

## **Recent updates on ROC compliance & LLP Amendments:**

**On Wednesday, 23<sup>rd</sup> March, 2022**

**@ Bengaluru Branch of SIRC of ICAI**

CS Vivek Hegde, Practicing Company Secretary, Bengaluru, Mob: 9900898223

# Recent updates on ROC compliance & LLP Amendments

## Agenda:

1. Introduction and background
2. Recent updates on ROC compliance (Recent changes in the Companies Act, 2013 and rules made thereunder in 2021 and 2022)
3. Recent amendments in LLP Act and rules made thereunder

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## Recent updates on ROC compliance & LLP Amendments

### Introduction and background:

- The Only Constant in Life is Change.
- If you are not updated, you are outdated.
- There are many amendment applicable for the FY ending 31.03.2022 and for FY starting from 01.04.2022.
- Every amendment has a reason and rationale.
- Only important amendments are covered

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## Recent changes in the Companies Act, 2013

1. Changes in CSR provisions including CSR-2
2. Change in definition of 'Small Company' and its impact.
3. CARO 2020 – applicable for the FY starting from 01.04.2021
4. 5. The Companies (Audit and Auditors) Rules, 2014 – Change in Audit Report.
6. Changes in Board's Report
7. Changes in MGT-7/ introduction of MGT-7A
8. Changes in Schedule III/Accounts Rules
9. Other changes.

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

- ❖ Making philanthropy compulsory
- ❖ CARO 2020 has a separate reporting head
- ❖ Revised Schedule III has a separate disclosure
- ❖ Registration by filing CSR-1
- ❖ Severe penalty provisions for violation

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

- ❖ Applicability
- ❖ Who should constitute CSR Committee?
- ❖ What CSR Committee should do?
- ❖ What Board of Directors should do?
- ❖ How much amount to be spent as CSR in every financial year?
- ❖ What is “net profit” for calculating CSR obligation?
- ❖ Any requirement on area preference?

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

- ❖ What should be done in case the Company fails to fulfil CSR obligation?

The Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount and, unless the unspent amount relates to any on-going project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

❖ What happens if the Company spends more than CSR obligation?

Company may set off such excess amount against the requirement to spend for 3 succeeding financial years.

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

- ▶ What are the obligations in case of the amount is unspent on “on-going projects”??

Unspent amount shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

► What is “Ongoing Project”?

“Ongoing Project” means a multi-year project undertaken by a Company in fulfilment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification;

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

► What is the penalty for violation of the provisions?

1. The Company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and
2. Every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.

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## Recent changes in the Companies Act, 2013

Change in CSR provisions including CSR-2:

- ▶ Activities which may be included by companies in their Corporate Social Responsibility Policies ?

## Recent changes in the Companies Act, 2013

### ► What is not CSR?

- i. Activities in the normal course of business of the company
- ii. any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level
- iii. contribution of any amount directly or indirectly to any political party
- iv. activities benefitting employees of the company
- v. activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services
- vii. activities carried out for fulfilment of any other statutory obligations

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## Recent changes in the Companies Act, 2013

### ► What CSR policy should include?

CSR Policy should contain the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, if any and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

## Recent changes in the Companies Act, 2013

### ► How CSR amount can be spent?

(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through -

(a) a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company, or

(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or

## Recent changes in the Companies Act, 2013

### ► How CSR amount can be spent?

(c) any entity established under an Act of Parliament or a State legislature; or

(d) a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.



## Recent changes in the Companies Act, 2013

- ▶ Whether implementing agencies should register?
- ▶ When separate bank account is required?
- ▶ When the spending obligation is met for a financial year?

## Recent changes in the Companies Act, 2013

### ► References for CSR Study:

Section 135, the Companies (Corporate Social Responsibility Policy) Rules, 2014, Circulars and clarifications issued by MCA, FAQs issued by MCA, FAQs/Guidance Notes issued by ICSI/ICAI.

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## Recent changes in the Companies Act, 2013

Change in definition of **Small Company** and its impact.

2(85) "small company" means a company, other than a public company, –

- (i) paid-up share capital of which does not exceed rupees two crores; and
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed rupees twenty crores.

**Provided** that nothing in this clause shall apply to –

- (A) a holding company or a subsidiary company;
- (B) a company registered under [section 8](#); or
- (C) a company or body corporate governed by any special Act;

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## Recent changes in the Companies Act, 2013

Change in definition of **Small Company** and its impact.

