

January 2023 | ISSUE

VEDANAM

MCA & SEBI UPDATES

WHY VEDANAM?

We, Mehta & Mehta present you with our monthly newsletter which cover regulatory updates, case laws and study articles. We hereby release our January, 2023 issue.

QUOTE OF THE MONTH:

Knowledge Is Like A Garden
If It Is Not Cultivated It Cannot
Be Harvested



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Disclaimer: All views in this Newsletter are expressed by the concerned individuals only and are not the views of the Department or the Company.

I. MINISTRY OF CORPORATE AFFAIRS (“MCA”) UPDATES:

A. MCA CIRCULARS AND NOTIFICATIONS:

1. MCA circular - Release Plan of 45 company e-Forms in MCA 21 Version 3.0 reg. – January 09, 2023

MCA, vide its circular dated January 9, 2023 informed all the stakeholders that Ministry is in the process of introducing certain company e-Forms in MCA21 Version 3.0 (as per Annexure) and thus these e-Forms will not be available in MCA21 Version-2 from 07.01.2023 to 22.01.2023.

MCA, after keeping in view of the fact above, decided to allow additional time of 15 days, without levying additional fees, to the stakeholders, in cases where the due dates for filing of 45 e-Forms as mentioned in Annexure fall during the period between 07.01.2023 to 22.01.2023.

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=xHxXexcBmc5%252Bd%252FsJEZzXiw%253D%253D&type=open>

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2. MCA circular - Companies (Appointment and Qualification of Directors) Amendment Rules, 2023. – January 20, 2023

MCA vide its Circular dated 20th January, 2023 has notified Companies (Appointment and Qualifications of Directors) (Amendment) Rules, 2023 to amend the provisions of Companies (Appointment and Qualifications of Directors) Rules, 2014.

Sr No.	Amendment	Comments
1.	Insertion: In Rule 14(1) after the words “disqualification under”, the words, brackets and figure “sub-section (1) or” shall be inserted.	Under section 164(2), directors were required to inform the concerned companies about their disqualification. However, after this amendment, a declaration regarding disqualification under section 164(1) shall also be required in form DIR-8.
2.	Insertion: Rule 14 (1A) after sub-rule (1), following shall be inserted, namely: (1A) Whenever a company	Until now, form DIR-9 was used only when a company failed to file the financial statements or

	receives the information in Form DIR-8, company shall, within thirty days of such receipt, file Form DIR-9 with the Registrar.	annual returns, or failed to repay any deposit, interest, dividend, or failed to redeem its debentures, as specified in section 164(2). However, after this amendment, the Companies are required to file this form whenever form DIR-8 is received regarding disqualification of director under section 164(1) also.
3.	Insertion: Rule 14(5) after the words, letters and figure "Form DIR-10", the words "and filed before the Regional Director." shall be inserted.	Any application for removal of disqualification of directors shall be made in Form DIR-10 and filed before the Regional Director.
4.	Forms DIR-3, DIR-3C, DIR-5, DIR-6, DIR-8, DIR-9, DIR-10, DIR-11 and DIR-12 shall be substituted mentioned in the annexure of the given circular.	

The given Circular shall come into force on 23rd January, 2023.

<u>Link:</u>
https://www.mca.gov.in/bin/dms/getdocument?mids=5gAUSA0m%252FLmgaQtCZdCS2Q%253D%253D&type=open

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3.

3. MCA circular – Companies (Authorised to Register) Amendment Rules, 2023 – January 19, 2023

MCA vide its Circular dated 20th January, 2023 notified Companies (Authorised to Register) Amendment Rules, 2023 to amend Companies (Authorised to Register) Rules, 2014.

Sr No.	Amendment	Comments
1.	In sub-rule (2) of rule 3: 1) In clause (a): • For sub clause (iv) the following sub-clause shall be substituted, namely: "(iv) No Objection Certificate from secured creditor along-with charge holder, if applicable;"	In sub rule (2) of rule (3): In clause (a) sub clause (iv), In clause (b) sub clause (v), In clause (c) sub clause (v), In clause (d) sub clause (iv), shall be substituted by "No Objection Certificate from secured

	<ul style="list-style-type: none"> • sub-clauses (v) and (vi) shall be omitted. <p>2) In clause (b):</p> <ul style="list-style-type: none"> • for sub-clause (v), the following sub-clause shall be substituted, namely:- “(v) No Objection Certificate from secured creditor along-with charge holder, if applicable;”; <ul style="list-style-type: none"> • sub-clauses (vi), (vii) and (ix) shall be omitted. <p>3) In clause (c)</p> <ul style="list-style-type: none"> • for sub-clause (v), the following sub-clause shall be substituted, namely:- “(v) No Objection Certificate from secured creditor along-with charge holder, if applicable;”; <ul style="list-style-type: none"> • sub-clauses (vi), (vii) and (ix) shall be omitted. <p>4) In clause (d):</p> <ul style="list-style-type: none"> • for sub-clause (iv), the following sub-clause shall be substituted, namely:- “(iv) No Objection Certificate from secured creditor along-with charge holder, if applicable;”; • sub-clauses (v), (vi) and (vii) shall be omitted. 	<p>creditor along-with charge holder, if applicable”.</p>
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This Circular shall come into force from 23rd January, 2023.

<p><u>Link:</u> https://www.mca.gov.in/bin/dms/getdocument?mds=XkFRyiRIeiGKtDK0myJS9w%253D%253D&type=open</p>
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4. MCA circular - Companies (Misc) Amendments Rules, 2023. – January 20, 2023

MCA vide its Circular dated 20th January, 2023 has notified Companies (Miscellaneous) Amendment Rules, 2023 to amend the Companies (Miscellaneous) Rules, 2014.

Sr No.	Amendment	Comments
1.	Omitted: In the proviso of rule 3 clause (iv), the words, letters and figure “and enclosing the same with Form MSC-1”	OMITTED
2.	Omitted: In the proviso of rule 3 clause (v), the words, letters and figure “and a certificate in this regard is enclosed with Form MSC-1”	OMITTED
3.	Form No. MSC-1, MSC-3 and MSC-4 shall be substituted as given in the Circular.	

This Circular shall come into force from 23rd January, 2023.

<u>Link:</u> https://www.mca.gov.in/bin/dms/getdocument?mds=jLOhNY%252F5Oyn3AHEbkASjzw%253D%253D&type=open

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5. MCA circular - Companies (Prospectus and Allotment of Securities) Amendment Rules, 2023 - January 20, 2023

MCA vide its Circular dated 20th January, 2023 notified Companies (Prospectus and Allotment of Securities) Amendment Rules, 2023 to amend Companies (Prospectus and Allotment of Securities) Rules, 2014.

Sr No.	Amendment	Comments
1.	In Rule 12 sub-rule (6), shall be omitted.	OMITTED
2.	Form PAS-2, PAS-3 and PAS-6 shall be substituted as mentioned in the annexures of the given Circular.	

This Circular shall come into force from 23rd January, 2023.

<u>Link:</u>

<https://www.mca.gov.in/bin/dms/getdocument?mds=gg%252FD8LfPtLA%252Bim1AxzsJxA%253D%253D&type=open>

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6. MCA circular - Companies (Registration of Foreign Companies) Amendment Rules, 2023 - January 20, 2023

MCA vide its Circular dated 20th January, 2023 notified Companies (Registration of Foreign Companies) Amendment Rules, 2023 to amend Companies (Registration of Foreign Companies) Rules, 2014.

Sr No.	Amendment	Comments
1.	In sub rule 2 of rule 3 for clause (c), the following clause shall be substituted, namely: - (c) father's name or mother's name or spouse's name.	In sub rule 2 of rule 3 for clause (c) father's name or mother's name and spouse's name shall be substituted by father's name or mother's name or spouse's name.
2.	FORM FC-1, FORM FC-2, FORM FC-3 and FORM FC-4 shall be substituted as mentioned in the annexure of the given circular.	

This Circular shall come into force from 23rd January, 2023.

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=I%252BqRIYKj010C%252FMRB138x1g%253D%253D&type=open>

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7. MCA circular - Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023 - January 19, 2023

MCA vide its Circular dated 19th January, 2023 notified Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023 to amend the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014.

Further, Form No. MR.1 and Form No. MR.2 shall be substituted mentioned in annexure of the given circular.

This Circular shall come into force from 23rd January, 2023.

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mids=6XC9rgq54o9IS3oET1BtYg%253D%253D&type=open>

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8. MCA circular - Companies (Incorporation) Amendment Rules, 2023 - January 20, 2023

MCA vide its Circular dated 21st January, 2023 notified Companies (Incorporation) Amendment Rules, 2023 to amend Companies (Incorporation) Rules, 2014.

