

Insights and Commentary from Dentons

The combination of Dentons and Link Legal offers our clients access to 12,700+ lawyers in 200+ locations and 80+ countries around the world.

This document was authored by representatives of Link Legal prior to our combination's launch and continues to be offered to provide clients with the information they need to do business in an increasingly complex, interconnected and competitive marketplace.

Grow | Protect | Operate | Finance

April 2023

CORPORATE LEGAL DEVELOPMENTS

NEWSLETTER JUNE 2022

Weekly Insights & Updates

17 June 2022

MCA

1. MCA notifies Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022

June 9, 2022: Ministry of Corporate Affairs (“MCA”) vide its notification G.S.R.436 (E) dated June 9, 2022 notified the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 to amend the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 (“**Removal of Names Rules**”) wherein the below amendments are brought out:

- **New sub-rule to Rule 4 of the Removal of Names Rules:** Section 248 (2) (*Power of Registrar to remove name of Company from Register of Companies*) of the Companies Act, 2013 (“**Act**”) provides that a company after extinguishing all its liabilities, by a special resolution or consent of seventy-five per cent members in terms of paid-up share capital, can file an application in the prescribed manner to the Registrar of Companies for removing the name of the Company from the register of companies on all or any of the grounds listed under Section 248 (1) of the Act.

Rule 4 (*Application for removal of name of company*) of the Removal of Name Rules elaborates on the procedure for voluntarily removing the name of the company from the register of companies and provides that an application under Form STK-2 alongwith a fee can be submitted to the Registrar of the Companies to apply under Section 248(2). A new sub-rule 4 has been inserted in Rule 4 of the Removal of Names Rules which provides that where the Registrar, on examining the application made in Form STK-2, finds such application or any document annexed to be defective or incomplete in any respect, the Registrar shall inform the applicant to remove the defects and re-submit the complete Form within fifteen days from the date of such information, failing which the Registrar shall treat the Form as invalid in the electronic record. The Registrar of Companies shall give further time of fifteen days in case there are defects or application is incomplete even after re-submission of the application, to remove such defects or complete the Form, failing which the Registrar shall treat the Form as invalid in the electronic record.

The new sub-rule also clarifies that any re-submission of the application in Form STK-2 made prior to the commencement of the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 shall not be counted for the purposes of reckoning the maximum number of re-submissions of such Form.

- **Substitution of forms:** Form No. STK-1 (*Notice by Registrar for removal of name of a company from the register of companies*), Form No. STK-5 (*Public Notice for applications made under Section 248(1)&(4) of the Act*) & Rule 7 of the Removal of Names Rules and Form No. STK-5A (*Public Notice for applications made under Section 248(1)&(4)*) & second proviso to Rule 7 of the Removal of Names Rules of the Act) have been substituted by new forms.

- The Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 are effective from June 9, 2022.

Link [here](#)

2. MCA notifies Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2022

June 10, 2022: Ministry of Corporate Affairs (“MCA”) vide its notification G.S.R.439 (E) dated June 10, 2022 notified the Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2022 to amend the Companies (Appointment and Qualification of Directors) Rules, 2014 (“**Appointment Rules**”) wherein the below amendments are brought out:

- **New Sub-rule to Rule 6 of the Appointment Rules:** Section 149(4) (*Company to have Board of directors*) of the Act provides that every listed public company shall have atleast one-third of the total number of directors as independent directors. Further, Section 150 (*Manner of selection of independent directors and maintenance of data bank of independent directors*) of the Act read with Rule 6 (*Compliances required by a person eligible and willing to be appointed as an independent director*) of the Appointment Rules elaborates on the eligibility criteria and selection procedure of the independent directors. Sub-rule 4 to Rule 6 of the Appointment Rules provides that every individual whose name is included in the data bank of independent directors shall pass an online proficiency self-assessment test conducted by the Indian Institute of Corporate Affairs at Manesar (“**Institute**”), within a period of two years from the date of inclusion of his name in the data bank, failing which, his name shall stand removed from the databank of the Institute.

A new sub-rule 5 has been inserted to Rule 6 of the Appointment Rules which provides that any individual whose name has been removed from the databank under sub-rule (4) of Rule 6, may apply for restoration of his name after paying a fees of one thousand rupees and the Institute shall allow such restoration subject to the following conditions, namely :-

(i) his name shall be shown in a separate restored category for a period of 1 (one) year from the date of restoration within which, he shall be required to pass the online proficiency self-assessment test and his name will be included in the databank, only, if he passes the said online proficiency self-assessment test and the fees paid by him at the time of initial registration shall continue to be valid for the period for which the same was initially paid; and

(ii) in case he fails to pass the online proficiency self-assessment test within 1 (one) year from the date of restoration, his name shall be removed from the data bank and he shall be required to apply afresh under Rule 6(1) for inclusion of his name in the databank.

