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Policy changes to the Corporate Social Responsibility mandate

By **Noorul Hassan**

The Ministry of Corporate Affairs has been on a spree to decriminalise offences under the Companies Act and make it more corporate/ stakeholder's friendly and better its ease of doing business rankings. The introduction of Companies (Amendment) Act, 2020 ('**Amendment Act**') is the second attempt to decriminalize various offences, the first one being the Companies (Amendment) Act, 2019.

One of the revolutionary introduction, rather significant addition, to the Companies Act, 2013 ('**Act**') is the obligation to contribute towards social causes of the society, popularly or legally termed as 'Corporate Social Responsibility' or 'CSR' and rightfully it has undergone amendments on multiple occasions.

Curiously, there was no penal consequence that was spelt out clearly for non-compliance of Section 135 of the Act, which includes not spending the prescribed amounts. There were certain important changes that were made to Section 135 through the Amendment Act, which are worth their discussion, *inter alia*, introducing penalty for non-compliance. While most of the sections of the Amendment Act, have been notified w.e.f. 21 December 2020, Section 27 dealing with CSR changes is yet to be notified, may be for making alignment to the Companies (CSR Policy) Rules, 2014.

Amendment Act, 2020 and its implications:

Carry forward of excess spend:

The Companies to whom Section 135 applies are supposed to make disclosure in the Annual Reports about their amounts spent during the financial year. If there is any deficit in a given year, it must be carried forward to the next financial year, for its spending. However, there was no corresponding provision enabling carry forward of excess spent to the succeeding financial year. The new provision encourages corporates to spend more in a financial year, like for instance in the pandemic financial year 2019-20, a company would have spent more on health care or contributed towards PM-CARES Fund, which will in a way substitute the government spending and at the same time giving allowance for its carry forward, a win-win approach.

Penalty for non-compliance:

So far, for any non-compliance of the provisions of Section 135, corporates have been making disclosure in the Director's Report. Now, through the Amendment Act, sub-section (7) has been amended as per which a non-compliant entity shall be liable to pay a penalty of twice the amount required to be transferred to the Fund specified in Schedule VII (List of CSR Activities) ('**CSR Fund**') or to the Unspent CSR Account (or) Rs. 1 Crore, whichever is less. Further, every officer who is in default shall be liable to a penalty of 1/10th of the amount required to be transferred as above, or Rs. 2 lakhs, whichever is less.

It may be noted that the base amount on which penalty is calculated refers to the unspent CSR amount.

The Code on Social Security, 2020 that was introduced as part of the labour reforms is aimed at extending social security coverage to the

workforce engaged in both organized and unorganized sectors of the country. The Code has specific provision for utilization of CSR Fund for funding certain social security schemes under viz., contribution to the Employee State Insurance Corporation, social welfare schemes for unorganized, gig and platform workers, etc. Bringing the CSR Funds back in to the system for creating necessary eco-system would benefit corporates at large and goes a long way in developing a sense of responsibility for corporates.

New thresholds for formation of CSR Committee:

The Amendment Act has introduced a new sub-section (9) and brought in a threshold for constituting a CSR Committee. If the amount of CSR does not exceed INR 50 lakhs, the constitution of CSR Committee would not be applicable, and the functions of such Committee would be discharged by the Board itself.

The amount of CSR is calculated @ 2% on the average net profits made during the three immediately preceding financial years. Arithmetically, the requirement of constitution of CSR Committee would be applicable when a company had an average net profit of INR 25 Crores. On a compliance note, this would ease the requirement for companies from having multiple board committees.

The companies that have already constituted CSR Committees but spending less than INR 50 lakhs, may take a decision to derecognize the CSR committee already constituted and if necessary, make suitable changes to the CSR Policy as well.

Perception change

Gradually, there is an increased recognition to the companies contributing towards social obligations/ causes, particularly in view of COVID-19 and constitution of PM-CARES Fund. One should not look at spending towards CSR as an alternative to the Government funding, but only consider it as a complementary. The changes brought through the Amendment Act are definitely a measurable step in creating right framework.

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Notifications and Circulars

Independent directors – Compliance for online proficiency self-assessment test relaxed: MCA has relaxed certain provisions with respect to mandatory online proficiency self-assessment test that one must undergo, post inclusion of his/her name in data bank, to make themselves eligible for appointment as an Independent Director. Individuals are now allowed to appear for an online proficiency self-assessment test within two years (as against one year), from the date of inclusion of his/her name in the data bank. MCA has also revised the list of exemption criteria for an individual, to exempt them from appearing online test. Tenure of directorship in certain classes of companies, for claiming exemption from online test, has been

reduced from 10 years to 3 years. An individual shall be deemed to be passed in an online test, by securing 50% in such test (Earlier it was 60%). Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2020, dated 18 December 2020 have been notified for the purpose.