Sr No.	Amendments	Comments
1.	<p>In rule 4 which states “Nomination by the subscriber or member of One Person Company.”</p> <ul style="list-style-type: none">In the sub-rule (2) shall be substituted as the name of the person nominated under sub-rule (1) shall be mentioned in the memorandum of One Person Company and such nomination details along with the consent of such nominee shall be filled in Form No. INC-32 (SPICE+) as a declaration and the said Form along with the fee as provided in the Companies (Registration offices and fees) Rules, 2014 shall be filed with the Registrar at the time of incorporation of the company along with its e-memorandum and e-articles."In the proviso to sub-rule (3), for the words, letters, and figure, INC.3" the words, letters, and figure, "which shall be filed a declaration in Form no. INC.4." shall be substituted.In sub-rule (4), for the words, letters, and figure, "in Form No. INC.3", the words, letters, and figure, "in the form of a declaration	<p>The person nominated shall mention in the memorandum of OPC Company such nomination shall be filed in Form INC-32 (Spice+) and fees as provided in the Companies (Registration offices and fees) Rules, 2014 shall be filed with the Registrar at the time of incorporation of the company along with its e-memorandum and e-articles.</p> <p>Form INC-3 is substituted to Form INC-4</p> <p>Form INC-3 is substituted to Form INC-4</p>

	<p>in Form No. INC-4" shall be substituted.</p> <ul style="list-style-type: none"> • in sub-rule (5), for the words, letters, and figure, "prior consent of such another person in Form No. INC-3", the words, letters, and figure, "consent of such another person and his declaration shall be filed in Form No. INC-4" shall be substituted. • in sub-rule (6), for the words, letters and figure, "prior written consent of the person so nominated in Form No. INC-3" the words, letters and figure, "particulars of consent of the person so nominated in form of declaration in Form No. INC-4" shall be substituted; 	<p>Form INC-3 is substituted to Form INC-4</p> <p>Form INC-3 is substituted to Form INC-4</p>
2.	<p>In rule 6 of the said rules:</p> <ul style="list-style-type: none"> • for sub-rule (3), the following sub-rule shall be substituted <p>"The company shall file an application in e-Form No. INC-6 for its conversion into Private or Public Company, other than under section 8 of the Act, along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014 with altered e-MOA and e-AOA."</p> <ul style="list-style-type: none"> • for sub-rule (4), the following sub-rule shall be substituted <p>"On being satisfied that the requirements have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.";</p>	<p>Now, the company has to file e-Form INC-6 along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014 with altered e-MOA and e-AOA.</p> <p>Rule 6 for sub rule (1), the condition as mentioned is satisfied, the registrar after examining the latest audited financial statement shall approve the form and issue certificate.</p>

3.	<p>In rule 7 of the said rules,</p> <ul style="list-style-type: none"> for sub-rule (4), the following sub-rule shall be substituted: “The company shall file an application in e-Form No. INC-6 for its conversion into One Person Company along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014 by attaching the following details or documents, namely:- (i) altered e-MOA and e-AOA; (ii) copy of NOC of every creditors with the application for conversion; (iii) affidavit of directors confirming that all the members of the company have given their consent for conversion.” for sub-rule (5), the following sub-rule shall be substituted “On being satisfied that the requirements stated herein have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.” 	<p>The following documents has to be attached, when application is made in Form INC-6: (i) altered e-MOA and e-AOA; (ii) copy of NOC of every creditors with the application for conversion; (iii) affidavit of directors confirming that all the members of the company have given their consent for conversion.</p> <p>After examining the latest audited financial statement registrar shall approve the form and issue certificate.</p>
4.	<p>In rule 19 of the said rules,</p> <p>In sub-rule (3),-</p> <p>(a) in sub-clause (b), the words, letters and figures, “in Form No. INC.14”, shall be omitted;</p> <p>(b) in sub-clause (d), the words, letters and figures, “in Form No. INC-15”, shall be omitted;</p>	OMITTED

5.	<p>In rule 20 of the said rules</p> <ul style="list-style-type: none"> for sub-rule (2), the following sub-rule shall be substituted, “The application under sub-rule (1), shall be accompanied by the following details and documents, namely:- (a) the e-Memorandum of Association and e-Article of Association of the company; (b) the declaration by an Advocate, a Chartered Accountant, Cost Accountant or Company Secretary in Practice, that the memorandum and articles of association have been drawn up in conformity with the provisions of section 8 of the Act and rules made thereunder and that all the requirements of the Act and the rules made thereunder or supplemental thereto have been complied with; (c) a statement showing in detail the assets (with the values thereof), and the liabilities of the company, as on the date of the application or within thirty days preceding that date; (d) the certified copy of the resolution passed in general or board meetings approving registration of the company under section 8 of the Act; and (e) a declaration by each of the persons making the application.” for sub-rule (5), the following sub-rule shall be substituted, <p>“The Registrar shall after considering two years financial statements immediately preceding the date of application or when</p>	<p>The list of documents has been substituted.</p> <p>The Registrar shall after considering two years financial statements immediately preceding the date of application or when the company has functioned only for one financial year, for such year including Board’s reports and audit reports, relating to the existing companies decide whether the license should or should not be granted.</p>
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	<p>the company has functioned only for one financial year, for such year including Board's reports and audit reports, relating to the existing companies, and after considering objections, if any received by it within thirty days from the date of publication of notice, and after consulting any authority, regulatory body, Department or Ministry of Central Government or the State Government(s), as it may, in its discretion, decide whether the license should or should not be granted.”</p>	
9.	<p>In rule 21 of the said rules, for sub-rule (4), the following sub-rule shall be substituted:</p> <p>“An intimation along with copy of the application with annexures as filed in Form no. INC.18 with the Regional Director shall also go to the Registrar through MCA system.”</p>	<p>Along with annexure, Form INC-18 with the Regional Director shall also go to the Registrar.</p>
10.	<p>In rule 22 of the said rules,-</p> <ul style="list-style-type: none"> in sub-rule (6), for the words, “attach with the application a certificate” the words, “file the application with a declaration” shall be substituted; in sub-rule (10), in clause (ii), for sub-clause (b) the following sub-clause shall be substituted: <p>“amended e-Memorandum of Association and amended e-Article of Association of the company.”;</p>	<p>The company shall attach with the application file the application with a declaration a certificate from practicing Chartered Accountant or Company Secretary in practice or Cost Accountant in practice certifying that the conditions laid down in the Act and these rules relating to conversion of a company registered under section 8 into any other kind of company, have been complied with.</p> <p>amended memorandum of association and articles of association e-Memorandum of Association and amended e-</p>

		Article of Association of the company.
11.	In rule 28 of the said rules, in sub-rule (1) for the words, “following documents” the words “following details and documents” shall be substituted;	The following documents will be substituted to “following details and documents”
12	<p>In Rule 30 of the said rules:</p> <ul style="list-style-type: none"> • in sub-rule (1), for the words “following documents” the words “following details and documents”, shall be substituted. • in sub-rule (2) for the words “attached to the application”, the words, “particulars of” and for the word “details” the words, “details in the application” shall be substituted. • in sub-rule (4),- <ul style="list-style-type: none"> (A) the words “Registrar and” shall be omitted; (B) the following proviso shall be inserted, namely:- <p>“Provided that the applicant need not to submit separate copy of application with the Registrar and an intimation of filing of application in Form no. INC-23 with the Regional Director shall be shared with the Registrar through MCA system.”</p> 	<p>The following documents will be substituted to “following details and documents”</p> <p>There shall be attached to the application particulars of , a list of creditors and debenture holders, drawn up to the latest practicable date preceding the date of filing of application by not more than one month, setting forth the following details details in the application, namely:-</p>
12	<p>In rule 33 of the said rules, for sub-rule (2), the following sub-rule shall be substituted:</p> <p>“subject to the provisions of sub-rule (1), for effecting the conversion of a public company into a private company, Service Request Number (SRN) of Form No. RD-1, pertaining to order of the Regional Director approving the alteration, shall be mentioned in Form No.</p>	<p>Service Request Number (SRN) of Form No. RD-1, pertaining to order of the Regional Director shall be mentioned in Form INC-27 along with altered e-Memorandum of Association and e-Article of Association.</p>

	INC-27 to be filed with Registrar along with fee together with the altered e-Memorandum of Association and e-Article of Association within fifteen days from the date of receipt of the order from the Regional Director.”	
13	<p>in rule 37 of the said rules,</p> <ul style="list-style-type: none"> • In sub-rule (3), <ul style="list-style-type: none"> (a) for the words, “by attaching the following documents”, the words “by attaching the following documents and declarations” shall be substituted; (b) in clause d., for the words “a copy of altered Memorandum of Association as well as Articles of Association”, the words, “altered e-Memorandum of Association as well as e-Articles of Association” shall be substituted; 	<p>The Company shall within forty five days of passing of the special resolution file an application as prescribed in sub rule (1) for its conversion into a company limited by shares or guarantee alongwith the fees as provided in the Companies (Registration offices and Fees) Rules, 2014, by attaching the following documents documents and declarations.</p> <p>a copy of altered Memorandum of Association as well as Articles of Association—altered e-Memorandum of Association as well as e-Articles of Association duly certified by any one of the Directors duly authorised in this behalf or Company Secretary of the Company, if any.</p>
14	In rule 40 of the said rules, in sub-rule (2), the words, letters and figure “in e-form RD-GNL 5” shall be omitted;	OMITTED
15	<p>In rule 41 of the said rules</p> <ul style="list-style-type: none"> • in sub-rule (1), in clause (a), for the words, “a draft copy of the Memorandum of Association and Articles of Association”, the words “e-Memorandum of Association and e-Articles of Association”, shall be substituted; 	<p>a draft copy of Memorandum of Association and Articles of Association e-Memorandum of Association and e-Articles of Association, with proposed alterations including the alterations pursuant to sub-section (68) of section 2;</p>

	<ul style="list-style-type: none"> in sub-rule (6), in clause (b) the words, letters and figure “in e-form RD-GNL-5” shall be omitted; 	
16	in Annexure to the said rules,-(i) the form numbers, INC-3 One Person Company-Nominee Consent Form, INC-14 Declaration, INC-15 Declaration and RD-GNL-5- Form for filing addendum for rectification of defects or incompleteness shall be omitted ;	OMITTED
17	Form No. RUN, INC-4, INC-6, INC- 9, INC-12, INC-13, INC-18, INC-20, INC-20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-31, SPICE+ (INC-32), INC-33, INC-34, INC-35 and RD-1, shall be substituted as mentioned in the given Circular.	

