



## ERGO

*Analysing developments impacting business*

### COVID 19: CORPORATE COMPLIANCE RELAXATIONS INTRODUCED BY MCA

21 March 2020

With COVID-19 being declared a pandemic, various companies have found themselves facing challenges in complying with the Companies Act compliances due to disruptions in their operations. The rampant spread of the virus in the world and more specifically in India now, has called for relaxations in corporate compliance requirements and introduction of strategic policy decisions to limit the spread of the virus. In light of the same, the Ministry of Corporate Affairs (MCA) vide its circular no. D.O.NO.Secy (MCA)/COVID-19/1/2020 DATED 19 March 2020 has released an advisory on preventive measures to curb the spread of COVID-19 (Advisory).

#### Key features of the Advisory

➤ Relaxation of rules regarding board meetings

The Advisory states that the MCA has dispensed with the need to conduct physical board meetings in relation to *inter alia* approval of financial results, board reports and restructuring until 30 June 2020. As per the rules under the Companies Act, 2013, the above matters require physical meeting of the board of directors. It is not clear from the Advisory whether such meetings can now be deferred until 30 June 2020 or that the board meetings can be conducted in any other form including through video conferencing, other audio-visual means or through circulation. Further, such relaxations have only been provided to board meetings and the Advisory remains silent on committee meetings.

➤ “Work from Home” policies

The MCA has strongly advised all companies and limited liability partnerships (LLP) to immediately implement a work from home policy with respect to their employees until 31 March 2020. Such policies shall be implemented in the head quarters and field offices and meetings may be conducted via electronic methods during this period. Further, the Advisory encourages the implementation of staggered timings for essential staff and compliance with all other measures recommended by the public health authorities. It is to be noted that while the MCA has encouraged the implementation of work from home policies, such policies have not been made mandatory.

➤ Company Affirmation of Readiness towards COVID 19 Form (Form CAR)

The MCA proposes to introduce an online form with respect to confirmation of readiness to deal with COVID 19 by companies and LLPs. Form CAR shall be deployed on 23 March 2020 and all companies and LLPs are required to report their compliance with all the guidelines issued by the public health authorities (like work from home) using Form CAR i.e. on 23 March 2020. The form is a simple 'Yes / No' on adoption of work from home policies. The intention of this form could be to enable the Government of India to collect data in relation to the approach followed by companies / LLPs to enable them to implement further steps to combat the spread of virus.

Considering, the Advisory provides for instant confirmation, this may lead to challenges for companies/ LLPs that are not in conformity with Form CAR. Further, the Advisory is silent on any penal provisions or fine that may be applicable on delays in submission of Form CAR and may be provided in the circular to be released by the MCA on 23 March 2020.

Comment

The Advisory is a welcome move by the MCA to provide clarity on compliances under the Companies Act, considering the current economic and health conundrum. The Advisory is also in sync with the SEBI's circular on "Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 due to the CoVID -19 virus pandemic" dated 19 March 2020 (SEBI Circular). Additionally, the SEBI Circular has provided relief to listed companies by exempting them from compliance with the maximum stipulated time gap between two meetings for the meetings held or proposed to be held by the board of directors/ audit committee between 1 December 2019 and 30 June 2020. However, considering that the communication from MCA is in the form of an advisory, we may expect further communication from MCA throwing further light in this regard.

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