



**Sanjay Grover &
Associates**
Company Secretaries

SGA LEGAL NEWSLETTER

For the month of July 2024



Overview

- ▶ Ministry of Corporate Affairs (“MCA)
- ▶ Securities & Exchange Board of India (“SEBI”)
- ▶ Reserve Bank of India (“RBI”)
- ▶ Compliance Calendar for the month of August 2024
- ▶ Important Adjudication Orders

01
02
03
04
05



About us

Sanjay Grover & Associates is a Firm of Company Secretaries, established in 2001, whose constant endeavor is to craft a premier professional practice providing high quality services and integrating value added knowledge, for its people, clients and society as a whole.

The Organization is backed by a team of multi- disciplinary professionals who possess the inherent qualities of converting the challenges into opportunities by sincerity, passion and determination.

The dynamic professionals of the organization are very well exposed in dealing with various regulatory authorities like Registrar of Companies (ROC), Regional Director (RD), Ministry of Corporate Affairs (MCA), National Company Law Tribunal (NCLT), National Company Law Appellate Tribunal (NCLAT), Insolvency and Bankruptcy Board of India (IBBI), Competition Commission of India (CCI), Securities & Exchange Board of India (SEBI), Stock Exchanges, Reserve Bank of India (RBI) etc. The firm works with a progressive mindset and serves its clients with results and quality; it has the zeal and potential to handle challenging and wide range of assignments.

Disclaimer: This Legal Newsletter for the month of July, 2024 has been prepared by team SGA (i.e. Sanjay Grover & Associates, Company Secretaries) solely for knowledge purpose and should not be construed as any professional advice or opinion. We expressly disclaim all liability for actions/inactions based on this newsletter.

I MINISTRY OF CORPORATE AFFAIRS ('MCA')

E-FORMS UPDATED DURING THE MONTH OF JULY 2024 ([Click here to download updated version of e-forms](#))

Description	Name of e-form	Update Date
Form for filing financial statement and other documents with the Registrar	Form AOC-4	July 01, 2024
Filing annual return by a company having a share capital with the Registrar	Form 20B	July 03, 2024
Form of application to the Central Government for appointment of Cost Auditor	Form 23C	July 08, 2024
Serious Complaint Form	Form SCP	July 12, 2024

COMPANIES (APPOINTMENT AND QUALIFICATION OF DIRECTORS (AMENDMENT) RULES, 2024 [\(Click here for accessing the notification\)](#)

- **Date of applicability** :The Circular is effective from August 01, 2024
- **Brief background**: MCA vide notification dated 16th July 2024 amended Rule 12A of Companies (Appointment and Qualification of Directors) Rules, 2014 by inserting Companies (Appointment and Qualification of Directors) (Amendment) Rules, 2024 with effect from 1st August 2024
Key amendments to Rule 12A are as under
 - Every individual holding a Director Identification Number (DIN) as of March 31 of a financial year must submit e-form DIR-3 KYC to the Central Government by September 30 of the following financial year.
 - Individuals who have already submitted e-form DIR-3 KYC for a previous financial year can comply for subsequent years by submitting the web-form DIR-3 KYC-WEB.
 - Personal mobile numbers and email addresses can be updated in e-form DIR-3 KYC by September 30 of the financial year
 - Additional updates to personal mobile numbers or email addresses during the same financial year will require submitting e-form DIR-3 KYC with a fee of five hundred rupees.
- **SGA Comments**: These amendments intend to rationalize the KYC process for directors and ensure their contact information is updated.
- **Actionable, if any**: Noting for filing of e form DIR-3 KYC in future.

COMPANIES (MANAGEMENT AND ADMINISTRATION) AMENDMENT RULES, 2014 ([Click here for accessing the notification](#))

- **Date of applicability** :The Circular is effective from the date of its publication in the Official Gazette i.e. July 15, 2024
- **Brief background**: MCA vide circular dated 15th July 2024, notified Companies (Management and Administration) Amendment Rules, 2024 to further amend the Companies (Management and Administration) Rules, 2014.
- Key Amendments are as under
 - Substitution of Form MGT-6: The most notable change in this amendment is the substitution of the existing Form MGT-6 with a new form. Form MGT-6 pertains to the return to be filed with the Registrar regarding the declaration of beneficial interest in shares
 - **MGT-6 major changes**
 - Number of registered owners for whom the form is being filed: Previously, this form could be filed for a maximum of 6 persons. However, following the recent amendment, it can now be filed for up to 10 persons
 - **New insertions in the form**
 - E-mail ID of the Company is now prefilled from the CIN.
 - Income Tax PAN / Passport Number / Other Registration Number (mandatory to submit at least one of these details) of the person in whose name the above shares have been registered as holders in the register of members
 - Date of birth / date of incorporation of the person in whose name the above shares have been registered as holders in the register of members
 - **BO ID** (*Beneficial Owner Identification Number*). This identification number is assigned to individuals who shall be the beneficial owners of shares of the Company (**To be inserted if available**)
 - Income Tax PAN / Passport of the person who holds a beneficial interest in such shares and verification of PAN
 - Date of birth of the person who holds a beneficial interest in such shares

