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Gist of the important changes incorporated in the Companies Act' 2013

1. CHANGE IN SHARESHOLDINGS;-Every listed Company shall file with ROC a return in form no. MGT-10, in case of changes in the shareholdings of the Promoters and top 10 shareholders either increase or decrease of 2 % or more, either in value or volume of shares within 15 days of such change (Section 93)
2. CORPORATE SOCIAL RESPONSIBILITY;-Every company having net worth of Rs. 500Crores or more and or turnover of Rs. 1000 crores or more and/or a net profit of Rs. 5 crores or more during any financial year shall constitute a CSR Committee consisting of 3 or more directors including one independent director in case of listed Company, to formulate the CSR policy falling within the purview of Schedule-VII of the Act., recommend the amount of expenditures to be incurred and monitor the CSR policy of the Company and the Board of the company is to consider, approve and ensure to spend in every year on CSR activities as per stated CSR policy at least 2% of the average net profit of last three years or otherwise explain in their Board's Report. (Section 135).

3. RELATED PARTY TRANSACTIONS:- In addition to goods and services, some contracts or arrangements are also included in the ambit like leasing, sale & purchase of properties, appointment of related parties to any office or place of profit and to underwrite to subscribe any securities or derivatives thereof. Further no more approval of the central Government is required and such contract can be entered after approval by the Board or in case of company having paid up share capital of Rs. 10 crores or more or where the value of the transaction of sales or purchases of goods are likely to cross 25% or more of the annual turnover or in case of dealing in properties and other services are likely to be resulted in to transaction exceeding 10% of the net worth of the company, the prior approval of the shareholders by way of special resolution shall be required, Every transaction by a company with its related party would require prior approval of Audit Committee . Further interested director or member can not vote at those meetings, in case of private Company where all related persons are director/ member such transaction is not possible , further detailed disclosure of such transactions are required to be made in the Board Report.(Section 188)

No approval of Board or Shareholders is required if the transactions take place in the Ordinary Course of Business on Arm's length basis.

3.1. No Central Government's approval is required for appointing related party to the office or place of profit, such appointment can be done by the board if the salary does not exceed Rs. 2.50 lacs per month.or by way of prior approval of the members, if the salary exceed the above limit.

4. QUORUM;- Minimum quorum of General meeting to be held by the public companies are, revised as under.

In case the Company has, not more than 1000 members = quorum will be 5 members

In case the company has members between 1001 to 5000= Quorum will be 15 members

In case the Company has more than 5000 members = 30 members

However at the adjourned meeting if quorum is not present within half an hour, the members present shall form the quorum.(Section 103)

5. REPORT ON AGM;-Every listed company shall prepare a Report on AGM (in addition to minutes) and shall file such Report on each Annual general meeting with ROC within 30 days of the meeting in form no.MGT-15,in respect of the compliance of the laws relating to the holding of the meeting.(Section 121)

6. DEMAND FOR POLL;-Members or Proxy holders having not less than 1/10 of the total voting power or holding shares on which an aggregate sum of not less than Rs. 5 lacs or more has been paid up, can demand poll at the general meeting of the company.(Section 109)

7. ELECTRONIC VOTING FACILITY;-Every listed Company and Company having not less than 1000 shareholders shall provide electronic voting facilities to the shareholders in case of general meetings in line with Postal ballot Process through electronic voting (Rule 20, chapter VII)

8. UNPAID DIVIDEND;-Name and address of the members whose unpaid dividend is/are been transferred to IEPF have to be hosted on the web site of the Company with in 90 days of the transfer.[Section 124(2)]
9. UNCLAIMED SHARES;- All shares in respect of which unclaimed and unpaid dividend has been transferred to IEPF shall also be transferred by the Company in the name of IEPF [Section 124(6)], however no form and rules have been prescribed so far.
- 10.APPOINTMENT & ROTATION OF THE AUDITORS;- Every company is to appoint Auditors for a term of five years at a time subject to rectification at subsequent AGM every year, however every listed company or unlisted public Company having paid up share capital of Rs. 10 crores or more and Private Companies having paid up capital of Rs. 20 crores or more and having public borrowings of Rs. 50 crores or more shall not appoint or reappoint Auditors for one term of 5 years, in case of Individual as Auditors , and for not more than two terms of 5 years in case of firm of Auditors, However the period for which the Auditors has held office as Auditors prior to the commencement of this Act shall also be considered for calculating the period of 5/10 years as the case may be. The Company has to comply with the provisions with in next 3 years.

10.1. Now Company has to file Form no. ADT-1 with ROC within 15 days of the appointment/ reappointment of the Auditors.

10.2. The Company shall send notice of every General meeting to the Auditors of the Company and the Auditors or his qualified Assistant shall attend such meeting, unless exempted by the Company.

