

# MONTHLY<sub>TE</sub>

Secretarial Updates January 2019

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“Success is where  
preparation and  
opportunity meet.”

- Bobby Unser



## PREFACE

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At the outset, through this newsletter, we want to take a moment and thank you all for appreciating and encouraging APAC & Associates LLP (APAC).

In this edition of our newsletter, we have covered the notifications/circulars issued by Ministry of Corporate Affairs (MCA), Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), and other authorities including Insolvency and Bankruptcy Board of India (IBBI), National Company Law Tribunal (NCLT) and Stock Exchanges in the month of January 2019.

Hope we not only help you keep updated but also save your time by bringing a brief summary of all the updates through our section on the summary of regulatory changes.

We hope all these would be of interest to you.

Your feedbacks are valuable; appreciation will encourage us; criticism will help us improve! Feedbacks can be sent at [info@apacandassociates.com](mailto:info@apacandassociates.com).

Regards,

**APAC & Associates LLP Team**



# ReShaping of Law



## IN-HOUSE E-ADJUDICATION MECHANISM

One more step in the track of promotion of ease of doing business. To make recommendations to encourage better corporate compliance and to reduce the load on the Special Courts/Tribunals MCA is planning to provide electronic facility for adjudication of matters.

It is important to understand the important features of the system based adjudication mechanism.

### **1. System Driven and technology based**

There will be minimum physical interface between the adjudicating officer and the defaulter. The MCA21 system will be able to throw up light on cases of non-compliances. An auto-populated list of certain percentage of such cases can be generated in a random manner.

### **2. E-notices**

Notices will be issued via the electronic platform to the defaulting parties in the list.

### **3. Physical notice in case of no reply on e-notice**

The Physical notice will also insist that the reply to the notice be given via online platform. In a particular case where the adjudicating officer requires the presence of the defaulting person



for compounding the matter, he must record the reasons for the same. Physical presence is therefore an exception.

In order to ensure transparency, the oral representations made will also be video recorded. The orders passed by the adjudicating officer will be published online.

Ensuring compliance of default is the main objective. The adjudicating officer will mention in the order that at the time of paying the penalty the default has to be made good to the extent possible.

### **SOME OF THE BENEFITS OF THE E-PROCEEDINGS ARE:**

1. Adjudication turning faceless is a welcome step since this would mean lesser chances of influencing the decision of the authority.
2. An online record of exchange of information will be generated, leading to continuity in the flow of communication between adjudicating officer and defaulting party.
3. Ease of doing business- efficient management of time for the adjudicating authority as well as the defaulting party. E-proceedings will also help in saving travel cost. System based proceedings will obviate the need for seeking an appointment with the RD/ Adjudication officer or waiting for long time at their offices.
4. Environment-friendly manner – This initiative is environment-friendly as adjudication proceedings would become paperless and there will be no need to travel. Different concerned authorities can access an online reply at any time.
5. Transparency: If the orders are placed online, there will be transparency in the entire proceedings. The upgradation of the online platform will lead to the generation of a repository of data for the corporates and the adjudicatory authority. Due to a large number of pending cases before NCLT, it is taking a long time to get the matter compounded.
6. With the introduction of system based penalty levy mechanism, defaults, if any can be compounded faster. In genuine cases where the default is unintentional, this will be a big relief.

### **CONCLUSION**

The Government has been taking various initiatives to digitize the data being submitted by the Corporates and its directors. Right from the introduction of the MCA21 system in 2005-2006 the requirement to submit data in XBRL format, Director KYC, MCA further plans to introduce e-adjudication.



# Gist of Regulatory Changes by Various Authorities in the month of January 2019



## MINISTRY OF CORPORATE AFFAIRS

- ❖ [Specified Companies \(Furnishing of information about payment to micro and small enterprise suppliers\) Order, 2019](#)

MCA has issued aforesaid order wherein provided that every specified company shall file in MSME Form I details of all outstanding dues to Micro or small enterprises suppliers existing on the date of notification of the order within thirty days from the date of publication of the notification i.e by February 21 , 2019. Further, every specified company is also required to file a return as per MSME Form I by 31st October for the period from April to September and by 30th April for the period from October to March..

- ❖ [Companies \(Prospectus and Allotment of Securities\) Amendment Rules, 2019.](#)

MCA has issued aforesaid rules wherein sub rule 11 has been inserted in Rule 9A in Companies (Prospectus and Allotment of Securities) Rules, 2014, stating that following unlisted public companies are not required to issue securities in dematerialized form and/or facilitate dematerialization of its existing securities:a) a Nidhi (b) a Government company or (c) a wholly owned subsidiary.

- ❖ [E-Form INC.20A\(Declaration for commencement of business\)](#)

MCA had issued the Companies (Incorporation) 4th Amendment Rules, 2018 where in Declaration in E-Form INC 20A would be filed by a director at the time of commencement of business. Accordingly, E-Form INC. 20A (Declaration for commencement of business) will be available on MCA 21 w.e.f. 26th January, 2019.



❖ [Companies\(Acceptance of Deposits\) Amendment Rules, 2019](#)

MCA has issued amendment rules wherein every company other than Government company shall file a onetime return of outstanding receipt of money or loan by a company which is not considered as deposits, in terms of clause (c) of sub-rule 1 of rule 2 from the 01st April, 2014 to the date of publication of this notification in the Official Gazette, as specified in Form DPT-3 within ninety days from the date of said publication of this notification along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

❖ [Enforcement Of The Section 465 Of The Companies Act, 2013](#)

MCA vide notification dated January 31, 2019 has enforced the provisions of section 465 of the Companies Act, 2013 and thereby repealed the Companies Act, 1956 w.e.f. January 30, 2019 except the Registration of Companies (Sikkim) Act, 1961.

