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# **Snehal Shah & Associates**

## **COMPANY SECRETARIES**

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**Some important changes happened in the Corporate and Legal world in the month of April, 2020:**

### 1. **Amendments in the Companies (Appointment and Qualification of Directors) Rules, 2014**

- Ministry of Corporate Affairs vide notification dated 29<sup>th</sup> April, 2020 amended the Companies (Appointment and Qualification of Directors) Rules, 2014. These rules may be called the Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2020. They shall come into force on the date of their publication in Official Gazette.
- Rule 6(1)(a) states that every individual who has been appointed as an Independent Director in a company, on the date of commencement of the Companies (Appointment and Qualification of Directors) Amendment Rules, 2019 shall within period of Five Months apply online for inclusion of name in the data bank.
- Rule 6, in sub-rule (1), in clause (a), for the words “five months” the words “seven months” shall be substituted.

**Impact:** The time for inclusion of name of independent director in the data bank has been increased from a period of “five months” to “seven months”.

### 2. **Extension of the last date of filing of Form NFRA-2**

- The National Financial Reporting Authority (NFRA) is separate and independent body constituted under the provisions of Section 132 of the Companies Act, 2013 with effect from 1st October 2018 by Government of India to provide for matters relating to accounting and auditing standards under this Act and improving investor and public confidence in the financial reporting of an entity.
- Form NFRA- 2 is an Annual Return to be filed by auditors with National Financial Reporting Authority.
- Ministry of Corporate Affairs in continuation of General Circular No. 19/2020 dated 30<sup>th</sup> April, 2020 has further decided to extend the time limit for filing Form NFRA- 2 for the reporting period financial year 2018-2019 from 150 days as per



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the earlier circular in month of March to 210 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA).

**Impact:** Time limit for filing Form NFRA-2 for Financial Year 2018-2019 has been extended for 210 days.

### 3. **Holding of AGM by Companies whose financial year ended on 31<sup>st</sup> March, 2019**

- As per the Companies Act, 2013 a company shall hold its Annual General Meeting (AGM) within a period of six months (nine months in case of first AGM) from the closure of the financial year (FY) and not later than a period of 15 months from the date of last AGM.
- Due to Covid-19 related social distancing norms and consequential restrictions linked thereto holding Annual General Meeting for companies whose financial year ends on 31<sup>st</sup> December, 2019 is difficult.
- It has been clarified that if the companies whose financial year ends on 31<sup>st</sup> December, 2019 is allowed to hold its AGM within period of **nine months** from the closure of the FY (i.e 30<sup>th</sup> September, 2020) instead of six months from closure of FY (i.e 30<sup>th</sup> June, 2020).
- This circular allows such companies to hold their AGM other than First AGM within a period of nine months instead within six months from closure of FY and same shall not be considered as violation of any provision.

**Impact:** Pursuant to Covid-19 the companies whose financial year ends on 31<sup>st</sup> December, 2019 shall hold its AGM (other than 1<sup>st</sup> AGM) by 30<sup>th</sup> September, 2020 instead of 30<sup>th</sup> June, 2020 i.e. 3 months extension has been provided to such companies.

### 4. **Filings under Section 124 and Section 125 of Companies Act, 2013 read with IEPFA (Accounting, Audit, Transfer and Refund) Rules, 2016.**

- The stakeholders have sought relaxations due to Covid- 19 in procedure related to transfer of money remaining unpaid and unclaimed for 7 years to Investor Education and Protection Fund (IEPF) under section 124(5) and transfer of shares under section 124(6) of the Companies Act, 2013.



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- Ministry of corporate affairs vide its general circular no. 11/2020 and 12/2020 dated 24<sup>th</sup> March, 2020 and 30<sup>th</sup> March, 2020 respectively has already allowed filing of IEPF Forms (IEPF-1, IEPF-1A, IEPF-2, IEPF-3, IEPF-4, IEPF-7) and other e-verification of claims filed in IEPF-5 till 30<sup>th</sup> September, 2020 without any additional fees.

**Impact:** Time Limit for filing various IEPF Forms has been extended till 30<sup>th</sup> September, 2020 without any additional fees.