- Mobile number & e-mail id of the person in whose name the above shares have been registered as holders in the register of members and the person who holds a beneficial interest in such shares.
- Country, Area / Locality, District, father's name / husband's name of the person in whose name the above shares have been registered as holders in the register of members and the person who holds a beneficial interest in such shares
- **Deletion from the Form**
 - Global location number (GLN) of company
- **SGA Comments:** The revised form is designed to provide more comprehensive and structured information, facilitating better compliance and transparency
- **Actionable, if any:** Noting for filing of Form MGT 6 in future.

COMPANIES (SIGNIFICANT BENEFICIAL OWNERS) AMENDMENT RULES, 2024 ([Click here for accessing the notification](#))

- **Date of applicability** :The Circular is effective from the date of its publication in the Official Gazette i.e. July 15, 2024.
- **Brief Overview**:
 - Substitution of Form No. BEN-2: The most important change brought by this amendment is the substitution of the existing Form No. BEN-2 with a new form. This new form aims to streamline the process of declaring significant beneficial ownership and the changes related to it.
 - Form No. BEN-2: Detailed structure as under:
 - Company information**
 - Corporate Identity Number (CIN)
 - Name and registered office address of the company
 - Purpose of filing the form, which includes declarations for holding reporting company, significant beneficial ownership, changes in particulars, and changes resulting in removal of existing significant beneficial ownership
 - Declaration of Significant Beneficial Ownership**
 - Detailed fields for declaring significant beneficial ownership under Section 90, including the number of significant beneficial owners, particulars of ownership, and any changes to existing ownership
 - Change in particulars**
 - Provisions for updating the particulars of existing significant beneficial owners, including details such as ID, name, and date of changes in significant beneficial interest
 - Cessation of Control**
 - Fields to declare cessation of control or significant influence by the significant beneficial owner, including supporting documentation.

- **Direct or indirect holding details::** Comprehensive details on how the significant beneficial interest is held, whether directly or indirectly, including by shares, voting rights, distributable dividends, or significant influence.
- **Additional Compliance and Documentation:** The new form highlighted the need for comprehensive documentation and digital signatures from authorized personnel, ensuring that the information provided is accurate and verified by a practicing professional such as a Chartered Accountant, Cost Accountant, or Company Secretary
- **SGA Comments:** This is a significant amendment introducing additional disclosure and filing requirements relating to Form No. BEN 2 for more transparency and preventing fraudulent activities by ensuring that significant beneficial owners are appropriately declared and recorded.
- **Action:** Noting for filing of Form No. BEN 2 in future.

COMPANIES (INCORPORATION) AMENDMENT RULES, 2024 ([Click here for accessing the notification](#))

- **Date of applicability**: This notification is effective from the date of its publication in official gazette i.e. July 16, 2024
- **Brief background**: The MCA *vide* this notification has removed the reference of the term ‘Nidhi’ from clause (p) of Rule 8A of the Companies (Incorporation) Rules 2014. Accordingly the amendment clause now reads as follows:
“The proposed name includes words such as ‘Insurance’, ‘Bank’, ‘Stock Exchange’, ‘Venture Capital’, ‘Asset Management’, ‘Mutual Fund’, etc., unless a declaration is submitted by the applicant that the requirements mandated by the respective regulator, such as IRDA, RBI, SEBI, MCA, etc. have been complied with by the applicant.”

