

Regulatory Updates, August 2021

■ **MCA UPDATES:**

✓ **Companies (Specification of definitions details) Third Amendment Rules, 2021:**

The Ministry of Corporate Affairs has issued the Companies (Specification of definitions details) Third Amendment Rules, 2021 to further amend the Companies (Specification of definitions details) Rules, 2014. The following amendments have been made:

- Rule 2 (l) (h), which specifies the electronic based offering of securities, a new explanation, has been inserted, namely:

"For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centers set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005) shall not be construed as 'electronic mode' for the purpose of clause (42) of section 2 of the Act."

<http://ebook.mca.gov.in/Default.aspx?page=notification>

✓ **Companies (Registration of Foreign Companies) Amendment Rules, 2021:**

The Ministry of Corporate Affairs has issued the Companies (Registration of Foreign Companies) Amendment Rules, 2021 to further amend the Companies (Registration of Foreign Companies) Rules, 2014. The following amendments have been made:

- Rule 2 (l) (c), which specifies the electronic based offering of securities, a new explanation has been inserted, namely:

"For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centers set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005) shall not be construed as 'electronic mode' for the purpose of clause (42) of section 2 of the Act."

The purpose of this amendment is to exclude from the definition of foreign company u/s 2(42) of the Act, the electronic presence of a foreign company by the means of- electronic based offering of securities, subscription thereof or listing of securities in the IFSC. <http://ebook.mca.gov.in/Default.aspx?page=notification>

✓ **Companies (Creation and Maintenance of databank of Independent Directors) Second Amendment Rules, 2021:** The Ministry of Corporate Affairs (MCA) on August 19, 2021 has issued the Companies (Creation and Maintenance of databank of Independent Directors) Second Amendment Rules, 2021 to further amend the Companies (Creation and Maintenance of databank of Independent Directors) Rules, 2019. The following amendments have been made:

Rule 6, which specifies Annual report on the capacity building of independent directors, has been inserted namely:

"The institute shall within sixty (60) days From the end of every financial year send

An annual report to every individual whose name is included in the data bank and also to every company in which such individual is appointed as an independent director in format provided in the Schedule to these Rules."

- SCHEDULE, which specifies Annual Report on Capacity Building of Independent Director, has also been inserted along with rule 6. <http://ebook.mca.gov.in/Default.aspx?page=notification>

✓ **MCA issues the Companies (Appointment and Qualification of Directors) Amendment Rules, 2021:**

The Ministry of Corporate Affairs vide notification dated 19th August, 2021 has issued the Companies (Appointment and Qualification of Directors) Amendment Rules, 2021 further amending the Companies (Appointment and Qualification of Directors) Rules, 2014. Through this amendment-

The pay scale of Director or equivalent or above in any Ministry or Department, of the Central Government or any State Government, and having experience in handling-

- The matters relating to commerce, corporate affairs, finance, industry or public enterprises; or
- The affairs related to Government companies or statutory corporations set up under an Act of Parliament or any State Act and carrying on commercial activities.

The below mentioned individuals shall not be required to pass the online proficiency self-assessment test that are or have been practicing for at least 10 years:-

- An advocate of a court; or
 - In practice as a chartered accountant; or
 - In practice as a cost accountant; or
 - In practice as a company secretary.
- <http://ebook.mca.gov.in/Default.aspx?page=notification>

SEBI UPDATES

✓ **Permitting non-scheduled Payments Banks to register as Bankers to an Issue:**

On August 03, 2021, SEBI issued a circular to protect the interests of investors in securities and to promote the development of, and to regulate the securities market. SEBI permitted non-scheduled Payments Banks, which have prior approval from Reserve Bank of India, to act as Bankers to an Issue ('BTI') subject to fulfillment of the conditions stipulated in the SEBI (Bankers to an Issue) Regulations, 1994.

Payments Banks registered as a BTI shall also be permitted to act as a Self-Certified Syndicate Bank subject to the fulfillment of the criteria laid down by the Board in this regard from time to time. The blocking/movement of funds from the investor to issuer shall only be made through the savings account of the investor held with the payments bank

https://www.sebi.gov.in/legal/circulars/aug-2021/permitting-non-scheduled-payments-banks-to-register-as-bankers-to-an-issue_51595.html

✓ **Maintenance of Current Accounts in multiple banks by Mutual Funds:**

The mutual funds currently maintain current accounts in multiple banks including in banks having presence beyond the top 30 cities (B-30 cities), for receiving subscription amount and for

payment of redemption proceeds / dividend / brokerage/ commission etc. This enables investors to transact with banks of their choice and facilitates faster transfer of funds.

After Mutual fund industry has informed that the Reserve Bank of India (RBI) has instructed that banks shall not open current accounts for customers who have availed credit facilities in the form of cash credit / overdraft from the banking system.