1. Confusion on applicability (01.04.2021)
2. More Companies covered under the ambit of the definition
3. No cash flow statement
4. No CARO Report
5. Two Board Meetings
6. Abridged version of Board's Report
7. MGT-7A instead of MGT-7

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## Recent changes in the Companies Act, 2013

Change in definition of **Small Company** and its impact.

1. Lesser filing fees
2. Lesser penalties for One Person Companies or small companies (446B)
3. Section 233 - Merger or Amalgamation benefits under fast track.
4. No certification for e-Forms

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## Recent changes in the Companies Act, 2013

### **The Companies (Auditor's Report) Order, 2020. (CARO 2020)**

Applicable to every company including a foreign company except-

- (i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
- (ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);
- (iii) a company licensed to operate under section 8 of the Companies Act;
- (iv) a One Person Company as defined in clause (62) of section 2 of the Companies Act and a small company as defined in clause (85) of section 2 of the Companies Act; and

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## Recent changes in the Companies Act, 2013

### The Companies (Auditor's Report) Order, 2020.

Applicable to every company including a foreign company except-

v) a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than one crore rupees as on the balance sheet date and which does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act (including revenue from discontinuing operations) exceeding ten crore rupees during the financial year as per the financial statements.

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## Recent changes in the Companies Act, 2013

The Companies (Auditor's Report) Order, 2020.

Highlights-

(iv) in respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;

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## Recent changes in the Companies Act, 2013

### **The Companies (Auditor's Report) Order, 2020.**

#### Highlights-

(v) in respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;

## Recent changes in the Companies Act, 2013

### The Companies (Auditor's Report) Order, 2020.

#### Highlights-

(x) (a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;

(b) whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;

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## Recent changes in the Companies Act, 2013

The Companies (Auditor's Report) Order, 2020.

Highlights-

(xiii) whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;

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## Recent changes in the Companies Act, 2013

The Companies (Auditor's Report) Order, 2020.

Highlights-

(xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;

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## Recent changes in the Companies Act, 2013

### The Companies (Auditor's Report) Order, 2020.

#### Highlights-

(xvi)

(a) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;

(b) whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;

(c) whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;

(d) whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group;

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## Recent changes in the Companies Act, 2013

**The Companies (Auditor's Report) Order, 2020.**

Highlights-

(xviii) whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;

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## Recent changes in the Companies Act, 2013

**The Companies (Auditor's Report) Order, 2020.**

Highlights-

(xx) (a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;

(b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of subsection (6) of section 135 of the said Act;

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## Recent changes in the Companies Act, 2013

### **Changes in Audit Report: Notification dated the 24th March, 2021: Amendment in the Companies (Audit and Auditors) Rules, 2014, in rule 11,-**

- ▶ (1) clause (d) shall be omitted (Specified Bank Notes).
- ▶ (2) after clause (d), the following clauses shall be inserted, namely:-
- ▶ “(e) (i) Whether the management has represented that, to the best of it’s knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the company to or in any other person(s) or entity(ies), including foreign entities (“Intermediaries”), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (“Ultimate Beneficiaries”) or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;



## Recent changes in the Companies Act, 2013

- ▶ (ii) Whether the management has represented, that, to the best of it's knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been received by the company from any person(s) or entity(ies), including foreign entities ("Funding Parties"), with the understanding, whether recorded in writing or otherwise, that the company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries; and

## Recent changes in the Companies Act, 2013

- ▶ (iii) Based on such audit procedures that the auditor has considered reasonable and appropriate in the circumstances, nothing has come to their notice that has caused them to believe that the representations under sub-clause (i) and (ii) contain any material mis-statement.
- ▶ (f) Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013.
- ▶ (g) Whether the company, in respect of financial years commencing on or after the 1st April, 2022, has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention.

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## Recent changes in the Companies Act, 2013

### Changes in Board's Report: Notification dated the 24th March, 2021: Amendment in the Companies (Accounts) Rules, 2014,-

- ▶ (2) in rule 8, in sub-rule (5), after clause (x), the following clauses shall be inserted namely:-
- ▶ “(xi) the details of application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) during the year alongwith their status as at the end of the financial year.
- ▶ (xii) the details of difference between amount of the valuation done at the time of one time settlement and the valuation done while taking loan from the Banks or Financial Institutions along with the reasons thereof.”