Additionally, the Clause (v) of Rule 8A of the Companies (Incorporation) Rules, 2014 has been omitted which earlier inter- alia provided as follows:

“The proposed name of a Nidhi company under the Act does not have the last words “Nidhi Limited” as a part of its name”

- **Actionable, if any**: For noting only

COMPANIES (FURNISHING OF INFORMATION ABOUT PAYMENT TO MICRO AND SMALL ENTERPRISE SUPPLIERS) AMENDMENT ORDER, 2024 [\(Click here for accessing the notification\)](#)

- **Date of applicability**: This Circular is effective from the date of its publication in official gazette i.e. July 15, 2024
- **Brief background**: MCA vide its notification dated July 15, 2024 has issued Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024, the key highlights of which are as follows:
 - Introduction of revised e-form MSME-1 that includes the following additional disclosures:
 - ✓ Amount paid within 45 days
 - ✓ Amount outstanding for 45 days or less
 - ✓ Amount Outstanding for more than 45 days
 - ✓ Reason for delay in payment / amount
 - Earlier specified companies were not required to file form MSME-1 Return when there was no outstanding amount with micro or small enterprises, however basis the additional disclosures a view may taken that now irrespective of whether the amount is outstanding as on the half year ending, the filing requirement shall be mandatory.
- **SGA Comments**: This amendment intends to strengthen the reporting framework concerning payments to micro and small enterprise suppliers. The companies are now required to provide comprehensive data on payments to MSME suppliers to ensure transparency and boost financial accountability and support MSMEs by ensuring timely payments
- **Actionable if any** : For noting only.

II. SECURITIES EXCHANGE BOARD OF INDIA

REDUCTION IN DENOMINATION OF DEBT SECURITIES AND NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES ([Click here for accessing the circular](#))

- **Date of applicability:** The provisions of this Circular shall come into effect from July 3, 2024, i.e. the date of its issuance
- **Brief Overview:** ·In view to encourage participation from non-institutional investors (NIIs) in debt securities and corporate bond market, SEBI has provided for the following amendments in Chapter V of the Master Circular for issue and listing of Non-Convertible Securities, Securitised Debt Instruments, Security Receipts Municipal Debt Securities and Commercial Paper dated May 22, 2024 (**‘NCS Circular’**):
 - The amendment introduces a provision that permits the issuance of debt securities or non-convertible redeemable preference shares at a face value of INR 10,000, as opposed to the previously required INR 1,00,000, on a private placement basis. This issuance is subject to the following specific conditions.
 - ✓ The conditions include the appointment of at least one Merchant Banker. The Merchant banker’s role and responsibility will be same as in case of a public issue
 - ✓ Such debt security or non - convertible redeemable preference share shall be interest / dividend bearing security paying coupon / dividend at regular intervals with a fixed maturity without any structured obligations
 - Lower denomination of securities will make it more affordable for NIIs to participate in the corporate bond market. This will result in larger investor pool and enhanced liquidity in the market. The Merchant Banker will ensure professional management and will boost investor confidence and the overall credibility of the market

- The circular permits following credit enhancements to make these securities more attractive to investors
 - Guaranteed bonds
 - partially guaranteed bonds
 - Standby Letter of credit (SBLC) backed securities
 - Debt backed by pledges of shares or other assets
 - Guaranteed Pooled bond issuance (PBI), not through a trust
 - Obligor/ Co-obligor structures or cross default guarantee structures; and
 - Debt backed by Payment Waterfall /Escrow, or DSRA etc., but with Full Guarantee or DSRA Replenishment Guarantee from a third party
- Such credit enhancements have the potential of making the debt securities and NCRPS more attractive by reducing investor risk
- Credit Rating Agencies (CRAs) are tasked with verifying the documentation related to these enhancements to ensure they are unconditional, irrevocable, legally enforceable, and that the support provider has a lower probability of default compared to the issuer. This aims to bring credibility to the credit enhancement provided in support of the security.
- For issuers with valid shelf placement memorandum or General Information Document (GID) as of the effective date of the circular, funds may be raised through tranche placement memorandum or Key Information Documents at a face value of INR10,000, provided that due diligence is carried out by a Merchant Banker and necessary addendum shall be issued by such issuer to the shelf placement memorandum or General Information Document, as applicable
- Clause 2.3 of NCS Circular is modified to state that the trading lot of listed debt securities and non-convertible redeemable preference shares issued on a private placement basis will always be equal to their face value

SECURITIES AND EXCHANGE BOARD OF INDIA (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) SECOND AMENDMENT) REGULATIONS 2024 ([Click here for accessing the notification](#))

- **Date of Applicability:** The provisions of this notification shall come into effect from July 08, 2024
- **Brief Overview:** Vide this notification, the Listed Entities have the option of submitting a window advertisement in the newspapers that refers to a Quick Response Code and link of the website where the financial results are available subject to the following:
 - ✓ For Non Convertible Debentures outstanding as on the date of notification of this proviso, the listed entity shall obtain prior approvals from the debenture trustee;
 - ✓ For issuances after the date of notification, the listed entity shall either make a disclosure in the offer document regarding the window advertisement in the newspapers or obtain prior approval from the debenture trustee.
- **Actionable, if any:** For noting only

