

# AN OVERVIEW OF THE COMPANIES (AMENDMENT) BILL, 2017

As passed by the Parliament



## **B**BRIEF SUMMARY

The Companies (Amendment) Bill, 2017, introduced in Lok Sabha on 16 March, 2016 as The Companies (Amendment) Bill, 2016 was referred to the Standing Committee on Finance on 12 April, 2016. The Committee after hearing the views of the representatives of the Chambers of Commerce and Industry as well as professional bodies adopted its report on 30th November, 2016. The Government after considering the suggestions of the Committee and also the experience gained by it, gave notice of amendments as approved by the Cabinet to the Lok Sabha. The Companies (Amendment) Bill, 2017 passed by Lok Sabha on July 27, 2017, received the assent of Rajya Sabha on December 19, 2017.

The major amendments proposed include simplification of the private placement process, rationalization of provisions related to loan to directors, omission of provisions relating to forward dealing and insider trading, doing away with the requirement of approval of the Central Government for managerial remuneration above prescribed limits, aligning disclosure requirements in the prospectus with the regulations to be made by SEBI, providing for maintenance of register of significant beneficial owners and filing of returns in this regard to the ROC and removal of requirement for annual ratification of appointment or continuance of auditor.

The major official amendments subsequently introduced include continuing with the provisions relating to layers of subsidiaries, continuing with the earlier provisions with respect of memorandum, making offence for contravention of provisions relating to deposits as non-compoundable, requiring attaching of financial statement of associate companies, stringent additional fees of Rs 100 per day in case of delay in filing of annual return and financial statement etc.

This document aims to provide an overview of the section wise amendments proposed in the Companies Act, 2013.

We hope you will find the same useful. For any suggestions or comments, please send your mail to [info@companiesact.in](mailto:info@companiesact.in)

**Regards**

Team Corporate Professionals

# THE JOURNEY

## INTRODUCED

THE COMPANIES (AMENDMENT) BILL, 2016 WAS INTRODUCED IN THE LOK SABHA ON MARCH 16, 2016.



## STANDING COMMITTEE

REFERRED TO THE STANDING COMMITTEE ON FINANCE ON APRIL 12, 2016.



## REPORT FINALIZATION

THE STANDING COMMITTEE ADOPTED IT'S REPORT ON NOVEMBER 30, 2016.



## PRESIDENT'S ASSENT

THE COMPANIES (AMENDMENT) BILL, 2017 NOW AWAITS THE PRESIDENT'S ASSENT.



## RAJYA SABHA

THE COMPANIES (AMENDMENT) BILL, 2017 HAS PASSED BY THE RAJYA SABHA ON DECEMBER 19, 2017.



## LOK SABHA

THE COMPANIES (AMENDMENT) BILL, 2017 WAS PASSED BY THE LOK SABHA ON JULY 27, 2017 AFTER INCORPORATING A NUMBER OF OFFICIAL AMENDMENTS.



