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

1. Amendments in the Companies (Incorporation) Rules, 2014

- a) These rules may be called the Companies (Incorporation) Amendment Rules, 2020. They shall come into force on the date of their publication in Official Gazette.
- b) Companies (Incorporation) Amendment Rules, 2020 shall come into force with effect from the 23rd February, 2020.
- c) The following changes have taken place in Rule 9, Rule 10, Rule 12, Rule 38 and Rule 38A (hereinafter referred to as the principle rule):

~ Reservation of name or Change in name: - An application for reservation of name shall be made through website www.mca.gov.in by using website service SPICe+ and change in name shall be done through RUN facility along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014, which may either be accepted or rejected by the Registrar, after allowing re-submission of such web form within fifteen days for rectification of any defects if any.

~ For the word, letters, figures and brackets, "Form No INC-32 (SPICe)", the word "SPICe+" shall be substituted.

~ In marginal heading, for the word, brackets and letters "Electronically (SPICe)", the word "Electronically Plus (SPICe+)" shall be substituted.

~ In rule 38A: -

i) in the marginal heading, for the word, brackets and letters "and Employees' Provident Fund Organisation (EFPO)Registration", the words, brackets and letters "Employees' Provident Fund Organisation (EPFO) Registration and Professional Tax Registration and Opening of Bank Account " shall be substituted.

ii) for the letters "AGILE", the letters " AGILE-PRO", shall be substituted.

Impact: Form SPICe+ has been introduced for convenience of the stakeholder. This will integrate all the forms and reduce burden of filing different forms.



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2. Amendment to the Companies (Appointment and Qualification of Director) Rules, 2014

MCA vide circular dated 28th February, 2020 has issued an amendment for the Companies (Appointment and Qualification of Directors) Rules, 2014:

a) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2020. They shall come into force on the date of their publication in the Official Gazette.

b) In the Companies (Appointment and Qualification of Directors) Rules, 2014 in rule 6,

~ In sub-rule (1), for the words “three months” the words “five months” shall be substituted;

~ In sub-rule (4), for the first proviso, the following proviso shall be substituted, namely:-

“Provided that an individual shall not be required to pass online proficiency self-assessment test, when an individual has served as director or key managerial personnel, for total period of not less than ten years, as on the date of inclusion in the databank, in one or more of the following, namely: -

- i) Listed public company; or
- ii) Unlisted public company having paid up capital of rupees ten crore or more; or
- iii) Body corporate listed on a recognized stock exchange”.

~ In the second proviso, for the word “companies”, the words “companies or body corporate” shall be substituted.

Impact: The provisions have been revised for better governance and functioning of the company.



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3. Companies (Compromise, Arrangements and Amalgamation) Rules, 2016

In exercise of the power conferred by section 469 read with Section 230 of the Companies Act, 2013, the central government hereby makes the following rules, further to amend the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016.

- a) These rules may be called the Companies (Compromises, Arrangements and Amalgamation) Amendments Rules, 2020. They shall come into force on the date of their publication in Official Gazette.
- b) In the Companies (Compromises, Arrangements and Amalgamation) Rules, 2016 in rule 3,

~ In sub-rule (4), the following shall be substituted:-

“A member of the company shall make an application for arrangement, for the purpose of takeover only when such member along with other members hold more than or equal to three-fourth of the shares in the company, and the given application is filed to acquire remaining shares of the company”.

- c) An application for takeover offer shall contain following;

A report from registered valuer disclosing the details of shares valued and proposed to be acquired through the application after taking into consideration following points;

~ The highest price paid by person or group of persons for acquiring proposed shares during preceding 12 months.

~ Fair price of shares to be calculated by the registered valuer after considering various points including earning per share, networth, book value of shares, price earning multiple and such other parameters as may be necessary.

- d) Details of bank account, to be operated, by the member or members of the company where the total amount of not less than one-half of total consideration of the takeover offer is deposited.

Impact: These amendments have eased the understanding, interpretation and the process to be followed.



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4. Companies (Issue of Global Depository Receipts) Rules, 2014

- a) These rules may be called the Companies (Issue of Global Depository Receipts) Amendment Rules, 2020. They shall come into force on the date of their publication in the Official Gazette.
- b) In the Companies (Issue of Global Depository Receipts) Rules, 2014 in rule 2,
 - ~ For the words, brackets and figures “Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993” at all the places where it occurs, the words and figures “Depository Receipts Scheme, 2014” Shall be substituted;
 - ~ In sub-rule (1) the following clause shall be inserted: -
 - (aa) “Overseas Depository” or “Overseas Depository Bank” shall mean “Foreign Depository” as mentioned in the section.
- c) In Rule 5, -
 - ~ For sub-rule (1), following shall be substituted: -

The Depository Receipts can be issued to general public by way of private placement or public offering or in any other manner prevalent in the concerned jurisdiction and can be listed or traded on the listing and trading platform in the concerned jurisdiction.”

 - ~ In sub-rule (3), the word ‘abroad’ shall be omitted.
- d) In Rule 7, following proviso shall be inserted: -

“Provided that proceeds of issue of depository receipts can be remitted in International Financial Service Centre Banking Unit (IBU) and can be listed according to the directions given by the Reserve Bank of India from time to time.”

Impact: These amendments have brought clarification to the provisions of Issue of Global Depository Receipts by companies.



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