

Various measures taken by Ministry of Corporate Affairs (MCA) to fight COVID-19 pandemic

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The Ministry of Corporate Affairs (MCA) primarily administers the provisions of the Companies Act, 2013 (the Act), the Limited Liability Partnership Act, 2008 and the Insolvency and Bankruptcy Code, 2016. This was stated by Minister of State for the Ministry of Corporate Affairs Shri Rao Inderjit Singh in a written reply to a question in the Rajya Sabha today.

The Minister enumerated various measures taken by the MCA to address the COVID-19 Pandemic are as under:

The Companies Fresh Start Scheme, 2020 was launched to make a fresh start for companies to be a fully compliant company by allowing them to file belated documents in MCA 21 registry without any additional fees from 1st April to 31st December, 2020. The said scheme has also given immunity from prosecutions and proceedings for imposition of penalty which might arise on account of such delayed filing of documents. As per records, 4,73,131 number of Indian Companies and 1,065 number of Foreign Companies have been benefited by availing the CFSS, 2020 scheme for filing their pending documents.

i. The MCA introduced an LLP Settlement Scheme, 2020 to provide one-time relaxation in additional fees to the defaulting Limited Liability Partnerships ('LLPs') to make good their defaults by filing pending documents with the Registrar of Companies ('ROC' or 'Registrar') to ease the hassle of business enterprises. The said scheme was initially rolled out from 16.03.2020 to 31.03.2020 for certain filings by LLPs. However, due to the COVID 19 pandemic the modified further expanded scheme to cover all eforms was rolled out from 01.04.2020 to 31.12.2020. Under the said scheme, the defaulting LLPs were permitted to file belated documents and the LLPs shall not be subjected to prosecution for such defaults. As per records 1,05,643 LLPs have been benefited by availing the LLP settlement scheme 2020 for filing their pending documents.

ii. Keeping in view the second COVID wave and considering the difficulties arisen due to resurgence of COVID-19 pandemic, the MCA has granted relaxation on levy of additional fees for companies / LLPs in filing certain forms (other than a CHG-1 Form, CHG-4 Form and CHG-9 Form, Charge Related Forms). Accordingly, no additional fees shall be levied upto 31st July, 2021 for the delayed filing of forms (other than charge related forms referred above) which were / would be due for filing during 1st April, 2021 to 31st May, 2021. For such delayed filings upto 31st July, 2021 only normal fees shall be payable. The said time limit has been further extended to 31st August, 2021 vide General Circular No.11/2021 dated 30.06.2021.

iii. In the wake of COVID 19 and to provide relief to law abiding companies a scheme was launched for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013 during the period from 1st March to 31st December, 2020.

iv. Considering the difficulties arisen due to resurgence of COVID-19 pandemic, the MCA vide General Circular no. 7/2021 dated 03.05.2021 has granted relaxation of timelines and condoned the delay in filing forms that are related to creation / modification of charges (CHG-1 Form and CHG-9 Form) by a

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company or charge holder and where the date of creation / modification of charge is (i) before 1.4.2021, but the time line for filing such form had not expired under section 77 of the Act as on 1.4.2021; or (ii) falls on any date between 1.4.2021 to 31.5.2021 (both dates inclusive). In the said circular, the detail of relaxation of time and applicable fees for filing the aforesaid forms was prescribed. The Ministry further extended the aforesaid relaxation in the time for filing forms related to creation or modification of charges under the Companies Act, 2013 by substituting the figures "31.05.2021" and "01.06.2021" wherever they appear in the General Circular No. 07/2021 dated 03.05.2021 with the figures "31.07.2021" and "01.08.2021" respectively.

MCA has announced a Condonation of Delay Scheme for Companies restored by NCLT between 1st December, 2020 to 31st December, 2020 under section 252 of the Companies Act, 2013. The Scheme provides to condone delay in filing forms with the Registrar, and spares payment of additional fees. This Scheme was in operation from 1st February 2021 and was available for filing of any overdue eforms by such companies till 31st March 2021.

vi. In order to provide relief to the companies in view of COVID-19 pandemic, the companies have been allowed to conduct Board Meetings through Video Conference (VC) or other audio-visual means for passing resolutions in respect of matters which were earlier required to be passed in meetings which required physical presence of directors by amending the Companies (Meetings of Board and its Powers) Rules 2014 from time to time during COVID-19 pandemic. Such facility to the companies was allowed till 30th June, 2021. (Initially it was till 30.06.2020, then extended to 30.09.2020 and 31.12.2020). Thereafter, considering the second COVID wave, Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 has been omitted vide notification dated 15.06.2021 to provide that all the matters can be deliberated & resolutions passed by Board of Directors through video conferencing or other audio visual means. The measure will provide increased flexibility to Boards of companies for conducting Business and further the Ease of Doing Business objective of the Government.