## AT A GLANCE-COMPANIES (AMENDMENT) BILL 2017

1.	<b>Start-Ups</b>	<ul style="list-style-type: none"> <li>• For company registration, instead of affidavits, declarations will be required;</li> <li>• In case of incorporation, name reserved by the Registrar of Companies (“ROC”) shall be valid for 20 days from date of the approval instead of 60 days from the date of application, as currently provided.</li> <li>• Sweat Equity Shares can be issued at any time. Currently it can be issued after one year from commencement of business;</li> <li>• Partnership or LLP with 2 members (currently 7) can convert into a company</li> </ul>
2.	<b>Ease of doing business</b>	<ul style="list-style-type: none"> <li>• In addition to Directors &amp; Key Managerial Personnel, any employee can also authenticate documents;</li> <li>• Officers not more than one level below the directors who are in whole time employment, can be designated as KMP;</li> <li>• Annual General meeting of unlisted company can be held anywhere in India;</li> <li>• Wholly Owned Subsidiary (WOS) of foreign company can hold EGM outside India;</li> <li>• No Central Government approval for payment of remuneration in excess of 11% of net profits.</li> </ul>
3.	<b>Funding</b>	<ul style="list-style-type: none"> <li>• Money received under the private placement shall not be utilized unless the return of allotment is filed with the ROC;</li> <li>• Private Placement offer letter shall not contain any right of renunciation;</li> <li>• An amount being not less than 20% of the amount of deposits, maturing during the following financial year be deposited on or before the 30<sup>th</sup> day of April each year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account. Currently at least 15% of such amount is required to be deposited and that is also of amount of deposits maturing during a financial year and the financial year next following;</li> <li>• Requirement of providing deposit insurance is proposed to be omitted;</li> <li>• Companies which had defaulted in repayment of deposits, can also accept deposits after a period of 5 years from the date of making good the default</li> </ul>
4.	<b>Directors</b>	<ul style="list-style-type: none"> <li>• Requirement related to resident director eased i.e. “stay in India for a total period of not less than 182 days during the financial year”. Currently it is calculated in reference to previous calendar year;</li> <li>• Central Government can provide any other number to be treated as DIN;</li> <li>• Maximum number of directorship for any person will not include dormant company;</li> <li>• Requirement of filing form DIR-11 (filing of a copy of resignation to ROC by director itself) made optional;</li> <li>• Where a director incurs any of disqualifications under section 164 (2) due to default of filing of financial statements or annual return or repayment of deposits or pay interest or redemption of debentures or payment of interest thereon or payment of dividend, then he shall vacate office in all the companies other than the company which is in default.</li> </ul>

5.	<b>CSR</b>	<ul style="list-style-type: none"> <li>• Eligibility for doing CSR to be determined based on preceding “Financial Year” instead of “three preceding Financial Years”;</li> <li>• Where a company is not required to appoint an independent director, it shall have in its Corporate Social Responsibility Committee, two or more directors.</li> </ul>
6.	<b>Auditors</b>	<ul style="list-style-type: none"> <li>• Annual rectification of appointment of auditors by members is proposed to be omitted;</li> <li>• Criminal liability in case of fraud proposed to be limited to partner(s) will not include firm</li> </ul>
7.	<b>Disclosures</b>	<ul style="list-style-type: none"> <li>• Abstract version of annual return form for OPC &amp; Small Company will be prescribed;</li> <li>• It is proposed to omit the requirement of MGT-9 i.e. extract of annual return, which forms part of the Board’s Report. Instead, the copy of annual return shall be uploaded on the website of the company, if any, and its link shall be disclosed in the Board’s report;</li> <li>• Disclosures which have been provided in the financial statement shall not be required to be reproduced in the Board report again;</li> <li>• Where key policies related to remuneration etc., are uploaded on the website, if any of a company, then instead of exact text of such policies, key feature of such policies along with its web link shall be disclosed in Board report;</li> <li>• Disclosure by promoters and top ten shareholders with respect to 2% change in shareholding in a listed company is proposed to be omitted.</li> </ul>
8.	<b>Additional fee, penalty and compounding</b>	<ul style="list-style-type: none"> <li>• In case of delay in filing document, fact or information required to be submitted under section 92 (Annual Return) or 137 (Copy of financial statement to be filed with registrar), after expiry of the prescribed period then instead of slab wise additional fees, a flat additional fee as may be prescribed which shall not be less than Rs. 100 per day is required to be paid. Different amounts can be prescribed for different class of companies;</li> <li>• Where a company fails or commits any default to submit, file, register or record any document, fact or information before the expiry of the period specified in the relevant section, the company and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default;</li> <li>• Tribunal can now also compound offences those punishable with fine or imprisonment. Currently, such offences can be compounded only by Special Court.</li> </ul>