This Circular shall come into force from 23rd January, 2023.

<u>Link:</u>
https://www.mca.gov.in/bin/dms/getdocument?mids=%252B2chuXzJhqM06syQwotdiw%253D%253D&type=open

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9. MCA circular - Companies (Management and Administration) Amendment Rules, 2023 - January 20, 2023

MCA vide its Circular dated 21st January, 2023 notified Companies (Management and Administration) Amendment Rules, 2023 to amend the Companies (Management and Administration) Rules, 2014.

Further, Form No. MGT-3 and MGT-14 shall be substituted as mentioned in the given Circular.

This Circular shall come into force 23rd January, 2023.

<u>Link:</u>
https://www.mca.gov.in/bin/dms/getdocument?mids=s0XJJkiIBK4BjXId1NuEkA%253D%253D&type=open

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10. MCA circular - Companies (Share Capital and Debentures) Amendment Rules, 2023 - January 20, 2023

MCA vide its Circular dated 21st January, 2023 notified Companies (Share Capital and Debentures) Amendment Rules, 2023 to amend Companies (Share Capital and Debenture) Rules, 2014.

Sr No.	Amendment	Comments
1	For sub-rule (14) of rule 17, for sub-rule (14), the following sub-rule shall be substituted: “(14) There shall be a declaration with the return filed with the Registrar in Form No. SH.11, signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.”	By new amendment; Now a declaration with the return filed with the registrar in Form SH-11 signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.”
2	Form No. SH-7, Form No. SH-8, and Form No. SH-9 shall be substituted as mentioned in the given Circular.	

This Circular shall come into force from 23rd January, 2023.

<u>Link:</u>
https://www.mca.gov.in/bin/dms/getdocument?mds=%252BMu3w53AFpZ0lGDqnPK8Kw%253D%253D&type=open

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11. MCA circular - Companies (Registration Offices and Fees) Amendment Rules, 2023 - January 20, 2023

MCA vide its Circular dated 23rd January, 2023 Companies (Registration Offices and Fees) Amendment Rules, 2023 to amend the Companies (Registration Offices and Fees) Rules, 2014.

Sr No.	Amendment	Comments
1.	After Rule 8, the following shall be inserted: “Rule 8A: Signing of forms.- e-forms wherever applicable shall be signed by Insolvency resolution professional or resolution	Rule 8A: Signing of forms, has been inserted after Rule 8.

	professional or liquidator of companies under insolvency or liquidation, as the case may be, and filed with the Registrar along with the fee as mentioned in Table annexed these rules.”	
2.	Form GNL-2, Form GNL-3 and Form GNL-4, shall be substituted as mentioned in the annexure of the given Circular.	

This Circular shall come into force from 23rd January, 2023.

<u>Link:</u>
https://www.mca.gov.in/bin/dms/getdocument?mds=zFrQ4gUbxyNedgbfFLKcdw%253D%253D&type=open

GO UP

12. MCA circular – Filing of Forms GNL-2 (filing of prospectus related documents) and MGT-14 (filing of Resolutions relating to prospectus related documents) due to migration from V2 Version to V3 Version in MCA 21 Portal from January 07, 2023 to January 22, 2023 – January 09, 2023

MCA, vide its circular dated January 09, 2023 decided that the companies intending to file (i) Form GNL-2 (filing of prospectus related documents) and (ii) MGT-14 (filing of Resolutions relating to prospectus related documents) during 7th January, 2023 to 22nd January, 2023 on the MCA-21 Portal may file such Form in physical mode duly signed by the persons concerned as per requirements of the relevant forms, along with a copy thereof in electronic media, with the concerned Register without payment of fee and take acknowledgement (as per Annexure to this Circular) thereof. Such filing will be accompanied by an undertaking from the company that once the filing of such Form is enabled on the portal, the company shall file the relevant Form in electronic form on MCA-21 Portal along with fees payable as per Companies (Registration Offices and Fees) Rules, 2014.

MCA further added that it has received representations requesting for clarification about filing of Form GNL-2, for the purposes of filing prospectus related documents and MGT-14 during 7th January, 2023 to 22nd January, 2023 when migration from V2 Version to V3 Version.

Therefore, no additional fees will be levied for the period during which the filing was disabled.

<u>Link:</u>
https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MjM4MzYzNTY5&docCategory=Circulars&type=open

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II. SECURITIES AND EXCHANGE BOARD OF INDIA UPDATES:

B. SEBI CIRCULARS AND NOTIFICATION

1. SEBI circular on Limited relaxation – dispatch of physical copies of financial statements etc. – Regulation 58 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 – 5th January, 2023

SEBI, vide its circular dated January 5, 2023 provided relaxation with compliance requirements under Regulation 58 (1)(b) of the Listing Regulations which prescribes that an entity with listed non-convertible securities shall send a hard copy of statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those holders of non-convertible securities who have not registered their email address(es) either with the listed entity or with any depository upto September 30, 2023.

SEBI further added that the relaxation has been provided after considering MCA Circular dated December 28, 2022 where MCA has extended the relaxations from dispatching of physical copies of financial statements till September 30, 2023.

This Circular shall come into force with immediate effect and is applicable to all Issuers who have listed Non-convertible Securities and Recognised Stock Exchanges

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/limited-relaxation-dispatch-of-physical-copies-of-financial-statements-etc-regulation-58-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015_67033.html

GO UP

2. SEBI circular on Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015-5th January, 2015

SEBI, vide its circular dated January 5, 2023 provided relaxation with compliance requirements under Regulation 36 (1)(b) of the LODR Regulations relating to dispatching hard copy of the statement containing salient features of all the documents as prescribed in section 136 of the Companies Act, 2013(financial statements, Board's report, Auditor's report etc.), to those shareholders who have not registered their email addresses till September 30, 2023.

SEBI in the circular added that the relaxation has been provided after considering MCA Circular dated December 28, 2022 where MCA provided relaxation to companies from dispatching physical copies of the financial statements (including Board's report, Auditor's report or other documents required to

be attached therewith) to the shareholders, for the Annual General Meetings (AGMs) conducted till September 30, 2023 and after receiving representations from listed entities seeking extension for the same.

SEBI further added that, the listed entities shall ensure compliance with the conditions specified in para 2 and 3 of the said circular which is reproduced below:

- a. In terms of regulation 36(1)(c) of the LODR Regulations, listed entities are required to send hard copy of full annual reports to those shareholders who request for the same.
- b. The notice of AGM published by advertisement in terms of regulation 47 of the LODR Regulations shall disclose the web-link to the annual report so as to enable shareholders to have access to the full annual report.

This Circular shall come into force with immediate effect and is applicable to all listed entities who have listed their specified securities and Recognised Stock Exchanges.

<u>Link to the Circular:</u>
https://www.sebi.gov.in/legal/circulars/jan-2023/relaxation-from-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015_67041.html

GO UP

3. SEBI Circular on Monitoring and Periodical reporting of the Compliance with the requirements pertaining to ‘Security and Covenant Monitoring ‘ system hosted by Depositories

SEBI, vide its circular dated January 5, 2023 asked Depositories to report instances of non-compliance on requirements provided in SEBI circular dated August 13, 2021 and March 29, 2022 pertaining to ‘Security & Covenant Monitoring System’ on a quarterly basis. Instances shall be reported not later than one month from the end of the quarter in the format specified as under:

ISIN	Stakeholders involved & their status of compliance	Reference to the provision of the relevant circulars pertaining to non-compliance	Reasons/ remarks for such non-compliance	Date of compliance/ expected date of compliance
	<Name of the Issuer>			
	<Name of the Debenture Trustee>			
	<Name of the Credit Rating Agency>			

It is to be noted that SEBI vide Circular dated August 13, 2021 specified the manner of recording of charges by Issuers and manner of monitoring and other responsibilities of stakeholders for ‘Security and Covenant Monitoring’ using Distributed Ledger Technology (DLT). Further, vide circular dated March 29, 2022 the Operating Guidelines of the said system using DLT, including roles and responsibilities of the various stakeholders involved, were specified

This Circular shall come into force from April 1, 2023 and is applicable to all Issuers who have listed and/ or propose to list Non-Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities or Commercial Paper, Recognized Stock Exchanges, all Debenture Trustees registered with SEBI, all Credit Rating Agencies registered with SEBI and all Depositories registered with SEBI.