11.DIRECTORS;- The Board can have up to 15 directors in place of 12 in the earlier laws, and can have more than 15 after passing of a special Resolution, (Section 149/150)

11.1 Directors resigning from the office shall file form no DIR-11 to ROC within 30 days of resignation, directly without waiting for the Company to report his resignation to ROC

11.2 Members holding not less than 1 % of the shares in the Company or holding shares on which an aggregate sum not less than 5 lacs has been paid up can send special notice to the company or write to the Company for removal of the director

11.3 Restriction on the insider trading and future & Option dealings by the directors.

11.4 Every company shall have one resident director who stay in India not less than 182 days in a year

11.5 Every listed Company or Public company having paid up capital of Rs. 100 crores or more or turnover of Rs.300 crores or more to have at least one Woman directors, the existing companies shall comply with this provision within 31.03.2015 and the new Company within 6 months of incorporation.

12.INDEPENDENT DIRECTORS;- Every listed Company shall have 1/3 Independent directors(ID) and Public company having paid up share capital of Rs. 10 crores or more or turnover of Rs. 100 crores or more or having in aggregate the loans, deposit, debentures exceeding Rs. 50 crores shall have at least 2 Independent directors (ID) (other than Nominee directors) or such higher as may be required to form committees, ID can be appointed for 5 years at a time and can be re-appointed for one more term of 5 years by way of Special Resolution, thereafter the ID needs 3 years cooling period. Every ID has to give declaration in the first meeting of the Board about his independence, ID has to meet separately once in a year and Board has to evaluate the role and function of IDs (Section 149)

13.POSTAL BALLOT;- Resolution regarding giving of loans, guarantees, providing securities and investment in securities beyond limits u/s 186 (2) & (3), Alteration of the Object clause of the Company and in case of the existing Companies alteration of the Main objects, alteration of the Articles to constitute the company as Private Company, change of Registered office outside the local limit, buy back of shares and sale of whole or substantially whole of the undertakings etc as per rule 22(16) of Chapter-VII are to be passed through Postal ballot only

13.1.Provision governing postal ballot extended to companies other than one person Company and company having up to 200 members.(Section-110)

14.LOAN TO DIRECTORS & OTHER PERSON, FIRM COMPANY IN WHICH THE DIRECTOR IS INTERESTED;- No company other than NBFC Companies, can give loan, guarantee, provide securities to directors (other than MD and WTD as part of the service contract), their relatives and to such Companies and firm in which director is interested, other than wholly owned subsidiaries.

14.1 LOANS & INVESTMENT;- No Company shall give loan, guarantee, provide securities and make investment exceeding 60 % of the share capital, free Reserve and share premium account or 100 of the free Reserve and security premium whichever ever is more, excluding wholly owned subsidiaries, without prior approval of the shareholders.

14.2. ACCEPTANCE OF DEPOSITS BY SMALL AND PRIVATE COMPANIES;- Private Companies can accept loan from Directors (that too his own money) and/or exempted deposits like inter corporate loans etc only and existing deposits needs to be redeemed within one year.

14.3 The Companies with net worth of Rs. 100 crores or turnover of Rs. 500 crores can accept public deposit after complying with acceptance of deposit rules, which will make the deposit costlier and too many hassels.

15.CONSolidATION OF ACCOUNTS;- In addition to the accounts of the subsidiaries the accounts of the Associates companies (such company in which the first company hold at least 20 % of the shares) also needs to be consolidated while finalizing the accounts, if a companies have 5 shareholders each holding 20 % of the shares the accounts of such company shall be consolidated with all the five companies.

16.ISSUE OF SHARES /PRIVATE PLACEMENTS;-In addition to public companies now the private Companies too has to allot shares through private placement rout only for which along process has to be followed taking about 45 days to allot shares, like holding board meeting to approve offer letter as per Form no. PAS-4, select group of person to offer shares and to decide about convening of the General meeting, such approved offer letter can be mailed to only selected peoples pre decided by the board, company need to open separate Bank Account for the issue, no cash transaction is allowed and allotment has to be made with 60 days of the opening, The company is required to file offer documents PAS-4 to ROC with in 30 days in addition to Return of allotment if any and has to maintain other records and other compliances in form no PAS-5

17.ANNUAL RETURM;-

Due date for Annual Report preparation is changed from date of Annual General Meeting to last date of Financial Year, (MGT-7 or MGT-8)
Though filing period of Annual Return remains unchanged

17.1. Annual Return of every listed and company having paid up capital of Rs. 10 crores or more or turnover of Rs. 50 crores or more shall be certified by Practising company Secretaries the format of the Return enlarged to include matters relating to good governance and more disclosures.[Section 92(2)]

17.2; The Extract of the Annual Return in form no MGT-9 to be attached with the Board's Report [section 92(3)]

18. SECRETARIAL AUDIT:- Every listed Company and Public Company having paid up share capital of Rs, 50 crores or more or turn over of Rs. 250 crores or more shall have to obtain Secretarial Audit by Practising company Secretaries(Section 204)

19. CERTIFICATE OF COMMENCEMENT OF BUSINESS;- Certificate of commencement of Business is required by every company incorporated under Co. Act, 2013.