## Recent changes in the Companies Act, 2013

### Changes in Board's Report:

1. No more MGT-9
2. If the Company is having a website (of its own), weblink where annual return (MGT-7) is uploaded to be provided in the Board's Report.
3. If there is no website, make a statement to that effect.
4. New Annexure for CSR reporting
5. Detailed analysis of disclosure items is required since the requirements are coming from various Sections/Rules of the CA, 2013, POSH in addition to Section 134 (mother Section for BR).

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## Recent changes in the Companies Act, 2013

### Changes in Annual Return (MGT-7/7A)

**Notification dated the 5<sup>th</sup> March, 2021 - Amendments in the Companies (Management and Administration) Amendment Rules, 2021.**

2. In the Companies (Management and Administration) Rules, 2014, (herein after referred as the said rules), in rule 11, for sub-rule (1), the following sub-rule shall be substituted, namely:-

“(1) Every company shall file its annual return in Form No.MGT-7 except One Person Company (OPC) and Small Company. One Person Company and Small Company shall file annual return from the financial year 2020-2021 onwards in Form No.MGT-7A”;

Changes in MGT-7 also...

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# Recent changes in the Companies Act, 2013

## Changes in Schedule III/Accounts Rules

Division I is applicable to entities preparing their financial statements as per the Companies (Accounting Standards) Rules, 2006;

Division II is applicable to entities preparing their financial statements as per the Companies (Indian Accounting Standards) Rules, 2015; and

Division III is applicable to non-banking financial institutions preparing their financial statements as per Ind AS.

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# Recent changes in the Companies Act, 2013

## Changes in Schedule III/Accounts Rules

Shareholding of Promoters:

Rounding Off:

Short Term Borrowings:

Trade Payables Due For Payments:

Disclosure for Tangible and Intangible Asset:

Trade Receivables outstanding:

Borrowing from Banks and Financial Institutions:

Title deeds of Immovable Property:

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# Recent changes in the Companies Act, 2013

## Changes in Schedule III/Accounts Rules

Loan Granted to Promoters, Directors, KMPs and the Related Parties:

Benami Property: :

Willful Defaulter:

Ratios:

Undisclosed income:

Corporate Social Responsibility:

Crypto Currency or Virtual Currency:

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# Recent changes in the Companies Act, 2013

## Changes in Schedule III/Accounts Rules

### Notification dated the 24th March, 2021: Amendment in the Companies (Accounts) Rules, 2014,-

- ▶ (1) in rule 3, in sub-rule (1), the following proviso shall be inserted, namely:-
- ▶ “Provided that for the financial year commencing on or after the 1st day of April, 2022, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.”

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## Recent changes in the Companies Act, 2013

- ▶ **Other changes:**
- ▶ **Amendment in** the Companies (Share Capital and Debentures) Rules 2014,
- ▶ after rule 12, the following rule shall inserted, namely: –
- ▶ “12A. Period for notice under sub-clause (i) of clause (a) of sub-section (1) of section 62.- For the purposes of sub-clause (i) of clause (a) of sub-section (1) of section 62, the time period within which the offer shall be made for acceptance shall be not less than seven days from the date of offer.”.

## Recent changes in the Companies Act, 2013

- ▶ Other changes:
- ▶ The Companies (Accounting Standards) Rules, 2021 (Yet to be notified).
- ▶ AGM/EGM through VC (Available till 30.06.2022).

## LLP Amendments

- ▶ **LLP Amendment Act, 2021 - notified to take effect from 01.04.2022.**
- ▶ **LLP (Amendment) Rules 2022 - notified to take effect from 01.04.2022.**
- ▶ **LLP (Second Amendment) Rules 2022 - notified to take effect immediately.**
- ▶ **MCA Notification applying few of the provisions of the Companies Act, 2013 to LLPs also.**

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## LLP Amendments

- ▶ **LLP Amendment Act, 2021 - notified**
- ▶ Vide notification dated 11.02.2022, sections 1 to 29 of the Limited Liability Partnership (Amendment) Act, 2021 have been notified to take effect from 01.04.2022.
- ▶ In August 2021 the Parliament had approved the Bill proposing to amend the LLP Act, 2008. The LLP Amendment Act, 2021 ("Amendment Act") was introduced on 13th August, 2021 but the same was not notified by MCA till recently. On 11th February, 2022 MCA vide its notification has specified 1st April, 2022 as the effective date on which section 1 to 29 of the Amendment Act will come into force.