Compromises, Arrangements and Amalgamations – Rules amended: MCA has introduced the definition of 'corporate action' and has laid down the complete procedural step in respect of purchase of minority shareholding held in Demat form, by inserting new Rule 26A. Companies (Compromises, Arrangements and Amalgamations) Second Amendment Rules, 2020, dated 17 December 2020 have been notified for the purpose.

Company shall complete verification of details of minority shareholders within two weeks from receipt of amount equal to price of shares that the acquirer intends to acquire from minority shareholders under Section 236 of the Companies Act, 2013. After verification is completed, the company shall send notice to minority shareholders, intimating them about cut-off dates. Upon receiving necessary information from the company, the depository shall transfer shares of minority shareholders, who have not transferred on their own, into the designated account of company, on cut-off date. Company Secretary shall be authorized for the purposes of effecting the transfer of shares. Upon transfer of shares, the company shall immediately disburse the price of the shares so transferred.

Code on Wages – Certain provisions effective from 18 December 2020: The Ministry of Labour and Employment has issued a notification to bring into force certain provisions of the Code on Wages, 2019. As per notification dated 18 December 2020, sub-sections (1), (2), (3), (10) and (11) of Section 42 (to the extent they relate to the Central Advisory Board); clauses (s) and (t) of Section 67(2) (to the extent they relate to the Central Advisory Board); and Section 69 [to the extent it relates to Sections 7 and 9 (to the extent they relate to the Central Government) and Section 8 of the Minimum Wages Act, 1948], have come into effect from 18 December 2020. The provisions relate to constitution of Central Advisory Board by the Central Government.

Depository Receipts to NRIs – SEBI revises framework: Securities and Exchange Board of India ('SEBI') has revised the framework for issue of Depository Receipts ('DRs') to non-resident Indians. As per Circular No. SEBI/HO/MRD2/DCAP/CIR/P/2020/243, dated 18 December 2020, the restrictions under para 2.15 of Circular No. SEBI/HO/MRD/DOP1/CIR/P/2019/106 dated 10 October 2019 shall not apply in case of issue of DRs to NRIs, pursuant to share based employee benefit schemes [implemented in terms of SEBI (Share Based Employee Benefits) Regulations 2014], or bonus or rights issue. Criteria for Permissible holders of DRs has been revised. Further, as per the new para 2.12A, the onus of identification of NRI holders, who are issued DRs in terms of employee benefit scheme, would lie with the listed company. The listed company shall provide the information of such NRI DR holders to the designated depository for monitoring of limits.

Audit of companies – Companies (Auditor's Report) Order, 2020 effective from 1 April 2021: The MCA has issued a notification wherein the applicability date of Companies (Auditor's Report) Order, 2020 has been changed to the financial years commencing on or after the 1 April

2021. Companies (Auditor's Report) Second Amendment Order, 2020, dated 17 December 2020 has been issued for the purpose.

CSR funds can be used in public outreach campaigns for COVID-19 Vaccination programme: The MCA has clarified that spending of CSR funds for carrying out awareness campaigns/programmes or public outreach campaigns on COVID-19 Vaccination programme is an eligible CSR activity under item no. (i), (ii) and (xii) of Schedule VII of the Companies Act, 2013. General Circular No. 01/2021, dated 13 January 2021 issued for the purpose also states that companies may undertake the aforesaid activities subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the circulars related to CSR.

State Co-operative Banks and Central Co-operative Banks – Application of Banking Regulation Act, 1949: The Ministry of Finance has notified that Section 4 of the Banking Regulation (Amendment) Act, 2020, shall come into effect from 1 April 2021 for State Co-operative Banks and Central Co-operative Banks. Accordingly, such banks would be under the regulatory framework of Reserve Bank of India. Notification dated 23 December 2020 has been issued for the purpose in exercise of the powers conferred by Section 1(2) of the Banking Regulation (Amendment) Act, 2020.

Scheme of Arrangement by Listed Entities – SEBI notifies Master Circular: The master circular under Part I outlines requirements before the scheme of arrangement is submitted for sanction by the National Company Law Tribunal (NCLT). Further, it lays down the requirements to be complied with for a listed entity such as choosing a national stock exchange for coordinating with SEBI, submitting enlisted documents along with a valuation report and auditor's certificate; obligations of a stock exchange and upon receipt of 'No-Objection' letter from the Stock Exchanges, SEBI shall process the draft scheme.