[Link to the Circular:](#)

https://www.sebi.gov.in/legal/circulars/jan-2023/monitoring-and-periodical-reporting-of-the-compliance-with-the-requirements-pertaining-to-security-and-covenant-monitoring-system-hosted-by-depositories_67043.html

[GO UP](#)

4. [SEBI Circular- Extension of timelines for entering and verification of the details of the existing outstanding non-convertible securities in the ‘Security and Covenant Monitoring ‘ system hosted by Depositories- 5th January, 2023](#)

SEBI, vide its circular dated January 5, 2023 extended timelines for entering and verification of the details of the existing outstanding non-convertible securities in the ‘Security and Covenant Monitoring’ system hosted by Depositories. Accordingly, SEBI in the circular said that for existing outstanding non-convertible securities, issuers shall ensure that they enter the details into the system on or before January 31, 2023 and DTs shall verify the same by February 28, 2023. Further, DTs shall submit a fortnightly progress report of status of compliance regarding the details pertaining to existing outstanding non-convertible securities being entered in the system by the issuers and verification of the same by DT, till the extension of the timeline for compliance is in place. The progress report shall be submitted within five days of the end of the fortnight.

SEBI vide Circular dated August 13, 2021 specified the manner of recording of charges by Issuers and manner of monitoring and other responsibilities of stakeholders for ‘Security and Covenant Monitoring’ using Distributed Ledger Technology (DLT). Further, vide circular dated March 29, 2022 the Operating Guidelines of the said system using DLT, including roles and responsibilities of the various stakeholders involved, were specified.

This Circular is applicable to all Issuers who have listed and/ or propose to list Non-Convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities or Commercial Paper, Recognized Stock Exchanges, all Debenture Trustees registered with SEBI, all Credit Rating Agencies registered with SEBI and all Depositories registered with SEBI.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/extension-of-timelines-for-entering-and-verification-of-the-details-of-the-existing-outstanding-non-convertible-securities-in-the-security-and-covenant-monitoring-system-hosted-by-depositories_67045.html

GO UP

5. SEBI Circular on Management and advisory services by AMCs to Foreign Portfolio Investors- 6th January, 2023

SEBI, vide its circular dated January 6, 2023 decided that AMCs may provide management and advisory services to FPIs operating from IFSC and regulated by IFSCA subject to the following:

2.1. Such FPI shall be allowed to invest in mutual fund schemes other than the schemes in the category of “thematic” as defined in SEBI Circular No. SEBI/HO/IMD/DF3/CIR/P/2017/114 dated October 6, 2017.

2.2. For investment inequity and equity derivative securities listed on recognized stock exchanges in India, such FPI shall not take contra-position for a period of six months from the date of purchase or sale of such securities.

It is to be noted that SEBI vide its circular dated December 16, 2019 specified the categories of Foreign Portfolio Investors (FPIs), to which the AMCs may provide management and advisory services in terms of Regulation 24(b) of SEBI (Mutual Funds) Regulations, 1996. Accordingly, AMCs may provide management and advisory services to FPIs operating from International Financial Services Centres (IFSC) and regulated by International Financial Services Centres Authority (IFSCA) and falling under the categories specified in the aforementioned SEBI circular.

This circular is applicable to all Mutual Funds (MFs)/ Asset Management Companies (AMCs)/Trustee Companies/ Boards of Trustees of Mutual Funds.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/management-and-advisory-services-by-amcs-to-foreign-portfolio-investors_67064.html

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6. SEBI operational circular for Credit Rating Agencies–January 6, 2022

SEBI, vide its circular dated December 16, 2022 came out with guidelines for portfolio managers pertaining to performance benchmarking and reporting of performance. It is to be noted that SEBI, vide circulars SEBI/HO/IMD/DF1/CIR/P/2020/26 dated February 13, 2020 and

SEBI/HO/IMD/DF1/CIR/P/2021/02 dated January 8, 2021, specified various modalities related to Portfolio Managers including, inter-alia, reporting of performance/periodic reporting by Portfolio Managers.

SEBI in the circular added that the applicable requirements related to performance reporting and benchmarking by Portfolio Managers has been reviewed in order to help investors in assessing the performance of a Portfolio Manager.

Performance Benchmarking
<p>2.1. An investment approach ('IA') is the documented investment philosophy to be adopted by the Portfolio Managers while managing the client funds in order to achieve client's investment objectives. Now, in addition to IA, an additional layer of broadly defined investment themes called "Strategies" shall be adopted by Portfolio Managers. These broad Strategies shall be 'Equity', 'Debt', 'Hybrid' and 'Multi Asset'.</p> <p>2.2. Each IA shall be tagged to one and only one Strategy from the Strategies as above. This tagging shall be at the discretion of the concerned Portfolio Manager. A Portfolio Manager may tag more than one IA to a Strategy, but each IA must be tagged to only one Strategy.</p> <p>2.3. APMI shall prescribe a maximum of three benchmarks for each Strategy. These benchmarks shall reflect the core philosophy of the Strategy. While tagging an IA to a particular Strategy, the Portfolio Manager shall select one benchmark from those prescribed for that Strategy to enable the investor to evaluate relative performance of the Portfolio Managers.</p> <p>2.4. The Board of the Portfolio Managers shall be responsible for ensuring appropriate selection of Strategy and benchmark for each IA.</p> <p>2.5. Once an IA is tagged to a Strategy and/or to a benchmark, the tagging shall be changed only after offering an option to subscribers to the IA to exit without any exit load. The performance track record (of the specific IA whose tagging with Strategy/ benchmark was changed) prior to the change shall not be used by the Portfolio Manager for performance reporting. Further, the same shall be verified as part of annual audit under Regulation 30 of the Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 ('PM Regulations').</p> <p>2.6. The changes in Strategy and/ or benchmark shall be recorded with proper justification and shall be verified as part of the annual audit under Regulation 30 of the PM Regulations.</p>
<p>Summary:</p> <p>SEBI asked Portfolio Managers to adopt an additional layer of broadly defined investment themes called "Strategies". These broad Strategies shall be 'Equity', 'Debt', 'Hybrid' and 'Multi Asset'.</p> <p>Each IA shall be tagged to one and only one Strategy.</p> <p>The Association of Portfolio Managers in India (APMI) would prescribe a maximum of three benchmarks for each strategy. These benchmarks would reflect the core philosophy of the strategy.</p>

Further, the board of the portfolio managers would be responsible for ensuring appropriate selection of strategy and benchmark for each IA.

Once an IA is tagged to a strategy or a benchmark, the tagging can be changed only after offering an option to subscribers to the IA to exit without any exit load. The performance track record prior to the change would not be used by the portfolio manager for performance reporting.

The changes in strategy and benchmark would be recorded.

Valuation of Securities by Portfolio Managers

2.7. APMI shall prescribe standardized valuation norms for Portfolio Managers same as the corresponding norms applicable to the Mutual Funds. Valuation of the portfolio debt and money market securities by portfolio managers shall be carried out in accordance with these standardized valuation norms prescribed by APMI.

2.8. APMI shall empanel valuation agencies for the purpose of providing security level prices to Portfolio Managers. Portfolio Managers shall mandatorily use valuation services obtained only from one or more of such empanelled valuation agencies for the purpose of valuation of debt and money market securities in portfolios managed by them. The ultimate responsibility for fair valuation shall be that of the Portfolio Manager.

Summary:

SEBI asked APMI to prescribe standardised valuation norms for portfolio managers, same as the corresponding norms applicable to the mutual funds. Further, valuation of the portfolio debt and money market securities by portfolio managers would be carried out in accordance with the standardised valuation norms prescribed by APMI.

APMI would empanel valuation agencies for the purpose of providing security level prices to portfolio managers.

Portfolio managers would mandatorily use valuation services obtained from such empanelled agencies for the purpose of valuation of debt and money market securities in portfolios managed by them.

Reporting of Performance

2.9. Portfolio Manager shall present the Time-weighted Rate of Return ('TWRR') of the IA along with the trailing return of the selected benchmark when communicating/advertising/publishing/mentioning performance of an IA.

