

Companies (Share Capital and Debentures) Third Amendment Rules, 2016

MCA has issued Companies (Share Capital and Debentures) Third Amendment Rules, 2016 ('Amendment Rules') to amend the Companies (Share Capital and Debentures) Rules, 2014 ('Rules'). The amendment rules, inter alia, provide that:

- Company limited by shares may issue equity shares with differential rights upon expiry of five years from the end of the financial year in which default as stated in Rule 4(1)(g) of the Rules was made good;
- Start-up company may issue sweat equity shares not exceeding fifty per cent of its paid-up share capital up to five years from the date of its incorporation or registration;
- Issue of debentures by a company should be secured by the creation of a charge on the properties or assets of the company or its subsidiaries or its holding company or its associates companies, having a value which is sufficient for the due repayment of the amount of debentures and interest thereon (earlier requirement did not include subsidiaries or holding company or associates companies);
- Where a company intends to redeem its debentures prematurely, it may provide for transfer of such amount in Debenture Redemption Reserve as is necessary for redemption of such debentures even if it exceeds the limits specified in Rule 18(7)(b).

The amendment rules are effective from 19 July 2016.

Click [here](#) for amendment rules.

National Company Law Tribunal Rules, 2016 and National Company Law Appellate Tribunal Rules, 2016

MCA has issued National Company Law Tribunal (NCLT) Rules, 2016. These rules, inter alia, provide provisions with respect to:

- Powers and functions of President, Registrar and Secretary of NCLT;
- Institution of proceedings, petition, appeals etc.;
- Issuance of orders and disposal of cases;
- Application for calling or obtaining a direction to call annual general meeting;
- Application under section 131 (Voluntary revision of financial statements or board's report);
- Application under section 140 (Removal, resignation of auditor and giving of special notice);
- Application under Section 169 (Removal of Directors);
- Right to apply under section 245 (Class action), conducting a class action suit;
- Schedule of relevant fees and forms.

These rules will come into force on the date of their publication in the Official Gazette.

Click [here](#) for NCLT rules.

Further, MCA has issued National Company Law Appellate Tribunal (NCLAT) Rules, 2016. These rules, inter alia, provide provisions with respect to:

- Powers of the Registrar of NCLAT;
- Institution of appeals - procedure;
- Service of process/ appearance of respondents and objections;
- Examination of witnesses and issue of commissions;
- Supreme court orders;
- Schedule of relevant fees and forms.

These rules will come into force on the date of their publication in the Official Gazette.

Click [here](#) for NCLAT rules.

Matters assigned to the Principal Bench, New Delhi in NCLT

Central government had constituted the NCLT and NCLAT with effect from 01 June 2016. (Refer NPSG's Weekly Knowledge Round-up - Edition: June 2016 - Issue: 2016-14). NCLT has now assigned the matters related to the following provisions of the Companies Act, 2013 ('2013 Act') to the Principal Bench, New Delhi:

- Section 245: Class action;
- Section 379 to 393: Application of Act to foreign companies;
- Section 394: Annual reports of Government Companies.

Any matter related to the aforementioned provisions, if filed before other benches will be transferred to the Principal Bench, New Delhi with immediate effect.

Click [here](#) for order.

Applicability of Section 381(1)(a) of the Companies Act, 2013 to Foreign Airline Company

In supersession of the notification number G.S.R 59, dated 06 January 1959 issued under section 594(1) of the Companies Act, 1956 in so far as it relates to the foreign company which is an airlines company, the Central Government has directed that the requirement of Section 381(1)(a) of the 2013 Act, which deals with accounts of foreign company, will apply to a foreign company, which is an airline company, having a share capital, subject to certain exceptions and modifications. The notification provides that it will be deemed sufficient compliance of the above section, if in respect of the period ending on or after 31 March 2016, such company submits to the appropriate Registrar of Companies in India:

- a. documents relating to copies of latest consolidated financial statements of the parent foreign company, as submitted by it to the prescribed authority in the country of its incorporation under the provisions of the law for the time being in force in that country. Where such documents are not in English language, a certified translation thereof in the English language should be annexed to it;

- b. in respect of its Indian Business operations, a statement of receipts and payments for the financial year, duly authenticated by a practicing Chartered Accountant in India or a firm or a Limited Liability Partnership of practicing Chartered Accountants in India;
- c. the documents required to be filed with Registrar of Companies under sub-rule (2) of rule 4 of the Companies (Registration of Foreign Companies) Rules, 2014.

However, the company would need to furnish to the Central Government such information with regard to its accounts as the Central Government may require by notice in writing.

The notification is effective from 19 July 2016.

Click [here](#) for notification.

FAQs on electronic book mechanism for issuance of debt securities on private placement basis

SEBI had issued circular dated 21 April 2016 laying down the framework for private placement of debt securities through Electronic Book Mechanism (EBM) (Refer NPSG's Weekly Knowledge Round-up Issue 2016-08). SEBI has now issued FAQs to guide market participants on the aforesaid matter. The FAQs, inter alia, provide clarifications on Electronic Book Provider, applicability of circular on structured products, use of uniform/multiple price method etc.

Click [here](#) for FAQs.

Basel III Framework on Liquidity Standards - LCR, Liquidity Risk Monitoring Tools and LCR Disclosure Standards

RBI has issued a circular that provides that banks will be permitted to reckon government securities held by them up to another 1 per cent of their net demand and time liabilities (NDTL) under Facility to Avail Liquidity for Liquidity Coverage Ratio (FALLCR) within the mandatory statutory liquidity ratio (SLR) requirement as level 1 High Quality Liquid Assets (HQLA) for the purpose of computing their Liquidity Coverage Ratio (LCR).

Click [here](#) for circular.

Consultation paper for amendments to the REIT Regulations

SEBI, in its meeting dated 17 June 2016, had approved bringing out a consultation paper for proposing changes and providing clarifications in the SEBI (Real Estate Investment Trusts) (REITs) Regulations, 2014 ('REIT Regulations'). (Refer NPSG's Weekly Knowledge Round-up - Issue: 2016-17). SEBI has now issued consultation paper proposing certain amendments/clarifications to the REIT Regulations. The proposals for consultation, inter alia, include:

- Removing the restrictions on the special purpose vehicle (SPV) (only in case of such SPVs being a holding company) to invest in other SPVs holding the assets;

- Rationalisation of compliance with respect to related party transactions requirement in line with the 2013 Act;
- Allowing REITs to invest up to 20%, in under construction assets;
- Aligning minimum public holding requirement with Securities Contracts (Regulation) Rules, 1957;
- Clarification on the definitions of 'real estate property' and 'associates' in the regulations.

The last date for submission of comments is 07 August 2016.

Click [here](#) for consultation paper.