the words “Where an officer of a company”, the words “Where an officer of a company or any other person” shall be substituted;
 - (ii) for the words “does not pay the penalty”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted.

Implication: Adjudication & Penalties

(1) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

(3) The adjudicating officer may, by an order-

- (a) impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and**
- (b) direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.**

(4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to **such company, the officer who is in default or any other person**

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal under sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8)(i) Where company **fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be**, within a period of ninety days from the date of the receipt of the copy of the order, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

(ii) **Where an officer of a company or any other person** who is in default **fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be** within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

Amendment No 14: Sec 454A: Penalty for repeated default

Amendment & reference

After section 454 of the principal Act, the following section shall be inserted, namely:

Penalty for repeated default.

“454A. Where a company or an officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of three years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be, it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.”

Amendment No 15: Companies (Adjudication of Penalties) Rules, 2014

Amendment & reference

3. Adjudication of Penalties.

- (1) The Central Government may appoint any of its officers, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of the Act.
- (2) Before adjudging penalty, the adjudicating officer shall issue a written notice in the specified manner, to the company, the officer who is in default or any other person, as the case may be, to show cause, within such period as may be specified in the notice (not being less than 15 days and more than 30 days from the date of service thereon), why the penalty should not be imposed on it or him.
- (3) Every notice issued under sub-rule (2), shall clearly indicate the nature of non-compliance or default under the Act alleged to have been committed or made by such company, officer in default, or any other person, the company, and each of the officers in default, or the other person. as the case may be and also draw attention to the relevant penal provisions of the Act and the maximum penalty which can be imposed on the company, and each of the officers in default, or the other person.
- (4) The reply to such notice shall be filed in electronic mode only within the period as specified in the notice. However, the adjudicating officer may, for reasons to be recorded in writing, extend the period referred to above by a further period not exceeding 15 days, if the company or officer in default or any person as the case may be, satisfies the adjudicating officer that it or he has sufficient cause for not responding to the notice

within the stipulated period or the adjudicating officer has reason to believe that the company or the officer or the person has received a shorter notice and did not have reasonable time to give reply.

- (5) If, after considering the reply submitted by such company, its officer, or any other person, as the case may be, the adjudicating officer is of the opinion that physical appearance is required, he shall issue a notice, within a period of 10 working days from the date of receipt of reply fixing a date for the appearance of such company, through its authorised representative, or officer of such company, or any other person, whether personally or through his authorised representative.

If any person, to whom a notice is issued under sub-rule (2), desires to make an oral representation, whether personally or through his authorised representative and has indicated the same while submitting his reply in electronic mode, the adjudicating officer shall allow such person to make such representation after fixing a date of appearance.

- (6) On the date fixed for hearing and after giving a reasonable opportunity of being heard to the person concerned, the adjudicating officer may, subject to reasons to be recorded in writing, pass any order in writing as he thinks fit including an order for adjournment: Provided that after hearing, adjudicating officer may require the concerned person to submit his reply in writing on certain other issues related to the notice under sub-rule (2), relevant for determination of the default.
- (7) The adjudicating officer shall pass an order:
- (a) within 30 days of the expiry of the period referred in sub-rule (2) or of such extended period as referred therein, where physical appearance was not required under sub-rule (5);
 - (b) within 90 days of the date of issue of notice under sub-rule (2), where any person appeared before the adjudicating officer under sub-rule (5): Provided that in case an order is passed after the aforementioned duration, the reasons of the delay shall be recorded by the adjudicating officer and no such order shall be invalid merely because of its passing after the expiry of such 30 days or 90 days as the case may be.
- (8) Every order of the adjudicating officer shall be duly dated and signed by him and shall clearly state the reasons for requiring the physical appearance under sub-rule (5).
- (9) The adjudicating officer shall send a copy of the order passed by him to the concerned company, officer who is in default or any other person or all of them and to the Central Government and a copy of the order shall also be uploaded on the website.
- (10) For the purposes of this rule, the adjudicating officer shall exercise the following powers, namely:
- (a) to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case after recording reasons in writing;
 - (b) to order for evidence or to produce any document, which in the opinion of the adjudicating officer, may be relevant to the subject matter.
- (11) If any person fails to reply or neglects or refuses to appear as required under sub-rule (5) or sub-rule (10) before the adjudicating officer, the adjudicating officer may pass an order imposing the penalty, in the absence of such person after recording the reasons for doing so.
- (12) While adjudging quantum of penalty, the adjudicating officer shall have due regard to the following factors, namely:
- (i) size of the company;
 - (ii) nature of business carried on by the company;
 - (iii) injury to public interest;
 - (iv) nature of the default;
 - (v) repetition of the default;
 - (vi) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default; and
 - (vii) the amount of loss caused to an investor or group of investors or creditors as a result of the default: However, in no case, the penalty imposed shall be less than the minimum penalty prescribed, if any, under the relevant section of the Act.
- (13) In case a fixed sum of penalty is provided for default of a provision, the adjudicating officer shall impose that fixed sum, in case of any default therein.
- (14) Penalty shall be paid through Ministry of Corporate Affairs portal only.
- (15) All sums realised by way of penalties under the Act shall be credited to the Consolidated Fund of India.