vii. The companies have been allowed to hold Extraordinary General Meetings (EGMs) through Video Conferencing (VC) or other audio-visual means (OAVM) complemented with e-Voting facility/simplified voting through registered emails till 30th June, 2021. Considering the second wave of COVID-19, the Ministry has extended the aforesaid time limit to 31st December, 2021.

viii. The companies have been allowed to conduct their Annual General Meetings (AGMs) by Video Conferencing (VC) or other audio-visual means (OAVM) whose AGMs were due to be held in the year 2020 or become due in the year 2021 to conduct their AGMs on or before 31.12.2021. Owing to the difficulties in sending physical copies of the financial statements, the companies are also allowed to send the financial statements, along with Board's reports, Auditor's reports and other documents required to be attached therewith, only through email.

ix. The Registrar of Companies on the advice of MCA had given extension of time in holding of Annual General Meeting for the financial year ended on 31 March, 2020 till 31st December, 2020 (The maximum period which can be extended by the Registrar of Companies under section 96 of the Act).

x. Quality of disclosures strengthened through amendments made in the formats of financial statements, Companies (Accounts) Rules, Companies (Audit and Auditor's) Rules and the Companies (Auditor's Report) Order, 2020. The Companies (Auditor's Report) Order, 2020 has now been made applicable from the audit of financial statements for the financial year 2021-22 to ease the compliance requirement by auditors and the companies.

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xi. The Companies (Indian Accounting Standards) Rules, 2015 have been amended vide notification dated 18.06.2021 inter-alia to extend the benefits of COVID-19 related rent concession, that were introduced last year, from 30th June, 2021 to 30th June, 2022.

xii. The mandatory requirement of holding meetings of the Board of the companies within the intervals provided in section 173 of the Companies Act, 2013 (CA-13) (120 days) were extended by a period of 60 days till next two quarters i.e., till 30th September, 2020. Considering the second COVID wave, the Ministry further extended the aforesaid relaxation for the year 2021-22 and accordingly the time gap between two consecutive meetings of the Board may extend to 180 days during the Quarter – April to June 2021 and Quarter – July to September, 2021, instead of 120 days as required in the Companies Act, 2013. Independent Directors (IDs) of a company have been given relaxation from holding at least one mandatory meeting and accordingly for the financial year 2019-20, if the IDs of a company have not been able to hold such a meeting, the same has not been viewed as a violation.

xiv. The Ministry enhanced the period to thirteen months from 1st December, 2019 within which existing Independent directors may apply online for inclusion of their names in the databank for Independent Directors vide amendments in the Companies (Appointment & Qualification of Directors) Rules, 2014 from time to time. Further, the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019 have been amended vide notification dated 18.06.2021 to provide that in case an individual has delayed in applying to the Institute for inclusion of his name in the data bank of Independent Directors or in case of delay in renewal thereof, the Institute shall allow such inclusion or renewal, as the case may be, after charging a further fees of one thousand rupees on account of such delay. Through this amendment requests made by a large number of stakeholders to grant additional time for delayed applications in view of Covid-19 pandemic have been addressed.

xv. Timeline for creation of deposit repayment reserve of 20% under section 73(2)(c) of the Act, 2013 and to invest or deposit 15% of amount of debentures under rule 18 of Companies (Share Capital and Debentures) Rules, 2014 was extended till 31st December, 2020.

xvi. An additional period of 180 more days has been allowed to comply with the requirement of filing a declaration for Commencement of Business by newly incorporated companies.

xvii. Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the Act shall not be treated as a non-compliance for the financial year 2019-20 and 2020-21.

xviii. Till 31st December, 2020, the inability to dispatch the notice for Rights Issues by listed companies to their shareholders through registered post or speed post or courier would not be viewed as violation of section 62(2) of the Act provided these companies comply with the SEBI Circulars dated 6th May, 2020 and 24th July, 2020 which inter-alia provide the mode/manner of issuance of notice by electronic transmission by listed companies.

xix. Requirement for investing 15% of amount of debentures maturing in a particular year in specified instruments has been done away with for listed companies & NBFCs when such debentures are issued on a private placement basis.

xx. Time allowed to Auditors and Audit Firms for filing NFRA-2 form with the NFRA has been extended till a total period of 270 days in view of the difficulties faced during COVID-19 related disruption.

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xxi. The expenditure incurred by companies on activities relating to Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) Veterans, and their dependents including widows has been considered as CSR expenditure.

xxii. Last date of submission of Cost Audit Report by the Cost Auditor to the management of the company has been extended till 31st December 2020 and additional fee has been relaxed for filing of CRA-4 (form for filing of cost audit report) for financial year 2019-2020.