Relaxation under Rule 19(7) of the Securities Contracts (Regulation) Rules, 1957 – SEBI notifies Master Circular: The master circular under Part II discusses the application for relaxation under sub-rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957. Further, it outlines the requirements to be fulfilled by listed entity for listing of equity shares; details regarding application by a listed entity for listing of warrants offered along with Non-Convertible Debentures (NCDs); requirements to be fulfilled by Stock Exchange(s) and the processing of the Scheme by SEBI.

Companies (Amendment) Act, 2020 – Certain provisions effective from 21 December 2020: The Ministry of Corporate Affairs has notified 21 December 2020 to be the effective date for the certain sections of the Companies (Amendment) Act, 2020. Accordingly, Sections 1, 3, 6 to 10 (both inclusive), 12 to 17 (both inclusive), 18(a) and 18(b), 19 to 21 (both inclusive), 22(i), 24, 26, 28 to 31 (both inclusive), 33 to 39 (both inclusive), 41 to 44 (both inclusive), 46 to 51 (both inclusive), 54, 57, 61; and 63 are effective from the said date. It may be noted that the amendments include provisions relating to decriminalisation of offences in case of certain technical shortfalls or minor procedural lapses.

Payments for goods/ services in Government e- Marketplace – Procedure revised: The Ministry of Finance has notified the procedure for payment of goods/services to sellers/service providers in government e-marketplace through PFMS and non-PFMS agencies. Additions have been made in Para 7A (iv) of department's OM No. 6/18/2019-PPD dated 23 January 2020 through which provision of fund blocking equivalent to full contract value is applicable only

for contracts with delivery periods of up to 20 days. For contracts with longer delivery periods, fund blocking of appropriate amounts shall be initiated at a date 20 days prior to expected delivery date or on the date of invoice generation by the seller in Government e-market place ('GeM'), whichever is earlier. On failure in making available the required funds, the seller has the right to decline supply and to seek contract cancellation without any administrative action against the seller. O.M. dated 29 December 2020 has been issued for the purpose.

Ratio Decidendi

Corporate Insolvency Resolution Process can be initiated against principal borrower as well as corporate guarantor, simultaneously

Key points:

The National Company Law Appellate Tribunal ('NCLAT') has allowed an appeal filed by the State Bank of India ('Appellant'), for filing two applications, for the same amount, against the corporate debtor ('Respondent'), being a corporate guarantor for another company ('Principal Borrower') pursuant to Sections 60(2) and 60(3) of the Insolvency and Bankruptcy Code, 2016 ('IBC'). The NCLAT thereby set aside the Order passed by the National Company Law Tribunal ('NCLT').

Brief facts:

The Principal Borrower was joint venture company promoted by the Respondent. The Principal Borrower executed necessary documents in favour of the Appellant and other banks and availed financial assistance in consortium. Subsequently, due to advanced financial requirement, the Respondent came forward and executed corporate guarantee and documents in favour of the Appellant.

The Appellant disbursed the amount to the Principal Borrower who committed default in repayment. An application to NCLT was submitted by the Appellant for initiation of CIRP against the Principal Borrower.

Further, the Appellant filed another application to seek initiation of CIRP against the Respondent on the contention that Section 60(2) of IBC provides that simultaneous application against the Principal Borrower as well as Respondent, being corporate guarantor, can be filed and the same can also be maintained.

Issue:

When an application under Section 7 of IBC had been admitted against a principal borrower, whether another application by the same financial creditor could be admitted against corporate guarantor on same set of claims and default?

Submissions by the Appellant:

Under Section 128 of the Indian Contract Act, 1872 ('Contract Act'), liability of the borrower and the guarantor is co-extensive, and the creditor is entitled to proceed against either or both and no sequence is required to be followed.

Reliance was placed on Section 60(2) of IBC to submit that simultaneous application could be

filed against the principal borrower as well as corporate guarantor and that the same could also be maintained.

The Insolvency Law Committee Report of February 2020 ('ILC Report') discussed the issue and observed that proceedings could be maintained against the principal borrower as well as corporate guarantor and financial creditor could file claims in both CIRP proceedings.

