



NEWSLETTER

Legal, Compliance and ESG

07 June 2021

Dear Readers,

We bring to your reading and attention following topics:

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A. LEGAL AND REGULATORY UPDATES:

~ Anand Asawa and Saurav Agarwal

I. Gap Between Two Board Meetings Under Section 173 of the Companies Act, 2013¹

MCA vide its general circular dated May 03, 2021, in view of the difficulties arising due to resurgence of Covid-19, has allowed relaxation in the requirement of holding meetings of the Board of the companies within the intervals provided in section 173 of the Companies Act, 2013 i.e., 120 days to a period of 180 days for first two quarters of Financial Year 2021-22 i.e., April to June 2021 and July to September 2021.

II. Amendment to the Master Direction (MD) on KYC²

RBI vide its notification dated May 10, 2021 has amended the Master Direction (MD) on KYC dated February 25, 2016 so as to further leverage the Video based Customer Identification Process (V-CIP) and to simplify and rationalize the process of periodic updation of KYC. The notification includes the detailed process to be followed in this regard.

¹https://www.mca.gov.in/Ministry/pdf/GeneralCircularNo8_03052021.pdf

²<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12089&Mode=0#:~:text=Please%20refer>

[%20to%20the%20Master,the%20process%20laid%20out%20therein](#)

III. Clarification on Spending of CSR funds for ‘creating health infrastructure for COVID care’, ‘establishment of medical oxygen generation and storage plants’³

MCA vide its general circular dated May 05, 2021, in continuation to Ministry's General Circular No. 10/2020 dated 23.03.2020, wherein it was clarified that spending of CSR funds for COVID-19 is an eligible CSR activity has further clarified that spending of CSR funds for ‘creating health infrastructure for COVID care’, ‘establishment of medical oxygen generation and storage plants’, ‘manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19’ or similar such activities are eligible CSR activities under item nos. (i) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care, and, disaster management respectively.

The companies including Government companies may undertake the activities or projects or programmes using CSR funds, directly by themselves or in collaboration with other companies as shared responsibility, subject to fulfillment of Companies (CSR Policy) Rules, 2014 and the guidelines issued

by the Ministry of Corporate Affairs from time to time.

IV. Supreme Court Restores Order Extending Limitation; Period From 14.03.2021 Excluded from Computing Limitation Period Until Further Order⁴

The Hon’ble Supreme Court of India vide its order dated April 27, 2021 directed that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders to minimise the hardship to litigant-public.

³https://www.mca.gov.in/Ministry/pdf/GeneralCircularNo9_05052021.pdf

⁴https://main.sci.gov.in/supremecourt/2021/10651/10651_2021_31_1_27776_Order_27-Apr-2021.pdf

B. Digitalization in Financial Sector

~ J.P. Trivedi

Digitalization in the finance sector is crucial to thriving in this competitive world specially after the Pandemic. Financial technology has unlocked numerous opportunities for tapping the massive substantial database of customers allowing a robust digital foundation. It digitalizes business operations, improves production capabilities, resource management and employee efficiency. It also delivers enhanced customer experience by getting deeper behavioral insights and introduces an additional level of transparency.

The Impact of digital Platforms on Indian Economy

India is one of the fastest-growing economies, where digital platforms have accelerated greater proposition, especially during the COVID-19 pandemic. Digital lending has reached its potential, not entirely though, to catapult the Indian MSME's productivity, offering a meaningful market opportunity for both innovative start-ups and traditional lenders.

Coronavirus outbreak and worldwide lockdown have pushed several industries including MSMEs to embrace digitalization to stand in the digital world.

Future Prospect of Digital Technologies in the Finance Sector

It is no longer an option to stick to old analogue ways and manual habits for any industry, including the financial sector. And for those who are looking to improve efficiency and competitive appeal, adoption of digitalization is a must.

Maximizing Data Use

The financial industry is one of the first industries to begin collecting consumer data, and consequently, is a goldmine of customer information. Digital transformation is the connection between the raw data and intelligence that can be used in everything, from business strategy to improving customer relationships.