- The Companies (Appointment and Qualification of Directors) Second Amendment Rules, 2022 are effective from June 10, 2022.

Link [here](#)

RBI

1. RBI re-issues Master Directions on Acquisition and Transfer of Immovable Property under FEMA

June 6, 2022: The Reserve Bank of India (“RBI”) vide its notification RBI/FED/2018-19/67 FED Master Direction No.5/2018-19 re-issued Master Directions on Acquisition and Transfer of Immovable Property under Foreign Exchange Management Act, 1999 (FEMA) (“**Master Directions**”).

The said Master Directions compile and consolidate the regulations issued under FEMA, governing acquisition and transfer of immovable property outside India which have been notified under (i) Foreign Exchange Management (Acquisition and transfer of immovable property outside India) Regulations, 2015 dated January 21, 2016; and (ii) Foreign Exchange Management (Non-debt Instruments) Rules, 2019, dated October 17, 2019; as amended from time to time.

RBI shall issue directions to Authorised Persons through circulars, in regard to any subsequent change in the aforesaid rules, regulations or the manner in which relative transactions are to be conducted by the Authorised Persons with their customers/ constituents.

Link [here](#)

2. Discontinuation of returns “Details of guarantee availed and invoked from non-resident entities” by RBI

June 6, 2022: Earlier AD Category I banks were required to furnish quarterly returns in relation to details of non-resident guarantees availed of/ invoked, for domestic fund based and non-fund based facilities, in a format specified by RBI (Annex I of Part X (*Statement for reporting of non-resident guarantees issued and invoked in respect of fund and non-fund based facilities between two persons resident in India*) of [Master Directions – Reporting under Foreign Exchange Management Act dated January 1, 2016](#)), read with [Master Direction - External Commercial Borrowings, Trade Credits and Structured Obligations dated March 26, 2019](#), as amended from time to time, to RBI not later than 10th day of the month following such quarter.

RBI *vide* its circular RBI/2022-23/69 A.P. (DIR Series) Circular No. 05 has decided to discontinue the aforesaid return, with effect from the quarter ending June 2022. The aforesaid master directions shall be accordingly updated to reflect such changes.

The said discontinuation was made in accordance to the earlier recommendation by the Regulatory Review Authority (RRA 2.0) on [February 18, 2022](#).

Link [here](#)

Authors

Nusrat Hassan
Co-Managing Partner
nusrat@linklegal.in

Tanvi Pande
Senior Associate
tanvi.pande@linklegal.in

Meghna Punjabi
Associate
meghna.punjabi@linklegal.in

Ambuj Sonal
Associate Partner
ambuj.sonal@linklegal.in

Abhinav Anand
Senior Associate
abhinav.anand@linklegal.in

Shreyali Srivastava
Associate
shreyali.srivastava@linklegal.in

FIRM'S RECOGNITION



OUR OFFICES

DELHI

Aiwan-e-Ghalib Complex,
Mata Sundri Lane,
New Delhi 110 002, India
Tel: +91 11 4651 1000

MUMBAI

21/22, Second Floor,
Free Press House,
Free Press Journal Road,
215, Nariman Point,
Mumbai – 400 021, India
Tel: +91 22 6633 6791/6625 2222

BENGALURU

#10, First Floor, 12th Main,
Palace Road,
Vasanth Nagar,
Bengaluru – 560 052, India
Tel: +91 80 4123 1072

HYDERABAD

1st Floor, MC Design House,
Plot No. 27, Rohini Layout,
HITEC City, Madhapur,
Hyderabad – 500 081, India
Tel: +91 40 3516 8987, +91 40 3516 8988

CHENNAI

1B, First Floor 17-A,
Diamond Business Center,
Kalakshetra Road,
Chennai – 600 041, India
Tel: +91 44 4271 9731

NEW YORK

57 West, 57th Street,
4th Floor, New York,
NY 10019
Tel: (212) 389-6290/ (212) 389-6281/
(212) 381-1057



ABOUT DENTONS

Dentons is designed to be different. As the world's largest global law firm with 21,000 professionals in over 200 locations in more than 80 countries, we can help you grow, protect, operate and finance your business. Our polycentric and purpose-driven approach, together with our commitment to inclusion, diversity, equity and ESG, ensures we challenge the status quo to stay focused on what matters most to you.

www.dentons.com

© 2023 Dentons. Dentons is a global legal practice providing client services worldwide through its member firms and affiliates. This publication is not designed to provide legal or other advice and you should not take, or refrain from taking, action based on its content. Please see dentons.com for Legal Notices.