Submissions by the Respondent:

It is accepted that under Section 128 of Contract Act, liability of the surety is co-extensive with the principal borrower and the creditor may proceed against principal borrower, or the guarantor or both, in no particular sequence in recovery proceedings. However, this principle is not applicable in insolvency proceedings against the borrower and guarantor or against more than one surety, for same set of claims as claims against surety have to be reduced to the extent of claims already lodged by the financial creditor.

Further, the counsel for Respondent relied on NCLAT's judgment in *Dr. Vishnu Kumar Agarwal* v. *Piramal Enterprises Limited* (Company Appeal (AT) Insolvency No. 346 of 2018) ('Piramal Judgement') wherein it was held that once for the same set of claim application under Section 7 of IBC by the financial creditor is admitted against one corporate debtor i.e. principal borrower or corporate guarantor, second application by the same financial creditor for the same set of claim and default cannot be admitted against the other corporate debtor i.e. principal borrower or corporate guarantor.

Observations of NCLAT:

IBC has no repulsion to simultaneous initiation of proceedings against the corporate guarantor and principal borrower.

Simultaneously remedy is central to a contract of guarantee and where principal borrower and surety are undergoing CIRP, the creditor should be able to file claims in CIRP of both of them. The IBC does not prevent this.

NCLAT further agreed with the ILC Report as well as the Appellant's stand that the insolvency application under the IBC against both the Respondent and the Principal Borrower were maintainable. It further relied on Section 60(2) and Section 60(3) of the IBC that two applications can be filed against both of them for the same amount and would be constituted as maintainable.

NCLAT further opined that considering the issues which were before the NCLAT when Piramal Judgement was decided, the moot question was relating to whether CIRP can be initiated against two corporate guarantors simultaneously for same set of debt and default. The issue was not whether an application can be filed against the principal borrower as well as the corporate guarantor. The appeal was allowed and the order of NCLT was set aside.

[*State Bank of India* v. *Athena Energy Ventures Private Limited* – (Company Appeal (AT) (Insolvency) No. 633 of 2020), Judgment dated 24 November 2020, National Company Law Appellate Tribunal, New Delhi]

NCLAT directs a company to redeem debentures under Section 71(10) of the Companies Act, 2013

Key points:

NCLAT directed the Respondent to repay the amounts due and payable within 2 months to debenture holders ('Appellant') on finding that no concerted efforts were undertaken by the Respondent to explore the possibilities of settlement as directed by the NCLT *vide* its Order earlier.

Brief facts:

The Respondent had issued certain secured Non-Convertible Debentures ('NCD') to Appellants. Further, a debenture trust deed was executed between Vistra ITCL (India) Ltd. ('Debenture Trustee'). Subsequently, allotment letters were issued to the Appellants for issuance of secured NCD. The Appellants were entitled to quarterly interest from the Respondent, however, post 1 January 2018, the Respondent failed to pay such interest.

The NCLT, *vide* its Order gave a direction to the Respondent to explore all possibilities of settlements of claims and granted six months' time for such settlement.

Issue:

Whether provisions of Section 71(10) of the Companies Act, 2013 ('Act') were adhered by the NCLT while disposing of the application?

Observations of NCLAT:

The main contention of the Counsel appearing for the Appellants was that NCLT did not specifically address to 'the prayer for repayment' but rather gave a direction to explore all possibilities of settlements of claims of Petitioners and granted six months' time, which is *ultra vires* to Section 71(8) and Section 71(10) of the Companies Act, 2013.

NCLAT observed that Section 71(11) of the Act speaks of '*penalty for default*'. Further, Section 71(12) of the Act provides '*a contract with a company to take up and pay for any debentures of the company may be enforced by a decree of 'specific performance*'.

NCLAT further stated that '*specific performance*' relief is allowed as a 'rule' when no other relief can be granted considering the circumstance of the case. NCLAT relied on *Mamta Kothari* v. *Bharat Hydro Power Corporation Ltd.* (2015) 129 SCL, where the Company Law Board ('CLB'), Kolkata discussed Section 117(4) of the Companies Act, 1956 (equivalent to Section 71 of the Act). The CLB in this case directed the respondent company to redeem the debentures by payment of the principal amount and interest due thereon as per the terms and conditions of the issue of such debentures.

NCLAT stated that NCLT gave direction for settlement taking into consideration the financial status of the company, interest of the stakeholders but the Respondent did not take any pro-active steps to initiate or explore any kind of possibility of settlement.