Enhancing Product Delivery

Financial services products benefit massively from digitalization. Digital products help create efficiency and process savings, and extensive appeal accessible, flexible and low cost- digitalization helps financial sector businesses to develop by enabling these features.

Customer Interactions

From customer service bots to clear and concise applications and social ads, through digital transformation this industry can serve a wide range of consumers, speaking a language that they understand. Adopting digitalization starts with operational structures and processes. It could help with delivering data analysis and reporting to incorporation with other systems.

C. YOUR LEGAL QUERIES ANSWERED

(Answers by K. Selvaraj, Group General Counsel and Head Compliance, Corporate Office, Mumbai)

Q) What is definition of MSME? How does one officially become a MSME? What is the process for registration of MSME with Udyam portal? What are some of the key benefits available to MSEM registered with Udyam portal?

– Vamsi Krishna Toleti, Regional Credit Manager, Centralised Sales

A) Government of India (GoI), vide [Gazette Notification S.O. 2119 \(E\) dated June 26, 2020](#), has notified new criteria for classifying the enterprises as Micro, Small and Medium enterprises. The new criteria had come into effect from July 1, 2020.

The details are as under:

Type of Enterprises	Micro Enterprise	Small Enterprise	Medium Enterprise
Manufacturing or Services Sector or Both	Investment upto ₹ 1 Crores AND Turnover upto ₹ 5 Crores	Investment upto ₹ 10 Crores AND Turnover upto ₹ 50 Crores	Investment upto ₹ 50 Crores AND Turnover upto ₹ 250 Crores

How does one officially become a MSME?

Any person who intends to establish a micro, small or medium enterprise may file Udyam Registration online in the Udyam Registration portal, based on self-declaration with no requirement to upload documents, papers, certificates or proof. On registration, an enterprise (referred to as —Udyam in the Udyam Registration portal) will be assigned a permanent identity number to be known as —Udyam Registration Number. An e-certificate, namely, —Udyam Registration Certificate shall be issued on completion of the registration process.

What is the process for registration of MSME with Udyam portal?

- The form for registration shall be as provided in the Udyam Registration portal.
- There will be no fee for filing Udyam Registration.
- Aadhaar number shall be required for Udyam Registration.
- The Aadhaar number shall be of the proprietor in the case of a proprietorship firm, of the managing partner in the case of a partnership firm and of a karta in the case of a Hindu Undivided Family (HUF).
- In case of a Company or a Limited Liability Partnership or a Cooperative Society or a Society or a Trust, the organisation or its authorised signatory shall provide its GSTIN and PAN along with its Aadhaar number.
- In case an enterprise is duly registered as an Udyam with PAN, any deficiency of information for previous years when it did not have PAN shall be filled up on self-declaration basis.
- No enterprise shall file more than one Udyam Registration: Provided that any number of activities including manufacturing or service or both may be specified or added in one Udyam Registration.

Whoever intentionally misrepresents or attempts to suppress the self-declared facts and figures appearing in the Udyam Registration or updation process shall be liable to such penalty as specified under section 27 of the Act.

What are the benefits available on getting registered as Udyam?

- (a) Tax rebates available for Udyam.
- (b) Becomes easy to get licenses, approvals and registrations, irrespective of field of business as business registered under Udyam are given higher preference for government license and certification.
- (c) Easy access to credit in lower interest rates.
- (d) Registered Udyams gets tariff subsidies and tax and capital subsidies.

Q : When a Borrower is already under IBC and moratorium is in place, whether the Lender can file IBC petition against the Personal Guarantors?

- Ganesh Patel, State Credit Manager - EIL

A) Held yes by the Supreme Court in a recent decision *Lalit Kumar Jain v. Union of India*. In view of this decision simultaneous IBC proceedings can be initiated both against the corporate debtors and personal guarantors. In a similar way simultaneous IBC proceeding can be initiated both against the corporate debtors and corporate guarantors.