Amendment No 16: Sec 23: Penalties under SCRA**Amendment & reference**

- (i) In the Securities Contracts (Regulation) Act, 1956 (hereafter in this Part referred to as the principal Act), section 12A shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:
 - (2) Without prejudice to the provisions of sub-section (1) and section 23-I, the Securities and Exchange Board of India may, by an order, for reasons to be recorded in writing, levy penalty under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G, 23GA and 23H after holding an inquiry in the prescribed manner."
- (ii) In section 23 of the principal Act, in sub-section (1), in the long line, after the words "Adjudicating officer", the words "or the Securities and Exchange Board of India" shall be inserted.
- (iii) In section 23A of the principal Act, in sub-clause (a), after the words "bye-laws of the recognised stock exchange", the words "or who furnishes false, incorrect or incomplete information, document, books, return or report" shall be inserted.
- (iv) In section 23E of the principal Act, after the words "mutual fund", the words "or real estate investment trust or infrastructure investment trust or alternative investment fund", shall be inserted.
- (v) In section 23G of the principal Act, after the words "periodical returns", the words "or furnishes false, incorrect or incomplete periodical returns" shall be inserted.
- (vi) After section 23G of the principal Act, the following section shall be inserted, namely:
 - "23GA. Where a stock exchange or a clearing corporation fails to conduct its business with its members or any issuer or its agent or any person associated with the securities markets in accordance with the rules or regulations made by the Securities and Exchange Board of India and the directions issued by it under this Act,

the stock exchange or the clearing corporations, as the case may be, shall be liable to penalty which shall not be less than five crore rupees but which may extend to twenty-five crore rupees or three times the amount of gains made out of such failure, whichever is higher."

Implication		
Sec	Nature of Contravention	Quantum
23A	Penalty for failure to furnish information, return, etc.— Any person, who is required under this Act or any rules made thereunder, (a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange or who furnishes false, incorrect or incomplete information, document, books, return or report , shall be liable to: (b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to:	Lower of- 1. Rs.1,00,000 per day; or 2. 1 crore
23E	Penalty for failure to comply with provisions of listing conditions or delisting conditions or grounds: 1. If a company or 2. any person managing collective investment scheme or 3. mutual fund or 4. real estate investment trust or 5. infrastructure investment trust or 6. alternative investment fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty.	Up to Rs.25 Crores
23G	Failure to furnish periodical returns or furnishes false, incorrect or incomplete periodical returns.	
23GA	Where a stock exchange or a clearing corporation fails to conduct its business with its members or any issuer or its agent or any person associated with the securities markets in accordance with the rules or regulations made by the Securities and Exchange Board of India and the directions issued by it under this Act, the stock exchange or the clearing corporations, as the case may be, shall be liable to:	penalty Rs. 5 cr to Rs 25 cr or 3 times of profit derived whichever is higher.

SCRA, 1956

Amendment No 17: Sec 23JC: Adjudication against deceased person (new sec)

Amendment & reference

- (1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay, if he had not died, in the like manner and to the same extent as the deceased: Provided that, in case of any penalty payable under this Act, a legal representative shall be liable only in case the penalty has been imposed before the death of the deceased person.
- (2) For the purposes of sub-section (1),- (a) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, initiated against the deceased before his death shall be deemed to have been initiated against the legal representative, and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased and all the provisions of this Act shall apply accordingly; (b) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, which could have been initiated against the deceased if he had survived, may be initiated against the legal representative and all the provisions of this Act shall apply accordingly.
- (3) Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while his liability for such sum remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.
- (4) The liability of a legal representative under this section shall, be limited to the extent to which the estate of the deceased is capable of meeting the liability.