2.10. Portfolio Manager shall present the Extended Internal Rate of Return ('XIRR') for each IA the investor invests in when reporting performance to an investor. This shall be accompanied by the minimum, maximum and median XIRR return generated across all investors in each of the IA the investor has invested in. The TWRR of the respective IA(s) and the trailing

return of the benchmark(s) selected shall also be presented separately. Following disclaimer must accompany this disclosure:

“Please note that performance of your portfolio may vary from that of other investors and that generated by the Investment Approach across all investors because of

- 1) the timing of inflows and outflows of funds; and
- 2) differences in the portfolio composition because of restrictions and other constraints.”

2.11. The following shall not be mentioned or implied in performance reporting or in any other communication in any form by the Portfolio Managers:

2.11.1. Any other categorization/classification of IAs, except for the Strategy that they are tagged to.

2.11.2. Model Portfolio returns

2.11.3. The performance of one or more cherry-picked investor(s) However, aggregated performance statistics of all investors in an IA may be used by a Portfolio Manager for aggregated performance reporting.

2.12. Formats placed at Annexure –1 of this Circular shall replace format at Section E “Performance Data” in Annexure-A of SEBI Circular no. SEBI/HO/IMD/DF1/CIR/P/2021/02 dated January 8, 2021.

2.13. Portfolio Manager shall disclose relative performance of its investment approach in all the marketing material where performance of the concerned investment approach is being presented. Such disclosure of relative performance shall, at minimum, include the following:

2.13.1. Performance relative to the selected benchmark

2.13.2. Performance relative to other Portfolio Managers within the selected Strategy

2.14. Verification of all the above performance statistics shall be carried out in the annual audit under Regulation 30 of the PM Regulations.

2.15. Portfolio Managers shall also submit the monthly reports to APMI in addition to SEBI within 7 working days from the end of each month. APMI shall make available the monthly reports of the Portfolio Managers on APMI website in an intuitive and user-friendly manner facilitating ease of comparison so as to provide access to portfolio level, investment approach level, portfolio manager level and industry level information to all the stakeholders. APMI shall also make available relative performance of each investment approach within the strategy to concerned portfolio manager and also disclose the same on its website.

Summary:

Portfolio manager will present the time-weighted rate of return (TWRR) of the IA along with the trailing return of the selected benchmark when advertising or publishing performance of an IA.

The portfolio manager would disclose relative performance of its investment approach in all the marketing material where performance of the concerned investment approach is being presented. Such disclosure of relative performance would include the performance relative to the selected benchmark as well as performance relative to other portfolio managers within the selected strategy.

In addition to SEBI, Portfolio managers would submit the monthly reports to APMI within 7 working days from the end of each month. APMI would make available the monthly reports of the portfolio managers on its website in a user-friendly manner facilitating ease of comparison so as to provide access to portfolio level, investment approach level, portfolio manager level and industry level information to all the stakeholders.

Further, APMI would also make available relative performance of each investment approach within the strategy to concerned portfolio manager and also disclose the same on its website.

3. Applicability:

3.1. The provisions of this Circular shall be applicable with effect from April 01, 2023.

3.2. The provisions of para 2.9 to 2.15 of this Circular shall be applicable to any entity reporting/ publishing / advertising performance of any IA of any Portfolio Manager. All other provisions of this Circular shall be applicable to the Portfolio Managers.

3.3. Portfolios of investors/ clients of Portfolio Manager shall not be covered under the circular if,

3.3.1. Investors are governed by separate statutes like Provident Funds (Employees' Provident Fund Organization, Coal Mines Provident Fund Organization, Exempted Provident Fund Trusts), Employee State Insurance Corporation, Postal Life Insurance, etc.

3.3.2. The non-individual Investors are regulated by RBI, IRDA & PFRDA for whom specific valuation and/or benchmarking norms have been specified by the concerned regulator(s). subject to verification of compliance with the above conditions in the annual audit under Regulation 30 of the PM Regulations.

3.4. Portfolio Managers shall not advertise/ publish/ mention to any entity other than those belonging to the investor category to which said IA is offered the returns of the IAs where exception as above has been exercised. Portfolio Managers may, however, include the assets managed in such IAs in their total AUM when communicating publicly as well as in regulatory reporting.

4. All other requirements of the Circulars dated January 8, 2021 and February 13, 2020 shall remain unchanged.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/dec-2022/performance-benchmarking-and-reporting-of-performance-by-portfolio-managers_66256.html

GO UP

7. SEBI circular on Mode of settlement for trades executed on the Request for Quote (RFQ) platform- January 9, 2023

SEBI, vide its circular dated January 9, 2023 clarified that payment mechanisms provided by banks/payment aggregators authorised by Reserve Bank of India can be used for settlement of trades executed on the RFQ platform. This is in addition to the existing payment mechanisms.

As a matter of practice, presently, Stock Exchanges are using Real-Time Gross Settlement (RTGS) channel as a mode of settlement for trades executed on the RFQ platform with respect to listed corporate bonds, commercial paper, and securitised debt instruments.

SEBI further added that Stock Exchanges and market participants have sought clarification as to whether payment mechanisms other than RTGS provided by banks/payment aggregators can be permitted for settlement of trades executed on the RFQ platform.

Further, it is to be noted that SEBI Circular dated November 14, 2022 on 'Registration and regulatory framework for Online Bond Platform Providers' inter-alia stipulated that all the orders with respect to listed debt securities placed on an online Bond Platform shall be mandatorily routed through the RFQ platform of the recognised Stock Exchange(s) and settled through the respective Clearing Corporations.

Prior to that, SEBI vide circular dated October 28, 2022 on 'Reduction in denomination for debt securities and non-convertible redeemable preference shares' inter-alia modified the face value of the listed debt security and non-convertible redeemable preference share issued on private placement basis traded on a stock exchange or OTC basis from Rs. Ten Lakh to Rs. One lakh and SEBI vide circular dated October 19, 2022 on 'Request for Quote (RFQ) platform for trade execution and settlement of trades in listed Non-convertible Securities, Securitised Debt Instruments, Municipal Debt Securities and Commercial Paper' has permitted stock brokers registered under the debt segment of the Stock Exchange(s) to place/ seek bids on the RFQ platform on behalf of client(s), in addition to the existing option of placing bids in a proprietary capacity.

Link to the Circular:

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8. SEBI circular on Standard Operating Procedure for handling of Stock Exchange Outage and extension of trading hours thereof – January 9, 2023

SEBI, vide its circular dated January 9, 2023 came out with Standard Operating Procedure for handling of Stock Exchange Outage and extension of trading hours thereof. SEBI in the circular said that SOP has been released with a view to ensure that any outage at stock exchange(s) is handled in a harmonized and consistent manner, the matter was discussed with the MIIs and Standard Operating Procedure with regard to handling of such stock exchange outage in Cash Market and Equity Derivatives segment is detailed below.

SEBI in the circular added that “If due to any technical reason or otherwise, continuous trading on stock exchanges is disrupted, it is of paramount importance that not only all market participants including other MIIs, are promptly informed about the outage but also the trading hours are extended, if required, so as to provide opportunity for smooth closure of intraday positions.”

Definition of Stock Exchange Outage

Stock Exchange Outage shall mean stoppage of continuous trading, either suo moto by exchange or by virtue of reasons beyond control of stock exchange. Further, stoppage of continuous trading shall not include trading halt on account of index based market-wide circuit breaker.

Highlights of SOP:

Stock Exchanges shall intimate about the outage to various stakeholders (Market Participants/ Trading Members/ Other MIIs within 15 minutes and SEBI immediately after occurrence of outage through e-mail.

Further, the affected stock exchange shall update about the ongoing outage in the time intervals of 45 minutes from the initial intimation until normalcy to operations is restored.

In the event of disruption of trading in one or more market segments of affected stock exchange, qualifying as outage, trading in other unaffected segments of the affected exchange shall continue.

Affected stock exchange would restore operations to normalcy at the earliest including from the Disaster Recovery Site and carry out various activities.

A pre-opening session similar to normal pre-opening session would be conducted for effective price discovery, before resumption of trading. Further, there shall be an advance intimation of at least 15 minutes to various market participants with regard to resumption of trading or start of pre-opening session, as applicable.

If the trading on the affected stock exchange resumes to normalcy at least one hour (excluding 15 minutes of pre-opening session, if applicable) before the

normal scheduled market closure, trading hours on that day for all stock exchanges would remain unchanged.

If the trading on the affected stock exchange does not resume to normalcy even one hour (excluding 15 minutes of pre-opening session, if applicable) before the scheduled market closure, trading hours for all stock exchanges would automatically get extended for additional one and half hours for that day.

If the trading on the affected stock exchange does not resume to normalcy even 45 minutes (excluding 15 minutes of pre-opening session, if applicable) post normal scheduled market closure, in the case of extension of trading hours, no further trading would be allowed on the affected stock exchange for that day and other stock exchanges would continue to operate till the extended time to enable smooth closure/settlement of intraday positions.

Further, SEBI asked Stock Exchanges to put in place a common close out policy, within 30 days of this circular, to ensure uniform methodology of settlement of open positions, in case continuous trading didn't happen in Cash Market or Equity Derivative Segment of the exchange during last half an hour of trading for the day due to outage.