20. BOARD MEETING THROUGH VIDEO CONFERENCE;- Board meeting can be held through Video conference system, however following business shall not be transacted through meeting by video conference or other audio visual means:

(i) the approval of the annual financial statements; (ii) the approval of the Board's report; (iii) the approval of the prospectus; (iv) the Audit Committee Meetings for consideration of accounts; and (v) the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.

20.1; Further books of accounts and other statutory records can also be kept electronically, subject to rules.

21.REGISTRATION OF CHARGE;- In case the Company delay in filing of the Charge documents, beyond 30 days approval of the ROC is required to condone delay up to 270 days beyond which the delay can be condoned by Central Government.

22.BOARD RESOLUTION TO BE FILED WITH ROC;- Pursuant to the provisions of section 117 of the Companies Act' 2013, following business items are to be transacted at board meeting only and needs to be filed with ROC in line with filing of the special Resolutions;- (Section 179))

U/s 117(3): Resolution of the Board for appointment, reappointment and variation of the terms of appointment of Managing director. And

U/s 117(3)(g).

- a) To make calls
- b) To buy back securities
- c) To issue securities
- d) To borrow money
- e) To invest fund of the company
- f) To grant loan, give securities or provide guarantees
- g) To approve financial statement and board's report, as the financial statement and Boards Report are mentioned in conjunction, intention of the regulator seems to report ROC only Annual financial statement and Report and not the quarterly financial results, however clarification required

- h) To diversify the business
- i) To approve amalgamation, merger or reconstruction
- j) To take over and acquire Company
- k) any other matter as may be prescribed

23. SECRETARIAL STANDARD;-The Companies have to follow Secretarial Standard while convening Board & General meeting as a laws.

24.DIRECTORS SITTING FEES;- revised upwards and can be paid up to 1 lac Rupees per meeting of the Board and the committees.

25.OTHERS;- If the company has changed its activities, which are not reflected in its name, the company shall change its name in line with its new activities, with in 6 months

25.1 Statutory registers are to be replaced with in 6 months in new format.

25.2 The company shall maintain register of members either at the Registered office or in the cities where more than 10 % of the members reside or with the approval of the members at such other place.

25.3 PERSON HOLDING POSITION OF CHAIRPERSON AS WELL AS THE MANAGING DIRECTOR OR CHIEF EXECUTIVE OFFICER;-An individual shall not be appointed or reappointed as the chairperson of the company, in pursuance of the articles of the company, as well as the managing director or

Chief Executive Officer of the company at the same time after 01 April 2014 unless,—the articles of such a company provide otherwise; or the company does not carry multiple businesses: However the above rule does not apply to the companies engaged in multiple businesses and which has appointed one or more Chief.

25.4 INTERNAL AUDIT (Section 138) : As per Rule 13 of the Companies (Accounts) Rules, the following class of Companies shall be required to appoint internal auditor; –a) Every listed Company, b) every unlisted public Company having –paid up cap of 50 Crores or more or Turnover of 200 Crores or more or O/s loans, borrowings from Banks/ FI exceeding 100 Crores or outstanding deposits of 25 Crores or more, Every Private Company. having – i) Turn over of Rs. 200 Crores or more or O/s loan, borrowings from Banks/ FI exceeding 100 Crores, However the existing Company to comply with the Rules within 6 months from the commencement of Section 138.

25.5 Board Committees: Every Listed Company and Public Company with paid up capital of Rs. 10 crores or more, turnover of 100 crores or more or having in aggregate outstanding loans or borrowings or debentures or deposit exceeding 50 crores or more shall constitute “Audit Committee” and a “Nomination and Remuneration Committee” of the Board

25.6 KMP;- Every listed Company and every Public Company having paid up capital of Rs. 10 crores or more shall have following whole time Key Managerial Personnel. 1) M.D or CEO or Manager or WTD, 2) Company Secretary and 3) CFO

DISCLAIMER;-

Matter expressed in the write up herein are mentioned on the basis of our understanding of the relevant laws. While every care has been taken while compilation of this information and every attempt has been made to present up to date and accurate information, we can not guarantee that inaccuracy will not occur, we will not be responsible for any loss claim, damage or inconvenience caused as a result of any information with in this write up any information accessed herein

Please feel free, to call us for further clarification if any

Thanks

(H M Choraria)