Explanation.-For the purposes of this section "Legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued.'

SEBI, 1992

Amendment No 18: Sec 11:

Amendment & reference

Enforcement of the Banning of Unregulated Deposit Schemes Ordinance, 2019

Banning of Unregulated Deposit Schemes Ordinance, 2019 dated 21st February, 2019 has substituted Clause (e) of sub-section (4) of Section 11 of the SEBI Act, 1992 which is as follows:

(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:

- (a) suspend the trading of any security in a recognized stock exchange;
- (b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;
- (c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;
- (d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;
- (e) attach, for a period not exceeding ninety days, bank accounts or other property of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder:**

Provided that the Board shall, within ninety days of the said attachment, obtain confirmation of the said attachment from the Special Court, established under section 26A, having jurisdiction and on such confirmation, such attachment shall continue during the pendency of the aforesaid proceedings and on conclusion of the said proceedings, the provisions of section 28A shall apply:

Provided further that only property, bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached.

Implication

Amendment No 19: Reg 19 of LODR: Nomination and remuneration committee

Amendment & reference

- (1) The board of directors shall constitute the nomination and remuneration committee as follows:
- (a) the committee shall comprise of at least three directors;

- (b) all directors of the committee shall be non-executive directors; and
 (c) at least fifty percent of the directors shall be independent directors.
- (2) The Chairperson of the nomination and remuneration committee shall be an independent director: Provided that, the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee.
- (2A) The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance.**
- (3) The Chairperson of the nomination and remuneration committee may be at the annual general meeting, to answer the shareholders' queries; however, it shall be up to the chairperson to decide who shall answer the queries.
- (3A) The nomination and remuneration committee shall meet at least once in a year.**
- (4) The role of the nomination and remuneration committee shall be as specified as in Part D of the Schedule II.

Amendment No 20: Reg 20 of LODR: Stakeholders Relationship Committee

Amendment & reference

- (1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into various aspects of interest of shareholders, debenture holders and other security holders.
- (2) The chairperson of this committee shall be a non-executive director.
- “(2A) At least three directors, with at least one being an independent director, shall be members of the Committee.”**
- (3) **The Chairperson of the Stakeholders Relationship Committee shall be present at the annual general meetings to answer queries of the security holders.**
- “(3A) The stakeholder’s relationship committee shall meet at least once in a year.”**
- (4) The role of the Stakeholders Relationship Committee shall be as specified as in Part D of the Schedule II.

Amendment No 21: Reg 21 of LODR: Risk Management Committee.

Amendment & reference

- (1) The board of directors shall constitute a Risk Management Committee.
- (2) The majority of members of Risk Management Committee shall consist of members of the board of directors.
- (3) The Chairperson of the Risk management committee shall be a member of the board of directors and senior executives of the listed entity may be members of the committee.
- “(3A) The risk management committee shall meet at least once in a year.”**
- (4) The board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit such function shall specifically cover cyber security.
- (5) The provisions of this regulation shall be applicable to top 500 listed entities, determined on the basis of market capitalization, as at the end of the immediate previous financial year.

Amendment No 22: Reg 24 of LODR: Corporate governance requirements with respect to subsidiary of listed entity.

Amendment & reference

- the existing sub-regulation (1) shall be substituted with the following, namely-
- “(1) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.**
- Explanation- For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term “material subsidiary” shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.”

Amendment No 23: Reg 34 of LODR: Annual Report.

Amendment & reference

- the existing sub-regulation (1) shall be substituted with the following new sub regulation, namely, -

“(1) The listed entity shall submit to the stock exchange and publish on its website-
(A) a copy of the annual report sent to the shareholders along with the notice of the annual general meeting not later than the day of commencement of dispatch to its shareholders;
(B) in the event of any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent not later than 48 hours after the annual general meeting.”