Extension of trading hours, if any, for Cash Market would result in equivalent extension of trading hours in Equity Derivative Segment and vice versa, provided trading hours at the start of the day are aligned for both Cash Market and Equity Derivative Segment. Further, Extension of trading hours in the Cash Market would also result in equivalent extension to other secondary market mechanisms conducted during trading hours such as Offer for Sale, Buy back etc.

[Link to the Circular:](#)

https://www.sebi.gov.in/legal/circulars/jan-2023/standard-operating-procedure-for-handling-of-stock-exchange-outage-and-extension-of-trading-hours-thereof_67125.html

[GO UP](#)

9. [SEBI circular on Comprehensive Framework on Offer for Sale \(OFS\) of Shares through Stock Exchange Mechanism – January 10, 2023](#)

SEBI, vide its circular dated January 10, 2023 decided to modify certain provisions of the existing OFS framework through Stock Exchange Mechanism. Under the fresh guidelines SEBI has made following changes:

SEBI with the new guidelines has allowed any shareholders/ non-promoter shareholders to sell their equity shares in a company through OFS which under present guidelines was limited only to promoters and those holding more than 10 per cent stake.

Further, SEBI has asked all promoters or promoter group entities of such companies that are eligible for trading and are required to increase public shareholding to meet the minimum public shareholding requirements.

It is to be noted that OFS mechanism shall also be available to companies with market capitalization of INR 1,000 Cr. and above, with the threshold of market capitalization computed as the average daily market capitalization for six months' period prior to the month in which the OFS opens.

The cooling off period for transaction (i.e. purchase or sale prior to and after the offer) in the shares of the company for the promoter(s) or promoter group entities and non-promoter shareholders for offering the shares through OFS mechanism shall be based on the liquidity of the shares on exchanges and are as under:

- i. For most liquid shares: +2 weeks
- ii. For liquid shares: +4 weeks and
- iii. For illiquid shares: +12 weeks

The size of the offer for sale will be a minimum of ₹25 crore. However, the size of the offer can be less than ₹25 crore by promoter or promoter group entities to achieve minimum public shareholding in a single tranche.

The seller(s) will appoint broker(s) for this purpose. The seller's broker(s) may also undertake transactions on behalf of eligible buyers.

Seller shall announce intention of sale of shares latest by 5 pm on T-1 days (T day being the day of the OFS) to the stock exchange. Stock exchanges shall inform the market immediately upon receipt of the notice. The stock exchange, however, may allow, on a case to case basis based on the request of the seller, the extension of this time up to 6 pm by recording reasons for granting such extension.

The promoters may at their discretion offer these shares to employees at the price discovered in the said OFS transaction or at a discount to the price discovered in the said OFS transaction.

Seller may offer discount to retail investors. The details of discount and percentage of reservation for retail investors shall be disclosed upfront in the notice of OFS to the exchange.

The duration of the OFS shall be as per the trading hours of the secondary market. On the commencement of OFS on T day only non-retail investors shall be permitted to place their bids. Cut off price shall be determined based on the bids received on T day as per the extant guidelines. The retail investors shall bid on T+1 day. The seller shall make appropriate disclosures in this regard in the OFS notice. Orders shall be placed during trading hour.

Hemang Jani, Head of Equity Strategy, MOFSL in his statement said that "SEBI is trying to broaden both 'the spectrum of available instruments' and 'participation across investors' for undertaking big-ticket transactions. This move allows non-promoters to participate in an OFS. This would encourage more participation and better price discovery with relatively lower slippage vs a bulk order and block window."

[Link to the Circular:](#)

https://www.sebi.gov.in/legal/circulars/jan-2023/comprehensive-framework-on-offer-for-sale-ofs-of-shares-through-stock-exchange-mechanism_67157.html

10. SEBI Change in control of Portfolio Managers providing Co-investment services- January 10, 2023

SEBI, vide its circular dated January 10, 2023 partially modified para 2 (iv) of the Circular dated June 2, 2022 where SEBI specified the procedure for seeking prior approval in case of change in control of Portfolio Manager.

Para 2 (iv) under Circular dated June 2, 2022	Para 2 (iv) under Circular dated June 10, 2023	Comment
Pursuant to grant of prior approval by SEBI, in order to enable existing investors/ clients to take well informed decision regarding their continuance or otherwise with the changed management, the portfolio manager shall inform its existing investors/ clients about the proposed change prior to effecting the same and give an option to exit without any exit load, within a period of not less than 30 calendar days, from the date of such communication.	“Pursuant to grant of prior approval by SEBI, in order to enable existing investors/ clients to take well informed decision regarding their continuance or otherwise with the changed management, the portfolio manager shall inform its existing investors/ clients about the proposed change prior to effecting the same and give an option to exit without any exit load, within a period of not less than 30 calendar days, from the date of such communication. However, for the clients under co-investment portfolio management services, the Portfolio Manager shall ensure compliance with the second proviso of Regulation 22 (2) of PMS Regulations.”	With this modification, an additional requirement has been placed on portfolio management services to comply with Regulation 22(2) of PMS Regulations for the clients under co-investment portfolio management services. Regulation 22(2) of PMS Regulations terms to be included in the agreement between the portfolio manager and the client.

All other requirements, terms and conditions specified in the Circular shall remain unchanged.

<u>Link to the Master Circular:</u>
https://www.sebi.gov.in/legal/circulars/jan-2023/change-in-control-of-portfolio-managers-providing-co-investment-services_67159.html

11. SEBI circular on Introduction of future contracts on Corporate Bond Indices – January 10, 2023

SEBI, vide its circular dated January 10, 2023 permitted Stock Exchanges to launch future contracts on Corporate Bond Indices in order to enhance liquidity in the bond market and also to provide opportunity to the investors to hedge their positions.

It is to be noted that SEBI had constituted a working group of representatives of NSE, BSE and MSEI to make recommendations on the matter of 'Derivatives on Bond Indices and based on the submissions made by the working group and recommendations of Secondary Market Advisory Committee of SEBI, it has been decided to permit Stock Exchanges to introduce derivative contracts on indices of corporate debt securities rated AA+.

The stock exchanges desirous of introducing such contracts shall submit a detailed proposal to SEBI for approval, inter alia, providing details relating to underlying corporate bond index, the index methodology, contract specifications, applicable trading, clearing & settlement mechanism, risk management framework, the safeguards to ensure market integrity, investor protection, surveillance systems, etc.

The index shall be composed of corporate debt securities, Constituents of the index should have adequate liquidity and diversification and shall be periodically reviewed.

Further, Single issuer shall not have more than 15% weight in the index, there shall be at least 8 issuers in the index, index shall not have more than 25% weight in a particular group of issuers (excluding securities issued by PSUs, PFIs and PSBs).

The value of the CBIF contracts shall not be less than INR 2 lakhs at the time of introduction.

The trading hours shall be between 9:00 AM and 5:00 PM on all working days from Monday to Friday.

The stock exchanges may introduce contracts of up to a tenure of 3 years. Weekly, three Serial monthly contracts, one quarterly contract of the cycle March/June/September/December or one half-yearly contract of the cycle June/December.

The quotation shall be in Indian Rupee. The Tick value shall be decided by the stock exchanges based on the underlying index values or contract size, etc.

The expiry or last trading day for the contract shall be the last Thursday of the expiry cycle. If any expiry day is a trading holiday, then the expiry or last trading day shall be the previous trading day.

Daily Settlement Price The daily settlement price shall be the last half an hour volume weighted average price of the contract.

Final settlement price for the derivative contracts shall be the closing price of the underlying index on the expiry day or last trading day of such derivative contracts.

The contracts would be settled in cash in Indian Rupee (INR) and Settlement Day shall be the next working day of the expiry day.

For every CBIF, stock exchanges will set an initial price band at 5 per cent of the previous closing price or base price thus preventing acceptance of orders for execution that are placed beyond the set band.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/introduction-of-future-contracts-on-corporate-bond-indices_67187.html

GO UP

12. SEBI circular on allowing stock exchanges to launch multiple contracts on the same commodity in commodity derivatives segment- January 11, 2023

SEBI, vide its circular dated January 11, 2023 allowed stock exchanges to launch multiple contracts in same commodity.

SEBI further added that Stock exchanges have represented to SEBI that due to requirement of single contract on a particular commodity, except for gold, silver and precious metals, the participation of investors, especially in metal contracts, is limited. Stock exchanges have expressed their desire to launch multiple contracts on same commodity to cater to all value chain participants and the same was discussed and approved in Commodity Derivatives Advisory Committee of SEBI.

This Circular shall come into force with immediate effect and is applicable to the Managing Directors / Chief Executive Officers and all Recognized Stock Exchanges having Commodity Derivatives Segment.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/allowing-stock-exchanges-to-launch-multiple-contracts-on-the-same-commodity-in-commodity-derivatives-segment_67220.html

GO UP

13. SEBI circular on Participation of AIFs in Credit Default Swaps- January 12, 2023

SEBI, vide its circular dated January 12, 2023, allowed alternative investment funds (AIFs) to participate in the Credit Default Swaps (CDS) market as protection buyers and sellers.

