

**REGULATORY UPDATE**

**HIGHLIGHTS ON THE  
COMPANIES AMENDMENT  
ACT, 2020**



## Introduction of the Companies (Amendment) Act, 2020

The Government has promulgated yet another set of amendments in Company law with the introduction of the Companies (Amendment) Act, 2020, which has come into force from September 28, 2020.

Introduction of this 4<sup>th</sup> Amendment in the Companies Act, 2013, primarily focuses on re-categorization of various compoundable offences into civil wrongs, a further push to ease of doing business and ironing out practical concerns in implementation of the existing Company law.

The Bill 2020 was passed by the Lok Sabha and Rajya Sabha on September 19, 2020 and September 22, 2020, respectively and it received the assent of the President of India on September 28, 2020.

Key Highlights of the Companies Amendment Act, 2020 are as follows:

### **(i) Decriminalization of various offences of non-severe nature**

Easing out on penal repercussions of certain offences under the Act being the area of emphasis in the Amendment Act, the Government has relaxed the repercussions of various offences of non-severe nature, in the following manners:

- a) Doing away with imprisonment for various offences;
- b) Substitution of Imprisonment with monetary penalty; and
- c) Reduction of penalty amounts;

### **(ii) Easing out of the framework for Corporate Social Responsibility**

Spending of Corporate Social Responsibility (CSR) expenditures and its setting off the excess spending in one financial year have been in discussions from so long. Now, the Companies have been officially allowed to set off any amount spent in excess of their Corporate Social Responsibility spending obligation in a particular financial year towards such obligation in subsequent financial years;

The Companies having obligation of CSR spending up to fifty lakh rupees shall no more be required to constitute the Corporate Social Responsibility Committee.

**(iii) Speeding up the procedure for issuance of shares on rights basis**

The existing provisions for issuance of shares on rights basis requires the Company to open the offer window for a minimum period of 15 days for the shareholders to exercise their rights, now, the Central Government has been empowered to prescribe the shorter time for the same process. The said relaxation is expected to be rolled out via amendment in relevant rules by the Ministry of Corporate Affairs, in coming times.

**(iv) Aligning the provisions governing payment of remuneration to Executive Director and Non-Executive directors including Independent Directors**

In the absence of any specific provisions for remuneration to Independent Directors in case of inadequate profits or losses under the existing law, the Amendment Act, attempts to appreciate the contributions by Non-Executive Directors including Independent Directors and brings them in the provisions governing payment of remuneration to Executive Directors, in case of losses or inadequate profits. Suitable amendments via rules and the schedule V of the Companies Act, 2013 are proposed to cater this amendment, in future.

**(v) Introduction of the provisions governing the Producer Companies in the Companies Act, 2013**

Prior to enactment of this Amendment Act, the Producer Companies were governed as per the provisions under the Companies Act, 1956 and this Amendment Act incorporates a separate Chapter governing the Producer Companies on similar lines as prescribed under the previous legislation.

**(vi) Small Companies, Start-ups and Producer Companies would be subject to less penalty for prescribed contraventions**

The Amendment Act makes a separate provision for lesser penalty on account of non-filing or delayed filing of prescribed reporting under the Companies Act, 2013.

**(vii) Periodical preparation and filing of financial results by unlisted Companies**

At present, the requirement of periodical preparation and filing of financial results lies only on the Listed Companies under the Regulations prescribed by the SEBI, however, the amendment Act, entrust the Ministry of Corporate Affairs, with the power to prescribe class or classes of unlisted systemically important Companies who will be required to ensure the preparation, audit and filing of periodical results with the Office of Registrar of Companies.

**(viii) Amendment in the Definition of Listed Companies**

The Companies (Amendment) Act, 2020 has amended clause (52) of section 2 of the Companies Act, 2013 which elaborates on definition of Listed Company. The amendment has inserted a new proviso that enables the Central Government to exclude certain class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with SEBI, from the definition of listed companies.

**(ix) Setting Up of National Company Law Appellate Tribunal Benches**

In order to hear appeals against any direction, decision or order referred to in section 53A of the Competition Act, 2002 and under section 61 of the Insolvency and Bankruptcy Code, 2016, the power has been given to Central Government to establish such number of Benches of the Appellate Tribunal, as it may consider necessary after consultation with the Chairperson to whom powers for exercising such superintendence and control are delegated.

**Comments:**

The Enactment of this Amendment Act, coincidentally, in these different times, shall certainly relieve the Companies and Stakeholders, to an extent, in lessening of Compliance requirements.

Relaxation of penal repercussions on various offences being the major aspect of the Amendment Act, not only enables De-clogging of Authorities under the Ministry of Corporate Affairs but also gives a sign of relief the officers and stakeholders. Here, it is pertinent to note that there has not been any relaxations on the Offences of serious nature or Offences having involvement of fraud or public interest at large.

**DISCLAIMER**

*This document has been prepared in summary form by us from sources believed to be reliable based on The Companies Act, 2013 read with related rules. For further details, please refer the relevant acts and related rules. The information contained herein is intended only for the person to whom it is sent. While the information is believed to be accurate to the best of our knowledge, we do not make any representations or warranties, express or implied, as to the accuracy or completeness of such information. Reader should conduct and rely upon their own examination, investigation and analysis and are advised to seek their own professional advice. The information and data contained herein is not a substitute for the recipient's independent evaluation and analysis. This document is not an offer, invitation, advice or solicitation of any kind. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies on it.*