Economic Law Amendments

1.14

Amendment No 24: Sec 2(da): Derivative (New Sec) (FEMA)

Amendment & reference

“(da) 'Derivative' means a financial contract, to be settled at a future date, whose value is derived from one or more financial, or non-financial variables.”

Amendment No 25: Permissible CAT to PRI (FEMA)

Amendment & reference

In schedule I (classes of capital account transactions of person's resident in India) of FEM (Permissible Capital Account Transactions) Regulations, 2000, for the existing clause (k), the following shall be substituted: Permissible after the regulations specified by RBI are complied.

1. **Investment** by a person resident in India in **foreign securities**.
2. **Foreign currency loans raised** in India and abroad by a person resident in India.
3. **Transfer of immovable property outside India** by a person resident in India.
4. **Guarantees issued** by a person resident in India **in favour of a person resident outside** India.
5. **Export, import and holding of currency/currency notes**.
6. **Loans and overdrafts** (borrowings) by a person resident in India from a person resident outside India.
7. **Maintenance of foreign currency accounts** in India and outside India by a person resident in India.
8. **Taking out of insurance policy** by a person resident in India **from an insurance company outside India**.
9. **Loans and overdrafts** by a person resident in India **to a person resident outside India**.
10. **Remittance outside India of capital assets** of a person resident in India.
11. **Clause (k) Undertake derivative contracts (Amended).**

Amendment No 26: Permissible CAT to PROI (FEMA)

Amendment & reference

In the schedule II (classes of capital account transactions of person resident outside India) of FEM (Permissible Capital Account Transactions) Regulations, 2000, after the existing clause (g), the following shall be added:

Permissible after the regulations specified by RBI are complied.

1. **Investment in India** by a person resident outside India, that is to say,
 - i. **issue of security by** a body corporate or an **entity in India** and **investment there in by a person resident outside** India; and
 - ii. **Investment by way of contribution by a person resident outside India to the capital of a firm or a proprietorship concern or an association of persons in India.**
2. **Acquisition and transfer of immovable property in India** by a person resident outside India.
3. **Guarantee** by a person resident outside India **in favour of, or on behalf of, a person resident in India**.
4. **Import and export of currency/currency notes into/from India** by a person resident outside India.
5. **Deposits between a person resident in India** and a person resident outside India.
6. **Foreign currency accounts in India** of a person resident outside India.
7. **Remittance outside India of capital assets** in India of a person resident outside India.
8. **Clause (h) Undertake derivative contracts (amended)**

Amendment No 27: Rule 12: Renewal of certificate (Section 16) (FCRA)

Amendment & reference

in rule 12,—

in sub-rule (2), for the words, letters and figures "to the Central Government in Form FC-3", the words, letters and figures "to the Central Government electronically online in Form FC-3C" shall be substituted;

in sub-rule (4), for the letters, figures, brackets and words "' 500/- (Five Hundred only)", the letters, figures, brackets and words "' 1500/- (One Thousand Five Hundred rupees only)" shall be substituted;

in sub-rule (8),-

after the words "requisite fee", the letters, figures, brackets and words "and with late fee of ` 5000/- (Five Thousand rupees only)" shall be inserted;
for the words "four months" the words "one year" shall be substituted.

Implication

Rule 12 of FCR, 2011 states that-

- (1) Every certificate of registration issued to a person shall be liable to be renewed after the expiry of 5 years from the date of its issue on proper application.
- (2) Every person shall apply to the Central Government in prescribed Form FC -3C 6 months before the date of expiry of the certificate of registration, for its renewal.
- (3) Omitted in 2012
- (4) An application made for renewal of the certificate of registration shall be accompanied by a fee of ~~Rs-500 (Five Hundred only)~~ Rs 1500 (one thousand five hundred).
- (5) The fee for renewal of the certificate of registration shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi or through online electronic payment gateway as specified by the Central Government.
- (6) In case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the certificate of registration of such person shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration.
- (7) If the validity of the certificate of registration of a person has ceased in accordance with the provisions of these rules, a fresh request for the grant of a certificate of registration may be made by the person to the Central Government as per the provisions of rule 9.
- (8) In case a person provides sufficient grounds, in writing, explaining the reasons for not submitting the certificate of registration for renewal within the stipulated time, his application may be accepted for consideration along with the requisite fee and with late fee of Rs.5000/-, but not later than one year after the expiry of the original certificate of registration.