❖ [The Companies \(Amendment\) Ordinance, 2019](#)

MCA has issued Companies (Amendment) Ordinance, 2019 in order to give continued effect to the provisions of Companies (Amendment) Ordinance, 2018 (otherwise valid till January 21, 2019) as the amendment Act could not be taken up by Council of States.



**SECURITIES AND EXCHANGE BOARD OF INDIA**

❖ [Acceptance of Probate of Will or Will for Transmission of Securities held in dematerialized mode](#)

SEBI has issued circular wherein it has been provided that transmission of securities held in dematerialized mode shall be dealt in line with SEBI (Listing Obligation and Disclosure Requirements) (Sixth Amendment) Regulations,

2018. In terms of aforesaid regulations, succession certificate or probate of will or will or letter of administration or court decree or as may be applicable in terms of Indian Succession Act, 1925 has been prescribed as documentary requirement for transmission of securities held in physical mode.

❖ [Disclosure of schemes involving merger of a wholly owned subsidiary or its division with the parent company](#)

"In furtherance to SEBI circular dated January 03, 2018, the National Stock Exchange (NSE) has issued a circular dated January 01, 2019 wherein it has been provided that the scheme of arrangement which solely provides for merger of a wholly owned subsidiary or its division with the parent company, are required to be submitted with the Exchange on NEAPS Portal in the below mentioned path only including the signed and stamped copy of the scheme along with the Board resolution approving the Scheme NEAPS > Issue > Further Issue > Scheme of Arrangement > Amalgamation of Wholly owned subsidiary".

❖ [Securities and Exchange Board of India \(Substantial Acquisition of Shares and Takeovers\) \(Third Amendment\) Regulations, 2018](#)

The Securities & Exchange Board of India (SEBI) has vide notification dated 31st Dec, 2018 issued the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2011 wherein it has been provided that in case of shares taken/ released by way of encumbrance with a housing finance company or a systematically important non-banking financial company, such encumbrances shall not be treated as an acquisition and accordingly disclosures will not be required to be given by such companies.



❖ [Filing of financial results in XBRL mode by insurance companies](#)

BSE Limited has issued a circular to Listed Insurance Companies dated January 30, 2019 w.r.t the filings in respect of Financial Results (Regulation 33 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015) should be filed by all listed insurance companies (both General and Life), through XBRL mode in addition to the filing in PDF mode. The Financial Results in PDF mode shall be submitted within 30 minutes of conclusion of the Board Meeting and the financial results in XBRL format shall be submitted within 24 hours of submission of the submission in PDF mode.

❖ [Filing of application for reclassification of promoters through listing centre](#)

BSE Limited has issued a circular to Listed Companies dated January 31, 2019 w.r.t. the filing of application for Reclassification of Promoters through Listing Centre. Henceforth any applications for Reclassification of Promoters would be accepted and processed through Listing Centre only and no Physical filing would be accepted. The Reclassification of Promoters application can be filed through the Listing Module- Reclassification of Promoters in compliance with the Regulation 31A of

the SEBI (LODR) (Sixth Amendment) Regulations, 2018



**INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA**

❖ [IRDAI \(Re-insurance\) Regulations, 2018](#)

IRDAI has issued these regulations which replaced the IRDAI (General insurance-reinsurance) Regulations, 2016 and IRDA (Life Insurance-Reinsurance) Regulations, 2013 which results in change in reporting formats, returns and statements as applicable. Further, it is advised to continue filing of the BAP returns through BAP modules as the existing practice till the time revised formats are available.

❖ [Insurance Regulatory and Development Authority of India \(International Financial Service Centre Insurance Intermediary Offices Guidelines, 2019](#)

IRDAI has issued guidelines to grant permission to Intermediaries or Insurance Intermediaries registered under IRDAI to undertake operations in International Financial Service Centre (IFSC) as per the objectives of the IFSC. However, prior permission and other formalities needs to be completed before acting as IIO by the eligible intermediaries.



## Compliance Calendar- February 2019

S.No.	Particulars of compliance	Forms>Returns	Due Date
<b>Under SEBI(LODR) REGULATIONS, 2015</b>			
1	Financial Results (along with Limited review report/Auditor's report for the quarter ended December 2018)	-	February 14, 2019





## CONTACT US

### COMPANY NAME

APAC & Associates LLP

### ADDRESS

310, Aggarwal Cyber Plaza - I,  
Netaji Subhash Place,  
Pitampura, Delhi-110034

### CITY

Delhi

### ZIP CODE

110034

### PHONE

011-49058720-21

### EMAIL

[info@apacandassociates.com](mailto:info@apacandassociates.com)

### WEBSITE

[www.apacandassociates.com](http://www.apacandassociates.com)

## ABOUT APAC & Associates LLP

### VISION

APAC is committed to be a leading one stop solution partner with an edge in corporate governance and drive corporates to be 100% tech-compliant. Our vision serves as the route map of every aspect of our business by defining what we require to achieve for a sustainable and quality growth with substantial presence

### MISSION

APAC strive to create a sustainable organisation by developing a compliant environment by delivering qualitative, time bound & value added services through optimum utilisation of technology, professional skills and enduring customer satisfaction





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