## 5. Clarification on passing of ordinary and special resolutions by companies under the Act on account of threat posed by Covid-19.

- Ministry Of Corporate Affairs has issued Two General Circular No. 14/2020 and 17/2020 dated 8<sup>th</sup> April, 2020 and 13<sup>th</sup> April, 2020.
- The Companies Act, 2013 do not provide provision for conducting the meeting of members through video conferencing (VC) and other audio visual means (OAVM) but in view of the current pandemic situation prevailing the companies are allowed to transact urgent business without holding General Meeting where members are required to be personally present.
- In case where Extraordinary General Meeting (EGM) is required to be conducted due to unavoidable reason the same shall be conducted in the manner prescribed:
  - a. For the companies which are required to provide the facility for e-voting under the Act or other company which has opted for such facility.
  - b. For the companies which are not required to provide the facility for e-voting under the Act.
- The General Circular issued on 13<sup>th</sup> April, 2020 is with reference to earlier circular, providing clarification with respect to the representations received from various stakeholders.
- Both the circulars have been attached for your ready reference.

**Impact:** The circular provides relaxations to companies for passing resolution of urgent nature where member's approval is required in the current pandemic situation prevailing.



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### 6. Extension of timelines for submission of regulatory return with RBI.

- Due to the disruption caused by Covid-19 pandemic, RBI has decided to extend the timelines for submission of regulatory returns vide its circular dated 29<sup>th</sup> April, 2020.
- The entities are required to submit the regulatory returns with the Department of Regulation with the delay of upto 30 days from the due date.
- The extension will be applicable to regulatory returns required to be submitted upto June 30, 2020.
- Extension in timeline is **not** permitted for submission of statutory returns i.e. returns prescribed under the Banking Regulation Act, 1949, RBI Act, 1934 or any other Act (for instance, returns related to CRR/SLR).
- List of regulatory returns which can be submitted with a delay of a maximum of 30 days from the due date is hereby attached for your ready reference.

**Impact:** By extending the timeline, RBI had provided additional time of 30 days from the due date of filing regulatory returns.

### 7. Relaxation in adherence to prescribed timelines issued by SEBI due to Covid-19.

- Securities Exchange Board of India (SEBI) vide circular dated 13<sup>th</sup> April, 2020 felt the need to extend the timelines due to current situation prevailing.
- Relaxation is hereby being given to intermediaries / market participants for equivalent period of lock down declared by Government of India i.e. 21 days, over and above the prescribed time limits, respectively, for activities / investor requests / compliance as per the annexure.
- Extension of timelines is provided 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 directions are being issued for Registrars to an Issue and Share Transfer Agents / Issuer Companies, holding SEBI registration.



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- The annexure is hereby attached for your ready reference.

**Impact:** Due to Covid- 19 crisis SEBI has also provided extension for various activities and compliances.

### 8. Notice for urgent hearing through Video Conferencing by NCLT.

- Despite of the lock-down due to Covid 19 crisis, National Company Law Tribunal (NCLT) is providing urgent hearings facility through video conferencing.
- NCLT is conducting virtual hearings and dispensing justice without any further delay.
- NCLT has made appeal to litigant public and all other stakeholders who are users of NCLT under Companies Act 2013 and Insolvency and Bankruptcy Code 2016, to cooperate with NCLT by filing JOINT MEMO OF WRITTEN SUBMISSIONS.
- This procedure will avoid delays, avoid filing reply and rejoinder and this memo will be user friendly (all in one) to arrive to decisions quickly.
- Appeal has been made by NCLT to all the parties to follow the procedure of filing Joint Memo of Written Submissions which is hereby attached for your ready reference.

**Impact:** NCLT is providing an opportunity for conducting urgent hearing through video conferencing and dispensing the order without delay.

#### Disclaimer:

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We suggest readers to draw their conclusions after taking into consideration various other relevant sections, rules to be notified from time to time and applicable Secretarial





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Standards, Accounting Standards and Guidance notes and other notifications, circulars and amendments notified from time to time.

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