III. RESERVE BANK OF INDIA ('RBI')

MASTER DIRECTIONS ON FRAUD RISK MANAGEMENT IN NON BANKING FINANCIAL COMPANIES (NBFCs) INCLUDING HOUSING FINANCE COMPANIES ([Click here for accessing the notification](#))

- **Date of applicability** : July 15, 2024
- **Applicable Entities** :
 - Base Layer NBFC with Asset size above INR 500 crore
 - Middle Layer & Upper Layer NBFCs
 - Housing Finance Companies
- **Brief Overview:** The RBI *vide* notification dated July 15, 2024 have issued these Master Directions in order to provide the Applicable Entities a framework for prevention, early detection and timely reporting of incidents of fraud to law enforcement agencies and other authorities. The underlying intent behind the introduction of these Master Directions is to alert other lenders to not have any kind of a relationship with a fraudster and this intent is proposed to be achieved by virtue of certain safeguards and reporting mechanism as detailed in these Master Directions. Some of the key takeaways are as follows
 - **Governance Requirements:**
 - ✓ Formulating a board approved policy on fraud risk management that shall enshrine the principles of natural justice
 - ✓ Constitution of Special Committee of Board which shall consist of a minimum of 3 members of the board, consisting of the Chief Executive Officer and 2 Independent Directors
 - ✓ The Senior Management shall be responsible for implementation of the fraud risk management policy approved by the board and they shall also undertake a periodic review of incidents of fraud

- **Framework for Early warning Signals**
 - ✓ In addition to the governance requirements Upper layer and Middle Layer NBFCs shall have a framework for early warning signals that shall be designed to include both the qualitative and quantitative indicators to make the framework robust and effective
- **Reporting Mechanism**
 - ✓ Incidents of reporting shall be reported to appropriate State Police Authorities and for such task nodal officers and designated officers shall be appointed by the Applicable Entities
 - ✓ Fraud Monitoring Returns shall be filed with the RBI using the most appropriate specified category within the requisite time period
 - ✓ Instances of theft, burglary, dacoity and robbery (including attempted cases) shall be reported to Fraud Monitoring Group (FMG), Department of Supervision, Central Office, Reserve Bank of India
 - ✓ Submission of a quarterly Return (RBR) on theft, burglary, dacoity and robbery to RBI using online portal, covering all such cases during the quarter
- **Other Requirements:**
 - ✓ Formulation of the policy on engagement of external auditors covering aspects such as due diligence, and the track record of the auditor
 - ✓ Further the Loan agreements shall also contain clauses that enable conducting of the audit at the behest of the lenders.
- **Penal Requirements**
 - ✓ Persons/Entities classified and reported as fraud shall be debarred from raising funds and or seeking additional credit facilities from financial entities for a period of five years from the date of full repayment of the defrauded amount / settlement amount agreed upon in case of a compromise settlement.

- **Actionable if any:** The Applicable Entities shall take note of these Master Directions and accordingly undertake steps that include undertaking governance measures such as formulation of policy and constitution of requisite committee and reporting framework
- **SGA View:** These directions are framed pursuant to the various judicial precedents and importantly the Supreme Court judgment of State Bank of India & Ors vs Rajesh Aggarwal & Ors wherein it was held that lending institutions shall follow the principles of natural justice before classifying and reporting a borrower as fraudulent. The issued Master Directions takes care of the principle of nature justice by mandating the Applicable Entities to enshrine such principle in the policies drafted pursuant to these directions.

REMITTANCES TO INTERNATIONAL FINANCIAL SERVICES (IFSCS) UNDER THE LIBERALIZED REMITTANCE SCHEME
(LRS [\(Click here for accessing the notification\)](#))

- **Date of Applicability:** July 10, 2024
- **Brief Overview:** The RBI vide notification dated July 10, 2024 has expanded the scope of type of remittances that can be made in the IFSC from person resident in India so as to now include all remittances under the Liberalized Remittance schemes for the following purposes:
 - ✓ Availing financial services or financial products as per the International Financial Services Center Authority Act, 2019 within IFSCs
 - ✓ All current or capital account transactions, in any other foreign jurisdictions (other than IFSC) through an FCA held in IFSCs
- **SGA View:** By virtue of this notification, it is believed that IFSC as an offshore investment jurisdiction will become more popular amongst the person residents in India that will eventually help in achieving the objective of offshoring the onshore