Further NCLAT opined that Section 71(10) of the Act provides a clear mechanism for issue and repayment of debentures as well as enforcement of repayment obligations. Further, Section 71(10) of the Act does not empower the NCLT to ascertain the financial condition of the defaulting party or grant any other relief than the relief provided for under the said section.

Having regard to the (i) prayer of the Appellants; (ii) provisions of Section 71(8) read with Section 71(10) of the Act; and (iii) fact that no concerted efforts were made by the Respondent to explore the possibilities of settlement, the NCLAT disposed the appeal with a specific direction to the Respondent to repay the amounts 'due and payable' to the Appellants within a period of two months.

[*Akhil R Kothakota and Madadi Rinda* v. *Tierra Farm Assets Company Pvt. Limited* – Company Appeal (AT) No. 39 of 2020, Judgment dated 9 November 2020, National Company Law Appellate Tribunal, New Delhi]

News Nuggets

Arbitration – Supreme Court propounds test for non-arbitrability

The Larger Bench of the Supreme Court of India has propounded a four-fold test for determining when the subject matter of a dispute in an arbitration agreement is not arbitrable. According to the Court, the subject matter is not arbitrable when,

- the dispute relates to actions in *rem*, that do not pertain to subordinate rights in *personam* that arise from rights in *rem*;
- the dispute affects third party rights; have *erga omnes* effect; require centralized adjudication, and mutual adjudication would not be appropriate and enforceable;
- the dispute relates to inalienable sovereign and public interest functions of the State and hence mutual adjudication would be unenforceable; and
- the dispute is expressly or by necessary implication non-arbitrable as per mandatory statute(s).

The Apex Court however noted that these tests are not watertight compartments; they dovetail and overlap, and have to be applied with care and caution. The 3-Judge Bench of the Supreme Court in this case *Vidya Drolia and Others* v. *Durga Trading Corporation* [decision dated 14 December 2020] held that landlord-tenant disputes governed by the Transfer of Property Act are arbitrable as they are not actions in *rem* but pertain to subordinate rights in *personam* that arise from rights in *rem*. It, however, stated that landlord-tenant disputes covered and governed by rent control legislation are not arbitrable when specific court or forum has been given exclusive jurisdiction to apply and decide special rights and obligations.

Regarding the issue of as to who decide on non-arbitrability – Court or arbitral tribunal, the Supreme Court held that that the arbitral tribunal is the preferred first authority to determine and decide all questions of non-arbitrability.

Tender – Mentioning of HSN Code in tender document when important

In a dispute where the GST value was to be added in the base price to arrive at the total price of offer in a tender, the Allahabad High Court has held that it is incumbent on the part of the authority issuing tender to clarify the HSN Code, i.e. to clear its stand with regard to the applicable GST rate and HSN Code of the product intended to be procured. The Court was of the view that mentioning of HSN Code in the tender document itself will resolve all disputes relating to fairness and transparency in the process of selection of bidder, by providing 'level playing field' to all bidders/tenderers in the true spirit of Article 19(1)(g) of the Constitution of India. The High Court in the case *Bharat Forge Limited* v. *Principal Chief Materials Manager Diesel Locomotive Works* [Judgement dated 18 December 2020] also held that it would be the duty of the authority issuing tender to seek clarification from GST authorities on correct HSN Code or GST rate.

Insolvency – Buy-back transaction – No 'default' if financial creditor not fulfilled agreed consideration

In a case involving buyback transaction as contemplated under Section 5(8)(f) of the Insolvency & Bankruptcy Code, 2016, the NCLAT has held that if the Financial Creditor does not pay the full agreed consideration to the Corporate Debtor, it cannot allege default on the part of the Corporate Debtor. Considering the terms of the agreement, the Appellate Tribunal held that there was no such term or condition to infer that the transaction in question was a derivative transaction and thus it cannot be held that the transaction was a financial debt as defined under Section 5(8)(g). Dismissing the appeal, the NCLAT in the case *K S Sreenivasan* v. *Landmark Housing Projects India Pvt. Ltd.* observed that the appellant failed to bring on record any evidence to suggest that it disbursed the amount to respondent against consideration for time value of money.