SEBI clarified that mutual funds should maintain current accounts in an appropriate number of banks for the purpose of receiving subscription amount and for payment of redemption/dividend/brokerage/ commission etc. to facilitate financial inclusion, convenience of investors and ease of doing business.

https://www.sebi.gov.in/legal/circulars/aug-2021/maintenance-of-current-accounts-in-multiple-banks-by-mutual-funds_51630.html

✓ **Requirement of minimum number and holding of unit holders for unlisted Infrastructure Investment Trusts (InvITs):** The Securities and Exchange Board of India (SEBI) on August 04, 2021 has issued a circular to issue the requirement of minimum number and holding of unit holders for unlisted Infrastructure Investment Trusts. Earlier through notification No. SEBI/LAD-NRD/GN/2021/27 dated July 30, 2021, SEBI (Infrastructure Investment Trusts) Regulations, 2014("InvIT Regulations") were amended to provide for the requirement of minimum number and holding of unit holders for unlisted InvITs.

The Registered unlisted InvITs which have already issued units as on the date of this circular shall comply with the provisions of sub-regulation (3) of Regulation 26B of

the InvIT Regulations within a period of six months from the date of the circular.

<https://www.sebi.gov.in/legal/circulars/aug-2021/requirement-of-minimum-number-and-holding-of-unit-holders-for-unlisted-infrastructure-investment-trusts-invits-51631.html>

✓ **Disclosure of shareholding pattern of promoter(s) and promoter group entities:**

The Securities and Exchange Board of India has issued circular dated August 13 2021, revising the format for disclosure of shareholding pattern of promoters and promoter group entities.

As per regulation 31(4) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR"), directs that all entities falling under promoter and promoter group be disclosed separately in the shareholding pattern on the website of stock exchanges, in accordance with the format(s) specified by the Board.

At present, the shareholdings of promoter(s) and promoter group entities are collectively disclosed under table II-Statement showing a shareholding pattern of the promoter and promoter group, which shall now be segregated into promoters and promoter group.

Hence, all listed entities shall now provide such shareholding, segregated into promoter(s) and promoter group.

https://www.sebi.gov.in/legal/circulars/aug-2021/disclosure-of-shareholding-pattern-of-promoter-s-and-promoter-group-entities_51847.html

✓ **Penalty for Repeated Delivery Default:**

The Securities and Exchange Board of India has issued circular dated August 17 2021, imposing additional penalties for repeated delivery default. The measure has been taken to put a deterrent

mechanism in place and also to ensure market integrity and delivery mechanism. The Circular shall come into force on September 17, 2021.

Following additional penalties have been levied by SEBI:

An additional penalty of three per cent on repeated delivery defaults of investors.

"Repeated default" has been defined, as a buyer or seller fails to meet their delivery obligation three times or more during a six months period on a rolling basis.

The penalty levied shall be transferred to Settlement Guarantee Fund (SGF) of the Clearing Corporation.

<https://www.sebi.gov.in/legal/circulars/aug-2021/penalty-for-repeated-delivery-default-51902.html>

✓ **Extension of time for seeking membership of BSE Administration & Supervision Limited:**

SEBI in terms of Regulation 14 of the SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations") granted recognition to BSE Administration & Supervision Limited ("BASL"), a wholly owned subsidiary of BSE Limited, for administration and supervision of Investment Advisers ("IA"), for a period of three years from June 01, 2021.

<https://www.sebi.gov.in/legal/circulars/aug-2021/extension-of-time-for-seeking-membership-of-bse-administration-and-supervision-limited-52237.html>

✓ **Disclosure of risk-o-meter of scheme, benchmark and portfolio details to the investors:**

SEBI has mandated mutual funds to disclose to the investors in which the unit holders are invested as on the date on which the disclosures are stipulated

namely risk-o-meter of the scheme and the benchmark along with the performance disclosure of the scheme vis-à-vis benchmark and details of the portfolio while communicating the fortnightly, monthly and half-yearly statement of scheme portfolio via email.

<https://www.sebi.gov.in/legal/circulars/aug-2021/disclosure-of-risk-o-meter-of-scheme-benchmark-and-portfolio-details-to-the-investors-52262.html>

■ **Tax updates**

✓ **Extension of time lines for electronic filing of various Forms under the Income-tax Act, 1961:**

On consideration of difficulties reported by the taxpayers and other stakeholders in electronic filing of certain Forms under the provisions of the Income-tax Act, 1961 (Act) read with Income-tax Rules, 1962 (Rules), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, extends the due dates for electronic filing of such Forms as under

The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30th June, 2021, required to be furnished on or before 15th July, 2021 under Rule 37BB of the Rules, as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be filed on or before 31st August, 2021.

https://incometaxindia.gov.in/communications/circular/circular_no_15_2021.pdf

■ **RBI UPDATES**

Master Direction on Financial Statements - Presentation and Disclosures:

The Reserve Bank of India has, from time to time, issued several guidelines/instructions/directives to the banks on the presentation of financial statements, regulatory clarification on compliance with accounting standards, and disclosures in notes to accounts.

<https://www.rbi.org.in/Scripts/NotificationU ser.aspx?Id=121588Mode=0>

Quarterly Statistics on Deposits and Credit of SCBs:

Quarterly Statistics on Deposits and Credit of Scheduled Commercial Banks (SCBs), June 2021 on its Database on Indian Economy (DBIE) portal (web-link:

<https://dbie.rbi.org.in/DBIE/dbie.rbi>)

Data on credit and deposits disaggregated by type, are classified by states/union territories (UTs), districts, centers, population groups and bank groups. These data are collected from all SCBs (including Regional Rural Banks and Small Finance Banks) under the Basic Statistical Return (BSR).

https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=52150

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