It is to be noted that Regulations 16(1)(aa), 17(da), 18(ab) and 20(11) of AIF Regulations enable AIFs to participate in CDS in terms of the conditions as may be specified by SEBI from time to time. In this regard, the following is specified:

A. Conditions applicable Category I, II and III AIFs for buying CDS:

2.1. Category I AIFs and Category II AIFs may buy CDS on underlying investment in debt securities, only for the purpose of hedging.

2.2. Category III AIFs may buy CDS for the purpose of hedging or otherwise, within permissible leverage as specified in SEBI circular no. CIR/IMD/DF/10/2013 dated July 29, 2013.

B. Conditions applicable Category II and III AIFs for selling CDS:

2.3. Category III AIFs may sell CDS, subject to the condition that effective leverage undertaken is within the permissible limits as specified in SEBI circular no. CIR/IMD/DF/10/2013 dated July 29, 2013.

2.4. Further, Category II AIFs and Category III AIFs may sell CDS, by earmarking unencumbered Government bonds/Treasury bills equal to the amount of the said CDS exposure. Such earmarked securities may also be used for maintaining applicable margin requirements for the said CDS exposure. Exposure to CDS undertaken in the aforesaid manner shall not tantamount to leverage.

2.5. Total exposure to an investee company, including exposure through CDS, shall be within the limit of applicable concentration norm as specified in AIF Regulations.

C. Other conditions applicable for transacting in CDS:

2.6. AIFs shall report details of CDS transaction to the custodian, by the next working day, in the manner as specified by the custodian.

2.7. Custodian, shall put in place a mechanism to collect necessary details from AIFs transacting in CDS, to monitor the compliance with conditions specified at para 2A and para 2B above.

2.8. The obligation of manager/AIF and custodian in case of breach of leverage limits due to transactions in CDS by Category III AIFs, shall be as specified in para 3.4 of SEBI circular no. CIR/IMD/DF/10/2013 dated July 29, 2013 read with para 1 of SEBI circular no. CIR/IMD/DF/14/2014 dated June 19, 2014.

2.9. Further, for Category II AIFs and Category III AIFs which sell CDS by earmarking securities in the manner as mentioned at para 2.4 above, in case the amount of earmarked securities falls below CDS exposure:

- a. The AIF shall send a report to custodian on the same day of the breach.
- b. The AIF shall bring the amount of earmarked securities equal to CDS exposure and report details regarding rectification of breach to custodian, by the end of next trading day.

c. In case the AIF fails to rectify the breach in the manner as specified above, the custodian shall report details of the breach to SEBI, on the next working day.

2.10. Any unhedged position, which shall result in gross unhedged positions across all CDS transactions exceeding twenty-five percent of investable funds of the scheme of an AIF, shall be taken only after intimating to all unit holders of the scheme.

2.11. In terms of Regulations 16(1)(c) and 17(c) of the AIF Regulations, Category I and II AIFs shall not borrow funds directly or indirectly and engage in leverage except for meeting temporary funding requirements for not more than thirty days, not more than four occasions in a year and not more than ten percent of the investable funds. In this regard, Category I and Category II AIFs which transact in CDS, shall maintain thirty days cooling off period between the two periods of borrowing or engaging in leverage.

2.12. All CDS transactions shall be on a platform regulated by SEBI or Reserve Bank of India ('RBI'), to enhance transparency and disclosure.

2.13. AIFs transacting in CDS, shall also ensure compliance with applicable provisions of RBI notification on 'Master Direction – Reserve Bank of India (Credit Derivatives) Directions, 2022', dated February 10, 2022 and other directives issued by RBI in this regard from time to time.

This circular shall come into force with immediate effect and is applicable to all Alternative Investment Funds (AIFs) and Custodians.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/participation-of-aifs-in-credit-default-swaps_67264.html

GO UP

14. SEBI circular on Facility of conducting meetings of unitholders of InvITs through Video Conferencing or Other Audio Visual means- January 12, 2023

SEBI, vide its circular dated January 12, 2023 in order to allow maximum participation of unit holders in a meeting and for better governance allowed Investment Manager of the InvIT to conduct meetings of unitholders through Video Conferencing or Other Audio Visual means.

Regulation 22(3)(a) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 provides that an annual meeting of all unitholders shall be held not less than once a year within one hundred twenty days from the end of financial year and the time between two meetings shall not exceed fifteen months. Further, Investment Manager of InvITs are also required to hold meetings of unit holders for certain matters specified under SEBI (Infrastructure Investment Trusts) Regulations, 2014.

While conducting meetings of unit holders through Video Conferencing or Other Audio Visual means, the Investment Manager of the InvIT is required to

adopt the following procedures in addition to any other requirement specified under the SEBI (Infrastructure Investment Trusts) Regulations, 2014 and circulars issued thereunder:

- a. The recorded transcript of the meeting held through Video Conferencing or Other Audio Visual means shall be maintained in safe custody of the Investment Manager of the InvIT and shall also be uploaded by the Investment Manager of the InvIT on the website of the InvIT as soon as possible after the conclusion of the meeting.
- b. Convenience of different persons positioned in different time zones shall be kept in mind by the Investment Manager of the InvIT before scheduling the meeting.
- c. All care must be taken to ensure that such meetings conducted through Video Conferencing or Other Audio Visual means allow two-way teleconferencing for the ease of participation of the unitholders and the participants are allowed to pose questions concurrently or given time to submit questions in advance on the email address of the InvIT.
- d. The facility for joining the meeting shall be kept open at least fifteen minutes before the time scheduled to start the meeting and shall not be closed until the expiry of fifteen minutes after such scheduled time.
- e. Before the actual date of the meeting, the facility of remote e-voting shall be provided.
- f. Only those unitholders that are present in the meeting and have not cast their vote on resolutions through remote e-voting and are otherwise not barred from doing so, shall be allowed to vote through the e-voting system at the meeting.
- g. The chairperson of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all reasonable efforts have been made by the Investment Manager of the InvIT to enable unitholders to participate and vote on the items being considered in the meeting.
- h. The chairperson present at the meeting shall also ensure that the facility of e-voting system is available for the purpose of conducting a poll during the meeting held through Video Conferencing or Other Audio Visual means on the business to be considered during the meeting.
- i. At least one independent director of Investment Manager of the InvIT and the auditor of the InvIT or his/her authorized representative who is qualified to be the auditor shall attend such meeting.
- j. The notice for the meetings of unitholder shall make disclosures with regard to the manner in which framework provided in this circulars shall be available for use by the unitholders and shall also contain clear instructions on how to access and participate in the meeting. Investment Manager of the InvIT shall also provide a helpline number through the registrar and share transfer agent, technology provider or otherwise, for unitholders who need assistance with the technology before or during the meeting. Such notice shall also include the following:
 - (i) Statement that the meeting will be convened through Video Conferencing or Other Audio Visual means in compliance with applicable provisions.
 - (ii) The date and time of the meeting through Video Conferencing or Other Audio Visual means.
 - (iii) Availability of notice of the meeting on website of the InvIT and stock exchanges.
 - (iv) The manner in which unitholders who have not registered their e-mail address with InvIT or depositories can cast their vote through remote e-voting or through the e-voting system during the meeting.

- (v) The manner in which the unitholders who have not registered their e-mail addresses with InvIT or depositories can get the same registered.
- (vi) Any other detail considered necessary by the Investment Manager of the InvIT.

- k. The notice to the unitholders may be given through emails registered with the InvIT or with depositories.
- l. Investment Manager of the InvIT shall contact all unitholders whose email addresses are not registered with the depositories, over possible / available mode of communication for registration of their email addresses.
- m. Investment Manager of InvIT shall ensure that all other compliances associated with the provisions relating to meeting of unitholders are complied with and documents required to be provided to unitholders, if any, are provided through electronic mode.

Summary:

- a. The recorded transcript of the meeting shall be kept in the safe custody and shall be uploaded on website by Investment managers.
- b. All care must be taken to ensure that such meetings conducted through Video Conferencing or Other Audio Visual means allow two-way teleconferencing for the ease of participation of the unitholders.
- c. The facility for joining meeting shall be kept fifteen minutes before scheduled time and shall be closed after fifteen minutes from scheduled time of the meeting.
- d. The facility of remote e-voting shall be provided before actual date of the meeting.
- e. The chairperson of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all reasonable efforts have been made by the Investment Manager to enable unitholders to participate and vote on the items being considered and shall also ensure that facility of e-voting is available in the meeting.
- f. At least one independent director of Investment Manager of the InvIT.
- g. Mandatory disclosures shall be made in the notice of the meeting.

Reporting and Monitoring:

(a) The Investment Manager of the InvIT shall disclose to the Stock Exchange and Trustee that the meeting of unit holders will be conducted through Video Conferencing or Other Audio Visual means.