Insolvency – 'Avoidance of preferential transactions' application not survives beyond conclusion of resolution process

The Delhi High Court has held that an application for avoidance of a preferential transaction, though filed prior to the Resolution Plan being approved by the NCLT, cannot be heard and adjudicated by the NCLT, at the instance of the Resolution Professional, after the approval of the Resolution Plan by it. The Court observed that an avoidance application for any preferential transaction is meant to give some benefit to the creditors of the Corporate Debtor and is not meant for the Corporate Debtor in its new avatar, after the approval of the Resolution Plan. The High Court in the case *Venus Recruiters Pvt. Ltd.* v. *Union of India* [Judgement dated 26 November 2020] also held that assessment by the RP of the objectionable transactions including preferential transactions cannot be an unending process. It also held that the RP cannot continue beyond an order under Section 31 of the Insolvency & Bankruptcy Code, 2016, as the Corporate Insolvency Resolution Process comes to an end (subject to any clause in the Resolution Plan to the contrary) with a successful approval of the Resolution Plan.

Legal metrology – Only online registrations from 1 January 2021

The Ministry of Consumer Affairs, Food and Public Distribution has notified that after 1 January 2021, only online applications for registration will be entertained. According to the news update on the website of the Ministry, this will apply to importer of weights and measures under Section 19 of the Legal Metrology Act, 2009 and manufacturer/ packer/ importer of packaged commodities under Rule 27 of the Legal Metrology (Packaged Commodities) Rules, 2011.

Industrial Relations Code – Draft Model Standing Order published for various sectors, including service sector

The Ministry of Labour and Employment has published a draft Model Standing Orders for the manufacturing, mining and service sectors. Suggestions/objections have been invited from all the stakeholders within 30 days. According to the Press Release dated 2 January 2021 of the Ministry, a separate Model Standing Order for services sector has been prepared first time. The salient features are as under:

- Where an employer adopts a Model Standing Orders of the Central Government to his industrial establishment or undertaking, for the matters relevant to his industrial establishment or undertaking then, such model standing order shall be deemed to have been certified.

- The concept of 'Work from home' has been formalized in the Model Standing Order for service sector.
- Irrespective of location, the model standing orders adopted in respect of an industrial establishment shall also be applicable to all other industrial units of the industrial establishment.
- All the Model Standing Orders encourage employer for use of information technology in dissemination of information to the workers through electronic mode.
- To provide safeguard to IT industry, 'Involvement in unauthorized access of any IT system, computer network of the employer/ customer/client' has been prescribed as a misconduct.
- The Model Standing Orders for services sector *inter alia* provides that in case of IT Sector, the working hour shall be as per agreement or conditions of appointment between employer and workers.
- 'Habitual' with respect to indiscipline has been defined if the worker found guilty of any misconduct three or more times in preceding twelve months.
- Rail Travel Facility has been extended to the workers in the mining sector. Presently, it is being availed by the workers in coal mines only.

SEBI approves various amendments in SEBI (Mutual Funds) Regulations, 1996, SEBI (ICDR) Regulations, 2018 and other Regulations

SEBI has in its meeting on 16 December 2020 approved various amendments to the SEBI (Mutual Funds) Regulations, 1996, SEBI (ICDR) Regulations, 2018, SEBI (Investment Advisers) Regulations, 2013, SEBI (Alternative Investment Funds) Regulations, 2012, SEBI (Intermediaries) Regulations, 2008. Repeal of the SEBI (Central Database of Market Participants) Regulations, 2003 has also been approved.

Some of the major amendments in SEBI (Mutual Funds) Regulations are as follows:

- Sponsors that are not fulfilling the eligibility criteria at the time of making the application shall also be considered, subject to the condition of having net-worth of not less than INR 100 Cr. for contribution towards the net-worth of the Asset Management Company (AMC). This net worth of the AMC must be maintained till the time AMC makes a profit for 5 consecutive years.
- To streamline the manner of computation of net-worth of the AMC and make it mandatory for all AMCs to maintain the minimum net-worth on a continuous basis.
- All assets and liabilities of each scheme shall be segregated and ring-fenced from other schemes of the mutual funds in addition to the existing requirement of segregating bank accounts and securities accounts.

The Board has further approved proposals including dispensing with the requirement to issue physical unit certificates, reducing maximum permissible exit load, reducing the timeline for payment of dividend, permitting other modes for payment of dividend and providing clarity with respect to payment of interest and penalty in case of delay in dividend payment, etc.

In respect of SEBI (ICDR) Regulations, 2018, the SEBI has approved the proposal to do away with the applicability of Minimum Promoters'

Contribution and the subsequent lock in requirements for the issuers making a further public offer of specified securities subject to fulfilment of the following conditions:

- The equity shares of the issuer are frequently traded on a stock exchange for a period of at least three years.
- The issuer has been in compliance with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for a period of at least three years, and
- The issuer has redressed at least ninety-five per cent of the complaints received from the investors.

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