

Insights and Commentary from Dentons

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CORPORATE LEGAL DEVELOPEMENTS

NEWSLETTER FEBRUARY 2023

Weekly Insights & Updates

7 February 2023

MCA

1. MCA notifies amendments to various rules under the Companies Act, 2013

January 19, 2023 | January 20, 2023 | January 21, 2023: The Ministry of Corporate Affairs (“MCA”) vide various circulars has amended rules under the Companies Act, 2013 (“Act”) and revised various forms thereunder. All amended rules have come into force with effect from January 23, 2023.

The key amendments to the rules are summarized as under:

i. Vide the Companies (Appointment and Qualifications of Directors) (Amendment) Rules, 2023, directors are now required to give a declaration regarding disqualification under section 164(1) of the Act in **Form DIR-8 (Intimation by director)**. Disqualifications under section 164(1) of the Act occurs on the grounds which *inter alia* include, being of unsound mind, being an undischarged insolvent, and not having allotted DIN. Further, companies are also required to file **Form DIR-9 (Report by the company to Registrar for disqualification of directors)** with the ROC within 30 days from the date when **Form DIR-8** is received regarding disqualification of the director under Section 164(1) and section 164 (2) of the Act.

Further, **Forms DIR-3 (Application for allotment of DIN before appointment in an existing company or LLP)**, **DIR-3C (Intimate information of directors, managing director, manager and secretary by an Indian Company)**, **DIR-5 (Application of surrender of DIN)**, **DIR-6 (Intimation of change in particulars of director/ designated partner to be given to Central Government)**, **DIR-8, DIR-9, DIR-10 (Application for removal of disqualification of directors)**, **DIR-11 (Notice of resignation of a director to the registrar)** and **DIR-12 (Particulars of appointment of directors and KMPs and the changes among them)** have also been revised.

[Link Here](#)

ii. Vide the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023, **Form No. MR.1 (Return of appointment of managerial personnel)** and **Form No. MR.2 (Form of application to the Central Government for approval of appointment of managing director or whole-time director or manager)** have been revised.

[Link Here](#)

iii. Vide the [Companies \(Management and Administration\) Amendment Rules, 2023](#), **Form No. MGT-3** (Notice of situation or change of situation or discontinuation of situation, of place where foreign register shall be kept) has been revised.

[Link Here](#)

iv. Vide the [Companies \(Prospectus and Allotment of Securities\) Amendment Rules, 2023](#), requirement to attach a copy of the resolution passed in the general meeting authorizing the issue of bonus shares in **Form-PAS-3** (Return of Allotment) has been omitted.

Further, **Form-PAS-2** (Information Memorandum), **Form-PAS-3** (Return of Allotment) and **Form-PAS-6** (Reconciliation of Share Capital Audit Report (Half-yearly)) have also been revised.

[Link Here](#)

v. Vide the [Companies \(Registration of Foreign Companies\) Amendment Rules, 2023](#), **FORM FC-1** (Information to be filed by foreign company), **FORM FC-2** (Return of alteration in the documents filed for registration by foreign company), **FORM FC-3** (Annual accounts along with the list of all principal places of business in India established by foreign company) and **FORM FC-4** (Annual Return of a Foreign Company) have been revised.

[Link Here](#)

vi. Vide the [Companies \(Share Capital and Debentures\) Amendment Rules, 2023](#), a declaration is required to be filed along with the Form No. SH.11 (Return in respect of buy-back of securities), 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. Earlier, a certificate (not a declaration) in Form No. SH.15 (Certificate of compliance in respect of buy-back of securities) certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder was required to be annexed.

Further, **Form No. SH. 7** (Notice to registrar of any alteration of share capital), **Form No. SH. 8** (Letter of Offer), and **Form No. SH. 9** (Declaration of Insolvency) have also been revised.

[Link Here](#)

vii. Lastly vide the [Companies \(Authorised to Register\) Amendment Rules, 2023 and Companies \(Incorporation\) Amendment Rules, 2023](#), various incorporation forms have been revised and migrated to Version 3. Effective from January 23, 2023, all incorporation forms are required to be filed in Version 3. The high-level changes done in incorporation forms in Version 3 when compared to Version 2 are (i) in SPICE + Part A, NIC code 2008 has been introduced with option of selecting 3 business activities with 5-digit code; and (ii) in SPICE + Part B, e-AOA and e-MOA have been introduced for section 8 companies also.

Form URC (Application by a company for registration under section 366) has also been revised.

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RBI

1. Inclusion of Sovereign Green Bonds under the Fully Accessible Route (FAR) for Investment by Non-residents in Government Securities

January 23, 2023: RBI vide its notification no. RBI/2022-23/169 FMRD.FMID.No.07/14.01.006/2022-23 has issued instructions to all participants in Government Securities market, notifying the issuance of calendar for Sovereign Green Bonds for fiscal year 2022-23. Further, via the Fully Accessible Route (FAR) introduced by RBI vide [A.P. \(DIR Series\) Circular No. 25 dated March 30, 2020](#), wherein certain specified categories of Central Government securities were opened fully for non-resident investors without any restrictions, apart from being available for domestic investors as well.

RBI has now decided to also designate all Sovereign Green Bonds issued by the Government in the fiscal year 2022-23 as 'specified securities' under the FAR, under Section 45W of Chapter IIID of the Reserve Bank of India Act, 1934, without prejudice to permissions.

These Directions shall be applicable with immediate effect.

Link [here](#).

2. RBI releases Discussion Paper on Securitization of Stressed Assets Framework (SSAF):

January 25, 2023: RBI vide its press release 2022-2023/1614, has released a discussion paper detailing relevant contours of the proposed framework for securitisation of stressed assets, in addition to the ARC route, in order to receive comments from stakeholders till February 28, 2023.

The said discussion paper broadly covers nine relevant areas of the framework including asset universe, asset eligibility, minimum risk retention, the regulatory framework for special purpose entity and resolution manager, access to finance for resolution manager, capital treatment, due diligence, credit enhancement, and valuation. The said discussion paper draws upon similar frameworks introduced in other jurisdictions, while trying to keep it structurally aligned with the framework for securitisation of standard assets.

Link [here](#).

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