(b) The trustee of the InvIT shall attend meeting of unit holders and monitor the meetings conducted through Video Conferencing or Other Audio Visual means.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/facility-of-conducting-meetings-of-unit-holders-of-invits-through-video-conferencing-or-other-audio-visual-means_67315.html

GO UP

15. SEBI circular on Facility of conducting meetings of unitholders of REITs through Video Conferencing or Other Audio Visual means – January 12, 2023

SEBI, vide its circular dated January 12, 2023 in order to allow maximum participation of unit holders in a meeting and for better governance allowed Investment Manager of the REITs to conduct meetings of unitholders through Video Conferencing or Other Audio Visual means.

Regulation 22(3)(a) of SEBI (Real Estate Investment Trusts) Regulations, 2014 provides that an annual meeting of all unitholders shall be held not less than once a year within one hundred twenty days from the end of financial year and the time between two meetings shall not exceed fifteen months. Further, Manager of REITs are also required to hold meetings of unit holders for certain matters specified under SEBI (Real Estate Investment Trusts) Regulations, 2014.

While conducting meetings of unit holders through Video Conferencing or Other Audio Visual means, the Investment Manager of the REITs is required to adopt the following procedures in addition to any other requirement specified under the SEBI (Real Estate Investment Trusts) Regulations, 2014 and circulars issued thereunder:

1. The recorded transcript of the meeting held through Video Conferencing or Other Audio Visual means shall be maintained in safe custody of the Investment Manager of the REITs and shall also be uploaded by the Investment Manager of the REITs on the website of the REITs as soon as possible after the conclusion of the meeting.
2. Convenience of different persons positioned in different time zones shall be kept in mind by the Investment Manager of the REITs before scheduling the meeting.
3. All care must be taken to ensure that such meetings conducted through Video Conferencing or Other Audio Visual means allow two-way teleconferencing for the ease of participation of the unitholders and the participants are allowed to pose questions concurrently or given time to submit questions in advance on the email address of the REITs.
4. The facility for joining the meeting shall be kept open at least fifteen minutes before the time scheduled to start the meeting and shall not be closed until the expiry of fifteen minutes after such scheduled time.
5. Before the actual date of the meeting, the facility of remote e-voting shall be provided.
6. Only those unitholders that are present in the meeting and have not cast their vote on resolutions through remote e-voting and are otherwise not barred from doing so, shall be allowed to vote through the e-voting system at the meeting.
7. The chairperson of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all reasonable efforts have been made by the Manager of the REITs to enable unitholders to participate and vote on the items being considered in the meeting.
8. The chairperson present at the meeting shall also ensure that the facility of e-voting system is available for the purpose of conducting a poll during the meeting held through Video Conferencing or Other Audio Visual means on the business to be considered during the meeting.

9. At least one independent director of Investment Manager of the REIT and the auditor of the REIT or his/her authorized representative who is qualified to be the auditor shall attend such meeting.
10. The notice for the meetings of unitholder shall make disclosures with regard to the manner in which framework provided in this circulars shall be available for use by the unitholders and shall also contain clear instructions on how to access and participate in the meeting. Manager of the REITs shall also provide a helpline number through the registrar and share transfer agent, technology provider or otherwise, for unitholders who need assistance with the technology before or during the meeting. Such notice shall also include the following:
 - (i) Statement that the meeting will be convened through Video Conferencing or Other Audio Visual means in compliance with applicable provisions.
 - (ii) The date and time of the meeting through Video Conferencing or Other Audio Visual means.
 - (iii) Availability of notice of the meeting on website of the REITs and stock exchanges.
 - (iv) The manner in which unitholders who have not registered their e-mail address with REITs or depositories can cast their vote through remote e-voting or through the e-voting system during the meeting.
 - (v) The manner in which the unitholders who have not registered their e-mail addresses with REITs or depositories can get the same registered.
 - (vi) Any other detail considered necessary by the Investment Manager of the REITs.
11. The notice to the unitholders may be given through emails registered with the REITs or with depositories.
12. Manager of the REITs shall contact all unitholders whose email addresses are not registered with the depositories, over possible / available mode of communication for registration of their email addresses.
13. Manager of REITs shall ensure that all other compliances associated with the provisions relating to meeting of unitholders are complied with and documents required to be provided to unitholders, if any, are provided through electronic mode.

Summary:

- h. The recorded transcript of the meeting shall be kept in the safe custody and shall be uploaded on website by managers.
- i. All care must be taken to ensure that such meetings conducted through Video Conferencing or Other Audio Visual means allow two-way teleconferencing for the ease of participation of the unitholders.
- j. The facility for joining meeting shall be kept fifteen minutes before scheduled time and shall be closed after fifteen minutes from scheduled time of the meeting.
- k. The facility of remote e-voting shall be provided before actual date of the meeting.
- l. The chairperson of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all reasonable efforts have been made by the Investment Manager to enable unitholders to participate and vote on the items being considered and shall also ensure that facility of e-voting is available in the meeting.
- m. At least one independent director of Manager of the REITs.
- n. Mandatory disclosures shall be made in the notice of the meeting.

Reporting and Monitoring:

(a) The Manager of the REITs shall disclose to the Stock Exchange and Trustee that the meeting of unit holders will be conducted through Video Conferencing or Other Audio-Visual means.

(b) The trustee of the REITs shall attend meeting of unit holders and monitor the meetings conducted through Video Conferencing or Other Audio-Visual means.

Link to the Circular:

https://www.sebi.gov.in/legal/circulars/jan-2023/facility-of-conducting-meetings-of-unit-holders-of-reits-through-video-conferencing-or-other-audio-visual-means_67316.html

GO UP

1. P. Varadarajan v. Dr. A. Jawahar Palaniaappan

In the instant case, the Hon'ble NCLT held that the cancellation of the shares, at a board meeting conducted at the behest of another director in the company, was a clear violation of Mr. Palaniappan's rights. It was held that declaring as illegal and invalid in law the arbitrary cancellation of 3,32,640 equity shares held by him in Kumudam Publications Pvt. Ltd (KPPL). Consequently, appeal was filed to the appellate tribunal.

It was observed that, when the 'Allotment of Shares' of 1st respondent/ 1st Petitioner was against the 'Public Policy' of the 'Government of India' and against the prevailing 'Law' of the Country, the said 'act' was non-existent, from its very inception. Therefore, such cancellation of allotment of shares by BOD was neither forfeiture of shares nor reduction of capital.

BOD were always within their rights to cancel allotment of shares when allottee was later found to be a foreign national and allotment was to have been made in contravention of Regulations made under FEMA, which prohibits allotment of shares of Print Media Company to foreign national and FDI Policy without prior approval of RBI.

Further, In the absence of any permission having been obtained from RBI, in respect of the 'Allotment of Shares', the 1st Respondent / 1st Petitioner, the said act of 'Allotment' / 'Acquisition', to be held wholly as a 'void one', and for which, 'No Declaration', is necessary.

As such allotment was void from its very inception by the High Court will also be of no avail. Also, the Hon'ble NCLAT observed that it was not correct to contend that such cancellation of allotment was permissible.

Impugned order of Hon'ble NCLT was set aside and it was held that since there was nothing wrongful in such cancellation, it would also not amount to "oppression" or "mismanagement".

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III. KNOWLEDGE SHARING

1. Tax Calendar

Sr No.	Due Date	Particulars
1.	7 th February, 2023	Deposit of Tax deducted collected for the month January 2023. However, all the sum deducted/collected by an office of the Govt. shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.
2.	14 th February, 2023	Issue of TDS Certificate for tax deducted under section tax deducted under section 194-IA in the month of December 2022.
3.	14 th Feb 2023	Issue of TDS Certificate for tax deducted under section 194-IB in the month of December 2022.
4.	14 th Feb 2023	Issue of TDS Certificate for tax deducted under section 194M in the month of December 2022.
5.	15 th Feb 2023	Furnishing of Form 24G by an office of the Government where TDS/TCS for the month of January 2023 has been paid without the production of a challan.
6.	15 th Feb 2023	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2022.

CBDT extends time limit for compliance to be made for claiming any exemption under section 54 to 54GB of Income Tax Act, 1961,

The Central Board of Direct Taxes had vide Circular No.12 of 2021 dated 25.06.2021 provided relaxation in respect of certain compliances to be made by tax payers including inter alia investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Income Tax Act, 1961. By point 7 of the circular it was provided that the aforementioned compliances for which the last date of such compliance fell between 1st April, 2021 to 29th September 2021 (both the days inclusive), may be completed on or before 30th September, 2021.

In view of the representations received and on further consideration of the then prevailing COVID-19 pandemic and resultant restrictions imposed, causing genuine hardship faced by tax payers in making the aforementioned compliances under the Act, the CBDT, in exercise of power under Section 119 of the Act, hereby provides that the compliances to be made by the tax payers such as investments, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54 GB of the Act, for which the last date of such compliance falls between

1st April, 2021 to 28th February, 2022 (both the days inclusive), may be completed on or before 31st March 2023.

THANKYOU