## LLP Amendments

- ▶ **LLP Amendment Act, 2021 - notified**

- ▶ **Key amendments:**

Insertion of clause (ta) for defining 'small limited liability partnership'

Small LLPs are those LLPs whose Contribution does not exceed Rs. 25 Lakhs or such higher amount not exceeding Rs. 5 crores and Turnover does not exceed Rs. 40 lakhs or such higher amount not exceeding of Rs.50 Crores.

The filing fees and penalty amount will be lesser for small LLPs as notified by MCA vide LLP (Amendment) Rules, 2022

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## LLP Amendments

- ▶ LLP Amendment Act, 2021 - notified
- ▶ Key amendments:

Provided further that notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a small limited liability partnership or a start-up limited liability partnership or by its partner or designated partner or any other person in respect of such limited liability partnership, then such limited liability partnership or its partner or designated partner or any other person, shall be liable to a penalty which shall be **one-half of the penalty** specified in such provisions subject to a maximum of one lakh rupees for limited liability partnership and fifty thousand rupees for every partner or designated partner or any other person, as the case may be.

## LLP Amendments

- ▶ **LLP Amendment Act, 2021 - notified**

- ▶ **Key amendments:**

Change in definition of Business: occupation except any activity which the Central Government may, by notification, exclude.

The Central Govt is empowered to notify certain activities which can't be carried on by the LLP as its business. No notification is issued till date.



# LLP Amendments

## ▶ LLP Amendment Act, 2021 - notified

### Key amendments:

The number of days of stay in India for Designated Partner (DP) to be considered as resident Indian has been reduced from 182 days to 120 days.

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# LLP Amendments

## ▶ LLP Amendment Act, 2021 - notified

### Key amendments:

Name of the LLP- identical - Dropped "Partnership firm, Body corporate, Just applied trade mark. Only registered trade marks, LLP & Company are considered.

Identical name (either new or change of name of LLP): RD has power to ask to change the name. If not changed within 3 months, RD will change name of the LLP and direct the ROC to issue the fresh certification of incorporation within 30 days.

Change of name: Proprietor of trade mark can ask the RD for directions to change in 3 years time of registration of LLP or change of name of the LLP.

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# LLP Amendments

## ▶ LLP Amendment Act, 2021 - notified

### Key amendments:

“34A. The Central Government may, in consultation with the National Financial Reporting Authority constituted under section 132 of the Companies Act, 2013,—

- (a) prescribe the standards of accounting; and
- (b) prescribe the standards of auditing,

as recommended by the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949, for a class or classes of limited liability partnerships.”

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# LLP Amendments

## ▶ LLP Amendment Act, 2021 - notified

### Key amendments:

Offences punishable with fine only are compoundable by the RD only. Minimum fine amount need to be collected. NO NCLT compounding. Similar offence committed again within 3 years from date of compounded- No compounding again. Non-compliance of compounding order will attract twice the amount in addition to compounding fee.

## LLP Amendments

- ▶ LLP Amendment Act, 2021 - notified

### Key amendments:

**General Penal Provision. Section 74.** If a limited liability partnership or any partner or any designated partner or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the limited liability partnership or any partner or any designated partner or any other person, who is in the default, shall be liable to a penalty of **five thousand rupees** and in case of a continuing contravention with a further penalty of **one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees.**"

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# LLP Amendments

- ▶ **LLP Amendment Act, 2021 - notified**

Fine changed to penalty in multiple sections.

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# LLP Amendments

## ▶ LLP Amendment Act, 2021 - notified

### Key amendments:

Adjudication of penalty provisions introduced. ROC will be the AA. Appeal lies with the RD.

If the Forms LLP 11 & 8 are filed with additional fee within 30 days of receipt of adjudication notice or before issue of notice, no adjudication.

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## LLP Amendments

- ▶ **LLP (Amendment) Rules, 2022- notified**
  
- ▶ **MCA notifies the Limited Liability Partnership (Amendment) Rules, 2022 (“the Rules”) which shall come into force on 01.04.2022. Highlights of the Rules are as follows:**
  
- ▶ **Amended Rule 5 (Fees), 18 and 19.**
  
- ▶ **Inserted following rules-**
- ▶ 19A. Allotment of new name to existing LLP under sub-section (3) of section 17
- ▶ 37A. Adjudication of penalties
- ▶ 37B. Appeal against order of adjudicating officer
- ▶ 37C. Registration of appeal
- ▶ 37D. Disposal of appeal by Regional Director

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## LLP Amendments

- ▶ **LLP (Amendment) Rules, 2022- notified**
- ▶ **MCA notifies the Limited Liability Partnership (Amendment) Rules, 2022 ("the Rules") which shall come into force on 01.04.2022. Highlights of the Rules are as follows:**
- ▶ **Inserted following new Forms-**