IV. COMPLIANCE CALENDAR FOR THE MONTH OF AUGUST 2024

S.No	COMPLIANCE DATE	ACT / RULES/ REGULATIONS	APPLICABLE FORM	APPLICABLE ENTITIES
1.	On or before August 09, 2024 (i.e. within 7 working days of the end of relevant quarter)	Para 6.3 of Master Directions – External Commercial Borrowing, Trade Credit and Structured Obligations	ECB Form 2	Borrowers having overseas debt exposure through ECB route shall report their actual monthly ECB transactions to AD bank.
2.	On or before August 14, 2024 (i.e. Within 45 days from the end of the quarter/Within 60 days from the end of the last quarter)	Regulation 32 (1) - SEBI (LODR) Regulations 2015	-	Equity listed companies are required to submit a Statement of deviation(s) or variation(s) of utilization of funds in the prescribed format.

3.	On or before August 14, 2024 (i.e. Within 45 days from the end of the quarter/Within 60 days from the end of the last quarter	<u>Regulation 33 (3) (a) - SEBI (LODR) Regulations 2015</u>	-	Listed Entities shall submit Financial Results along with Limited review report/Auditor's report to the stock exchanges.
----	---	---	---	--

V. IMPORTANT ADJUDICATION ORDERS

[In the matter of Ganesh Green Bharat Limited for default of Section 135\(5\) of the Companies Act](#)

- The Registrar of Companies Gujarat *vide* order dated July 11, 2024 have imposed penalties on Ganesh Green Bharat Limited ('Company') and the directors amounting to INR 1,02,47,548 and INR 4,00,000 respectively for violations of Section 135(5) of the Companies Act, 2013.
- As per Section 135(5) of the Companies Act, 2013 the board of specified companies shall ensure it spends at least 2% of the average net profits of the company made during the immediately preceding financial year in pursuance to its corporate social responsibility policy. However, if the company fails to spend the requisite amount the board shall in its directors' report specify the reasons for such failure and further transfer such unspent amount to a fund specified in Schedule VII within a period of 6 months from the expiry of the financial year/
- In the instant case, the Company had failed to spent the following amounts as its CSR obligations:

S.No	Financial Year	CSR Obligation (INR)
1.	2021-22	27,91,932.00
2.	2022-23	23,31,842.00

- Accordingly taking cognizance of the above non-compliances, the ROC adjudicated the offence by imposing penalties on as provided in Section 135(7) of the Companies Act, 2013 separately for each financial year.

Important Note: *Kindly note that the above specified ROC adjudication orders has been included as a part of this newsletter as this clearly portrays the position of ROC having the powers to impose specific penalties for each year of non compliance vis a vis CSR obligations . Few more ROC adjudication cab be accessed at this [link](#)*

[In the matter of Herox Private Limited for default of Section 90 of the Companies Act, 2013](#)

- The Registrar of Companies *vide* order dated July 19, 2024 have imposed penalties on the Herox Private Limited and Suman Kant Munjal and Akshay Munjal amounting to INR 6,00,000 and INR 1,50,000 for non-compliance with the requirements of Section 90 of the Companies Act, 2013.
- As per Section 90(1) every individual whether acting alone or together or through one or more persons or trust and persons resident outside India, holds beneficial interests, of not less than 25% or such other percentage as may prescribe, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of Section 2 over the company is required to make a declaration in form BEN-1. Consequently, the company shall on receipt of such declaration is required to file such information with the Registrar in form BEN-2 30 days from the receipt of the declaration
- In the instant scenario, albeit the Company had received declarations in form BEN-1 at the time of creation of interests however it failed to subsequently file the return in form BEN-2 within the prescribed period of time, it only filed returns after initiation of proceedings by the ROC. Further in respect to Suman Kant Munjal and Akshay Munjal neither a declaration was received nor any notice was issued by the Company for intimating them about filing of the return
- Accordingly taking cognizance of the above non-compliances the ROC adjudicated the offence and directed the Company and Suman Kant Munjal and Akshay Munjal to pay the requisite penalties calculated pursuant to the benefit provided for under Section 446B of the Companies Act, 2013 for start-up companies

Important Note: *Kindly note that the above specified ROC adjudication orders has been included as a part of this newsletter as it sets out as a precedent in terms of Section 90 of the Companies Act, 2013 compliance. Few more ROC adjudication cab be accessed at this [link](#)*



**Sanjay Grover &
Associates**
Company Secretaries

THANK YOU!

Sanjay Grover & Associates, Company Secretaries



+91-11-46790000



www.cssanjaygrover.in



B-88, 1st Floor, Ring Road, Defence Colony,
Bhisma Pitamah Marg, New Delhi -110024



sanjaygrover7@gmail.com