FORM NO. 16A- Certificate of Incorporation pursuant to change of name due to Order of Regional Director not being complied

FORM NO. 33 - LLP ADJ - Memorandum of Appeal

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## LLP Amendments

- ▶ **LLP (Amendment) Rules, 2022- notified**
- ▶ **MCA notifies the Limited Liability Partnership (Amendment) Rules, 2022 ("the Rules") which shall come into force on 01.04.2022. Highlights of the Rules are as follows:**
- ▶ A Company or proprietor owning a registered Trademark which too nearly resembles the name of an existing LLP or new LLP incorporated subsequently, may apply to the Regional Director in Form No. 23 to give direction to the LLP to change its name.
- ▶ If the LLP fails to change its name within a period of 3 months from the issue of the order the letters "ORNDC" i.e. Order of Regional Director (RD) Not Complied will be added below the name of the LLP and will have to be used in all official communications and publications.
- ▶ Reduced filing fee for Small LLPs have been detailed.

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## LLP Amendments

► **LLP (Amendment) Rules, 2022- notified**

1. For registration of Limited Liability Partnership including conversion of a firm or a private company or an unlisted public company into Limited Liability Partnership:

- (a) Limited Liability Partnership whose contribution does not exceed Rs. 1 lakh **Rs. 500**
- (b) Limited Liability Partnership whose contribution exceeds Rs. 1 lakh but does not exceed Rs. 5 lakhs **Rs. 2,000**
- (c) Limited Liability Partnership whose contribution exceeds Rs. 5 lakhs but does not exceed Rs. 10 lakhs **Rs. 4,000**
- (d) Limited Liability Partnership whose contribution exceeds Rs. 10 lakhs but does not exceed Rs. 25 lakhs **Rs. 5,000**
- (e) Limited Liability Partnership whose contribution exceeds Rs. 25 lakhs but does not exceed Rs. 1 Crore **Rs.10,000**
- (f) Limited Liability Partnership whose contribution exceeds Rs. 1 Crore **Rs. 25,000**

*[2 new limits i.e., (e) & (f) are added. Accordingly, the burden of LLPs is also increased. In the existing provisions, the maximum fees was Rs. 5,000 which is now Rs. 25,000.]*

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## LLP Amendments

### ▶ LLP (Amendment) Rules, 2022- notified

2. The difference between the fees payable on the increased slab of contribution and the fees paid on the preceding slab of contribution shall be paid through Form 3.

3. For filing, registering, or recording any document, form, statement, notice, Statement of Accounts and Solvency, annual return and an application alongwith the Statement for conversion of a firm or a private company or an unlisted public company into LLP by the Act or by these rules required or authorised to be filed, registered or recorded:

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## LLP Amendments

► **LLP (Amendment) Rules, 2022- notified**

- (a) Limited Liability Partnership whose contribution does not exceed Rs. 1 lakh      Rs. 50
- (b) Limited Liability Partnership whose contribution exceeds Rs. 1 lakh but does not exceed Rs. 5 lakhs      Rs. 100
- (c) Limited Liability Partnership whose contribution exceeds Rs. 5 lakhs but does not exceed Rs. 10 lakhs      Rs. 150
- (d) Limited Liability Partnership whose contribution exceeds Rs.10 lakhs but does not exceed Rs. 25 lakhs      Rs. 200
- (e) Limited Liability Partnership whose contribution exceeds Rs. 25 lakhs but does not exceed Rs. 1 Crore      Rs. 400
- (f) Limited Liability Partnership whose contribution exceeds Rs. 1 Crore      Rs. 600

[2 new limits i.e., (e) & (f) are added. Accordingly, the burden of LLPs is also increased. In the existing provisions, the maximum fees was Rs. 200 which is now Rs. 600.]

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## LLP Amendments

### ▶ LLP (Amendment) Rules, 2022- notified

4. Fee for filing, registering, or recording notice of appointment, cessation, change in name, address, designation of a partner or designated partner, intimation of Designated Partner Identification Number and consent to become a partner or designated partner in LLP Form No. 4:

For Small LLPs **Rs. 50**

For Other than Small LLPs **Rs. 150**

[In the existing provision, only Rs. 50 was provided for filing Form No. 4. Vide this notification fees for small LLPs and other than small LLPs is provided separately. In a way, burden of other than small LLPs is increased by Rs. 100.]

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## LLP Amendments

- ▶ **LLP (Amendment) Rules, 2022- notified**
- ▶ 5. (1) Fee for any application other than application for conversion of a firm or a private company or an unlisted public company into LLP shall be as under:

Sl. No.	Application	Small LLPs (in rupees)	Other than Small LLPs (in rupees)
(a)	For reservation of name under section 16 of the Act	Rs. 200	Rs. 200
(b)	For direction to change the name under section 17 of the Act	Rs. 5000	Rs. 5000
(c)	For striking off name of defunct Limited Liability Partnership under rule 37	Rs. 500	Rs. 1000

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## LLP Amendments

► **LLP (Amendment) Rules, 2022- notified**

(2) Fee for an application under rule 18 (3):

(a)	Application for reservation of name under Rule 18(3)	Rs. 10000
(b)	Application for renewal of name under Rule 18(3)	Rs. 5000

[In the existing provision, only Rs. 500 was provided for filing of application for striking off name of defunct LLP under rule 37. Vide this notification fees for small LLPs and other than small LLPs is provided separately. In a way, burden of other than small LLPs is increased by Rs. 500.]

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## LLP Amendments

▶ **LLP (Amendment) Rules, 2022- notified**

6. Fee for inspection of documents or for obtaining certified copy thereof shall be as under:

(a) For inspection of documents of an LLP under section 36	Rs. 50
(b) For copy or extract of any document under section 36 to be certified by Registrar	Rs. 5/- per page or fractional part thereof

## LLP Amendments

▶ **LLP (Amendment) Rules, 2022- notified**

7. Fee for filing any form or a Statement of Account and Solvency or a notice or a document by foreign limited liability partnership

<b>(a) For filing a document under rule 34(1)</b>	<b>Rs. 5000</b>
<b>(b) Any other form or Statement of Account and Solvency or notice or document</b>	<b>Rs. 1000</b>

## LLP Amendments

### ► LLP (Amendment) Rules, 2022- notified

Following Table of additional fee shall be applicable for delay in filing of forms.

Sl. No.	Period of delays	Small LLPs	Other than Small LLPs
(a)	Upto 15 days	One time	One time
(b)	More than 15 days and upto 30 days	2 times of normal filing fees	4 times of normal filing fees
(c)	More than 30 days and upto 60 days	4 times of normal filing fees	8 times of normal filing fees
(d)	More than 60 days and upto 90 days	6 times of normal filing fees	12 times of normal filing fees
(e)	More than 90 days and upto 180 days	10 times of normal filing fees	20 times of normal filing fees
(f)	More than 180 days and upto 360 days	15 times of normal filing fees	30 times of normal filing fees
(g)	Beyond 360 days	25 times of normal filing fees for forms other than Form 8 and Form 11. For 8 and Form 11, 15 times normal filing fees plus Rs. 10 per day for every day delay beyond 360 days	50 times of normal filing fees for forms other than Form 8 and Form 11. For 8 and Form 11, 30 times normal filing fees plus Rs. 20 per day for every day delay beyond 360 days

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## LLP Amendments

### LLP (Second Amendment) Rules 2022

This amendment is effective from 04.03.2022.

#### Key amendments include :

- ▶ a) Increase in allotment of number of DPINs to 5 in FiLLiP form,
- ▶ b) Allotment of PAN & TAN along with Certificate of Incorporation,
- ▶ c) Introduction of web-based procedure for LLP incorporation in line with SPICE+.
- ▶ d) Inclusion of disclosures w.r.t. Contingent Liability in Form 8,
- ▶ e) Shifting of all e-forms into web-based form
- ▶ f) Inclusion of provision w.r.t. signing of statements of accounts and solvency and Annual Return of LLPs under insolvency.

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## **LLP Amendments**

**Certain sections of Companies Act, 2013 made applicable to LLPs**

This amendment is effective from 11.02.2022.

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## LLP Amendments

Sections of CA 2013 applicable to LLPs	Particulars
90(1) to 90(11)	Register of significant beneficial owners in a company
164(1) & (2)	Disqualifications for Appointment of Director
165(1), (3) to (6)	Number of Directorships
167(1) to 167(3)	Vacation of office of Director
206(5)	Power to Call for Information, Inspect Books and Conduct Inquiries
207(3)	Conduct of Inspection and Inquiry
252(1) to 252(3)	Appeal to Tribunal
439(1) to 439(4)	Offences to be non-cognizable

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*Any questions??...*

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*Thank you...*

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