## SECTION WISE AMENDMENTS

S. No.	SECTION	AMENDMENT
1	Section 2(6)- Definition of 'associate company'	<ul style="list-style-type: none"> <li>Change in explanation of the term 'significant influence' under the definition of Associate Company has been proposed.</li> </ul> <p>Significant influence is proposed to mean control of atleast 20% of the voting power or control or participation in business decision under an agreement.</p> <p>Currently the Act provides for control of at least 20% total share capital.</p> <ul style="list-style-type: none"> <li>Further the term 'Joint Venture' has also been defined to mean a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.</li> </ul>
2	Section 2(28)- Definition of 'cost accountant'	<p>Change in definition of 'cost accountant' is proposed.</p> <p>"Cost Accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and who holds a valid certificate of practice.</p>
3	Section 2(30)- Definition of 'Debenture'	Under the definition of the term "debenture", it is proposed to exclude instruments referred to in Chapter III-D of the Reserve Bank of India Act 1934 and such other instruments prescribed by the Central Government in consultation with the RBI.
4	Section 2(41)- Definition of 'Financial year'	It is proposed that associate company of a company incorporated outside India can also apply to the Tribunal for a different financial year.
5	Section 2(46)- Definition of 'Holding Company'	It is proposed that for the purpose of definition of the term 'holding company', the expression "company" will include any body corporate.
6	Section 2(49)- Definition of 'Interested director'	It is proposed to delete the definition of the term 'Interested director'.
7	Section 2(51)- Definition of 'Key Managerial Personnel'	Under the definition of the term "Key Managerial Personnel", such other officer not more than one level below the directors who is in whole time employment and designated as KMP by the Board, is proposed to be included.
8	Section 2(57)- Definition of 'net worth'	It is proposed to include the debit or credit balance of profit and loss account in the calculation of net worth.
9	Section 2(71)- Definition of 'public company'	Including the word 'and' in the definition for more clarity is proposed to clarify that a public company must satisfy both the conditions mentioned in the sub-section.

S. No.	SECTION	AMENDMENT
10	<b>Section 2(72)- Definition of 'public financial institution'</b>	It is proposed that the Central Government may notify other institution which has been established or constituted by or under any Central or State Act other than the Companies Act, 2013 or previous Company Law after consultation with the RBI as "public financial institution".
11	<b>Section 2(76)- Definition of 'Related Party'</b>	<p>Following two amendments are proposed:</p> <ul style="list-style-type: none"> <li>• Instead of only a company, anybody corporate which is holding, subsidiary or an associate company of such company or a subsidiary of a holding company to which it is also a subsidiary or an investing company or venture of the Company, shall be considered as a related party.</li> <li>• "An investing company or the venturer of the company" will mean a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.</li> </ul>
12	<b>Section 2(85)- Definition of 'small company'</b>	<ul style="list-style-type: none"> <li>• It is proposed to increase the maximum paid-up share capital amount which can be prescribed for the purpose of determining a company as a small company from five crore rupees to ten crore rupees and prescribed turnover amount from twenty crore rupees to one hundred crore rupees.</li> <li>• Further turnover should be as per profit and loss account for the immediately preceding financial year and not as per its last financial year.</li> </ul>
13	<b>Section 2(87)- Definition of 'subsidiary company'</b>	It is proposed that a company will be treated as subsidiary in case the holding company exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies. Currently the Act provides for exercise or control of more than half of the total share capital.
14	<b>Section 2(91)- Definition of 'Turnover'</b>	It is proposed to change the definition of turnover to mean the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.
15	<b>Section 3A- Members severally liable certain cases</b>	<p>It is proposed to insert a new section regarding liability of members in case number of members is reduced from statutory minimum, i.e. seven in the case of public company or two in case of a private company.</p> <p>This section was there in the Companies Act 1956 but was missing from the Companies Act 2013.</p>

S. No.	SECTION	AMENDMENT
16	<b>Section 4- Memorandum</b>	<ul style="list-style-type: none"> <li>It is proposed that in case of incorporation, name reserved by the RoC shall be valid for 20 days from date of the approval or such other period as may be prescribed instead of 60 days from the date of application, as currently provided;</li> <li>in case of change in name by an existing company, name reserved by the RoC shall be valid for 60 days from the date of approval.</li> </ul>
17	<b>Section 7- Incorporation of company</b>	At the time of incorporation of the company, declaration by each subscriber will be required to be attached instead of an affidavit, as currently provided.
18	<b>Section 12- Registered office of company</b>	<ul style="list-style-type: none"> <li>It is proposed that the company shall within 30 of its incorporation have registered office instead of current requirement to have registered office on and from the fifteenth day of its incorporation.</li> <li>It is proposed that notice of every change of the situation of the registered office, shall be given to the Registrar within 30 days instead of 15 days, as currently provided.</li> </ul>
19	<b>Section 21- Authentication of documents, proceedings and contracts</b>	Apart from KMP and any officer of the company, it is proposed that an employee can also be authorized to authenticate documents on behalf of the company.
20	<b>Section 26- Matters to be stated in Prospectus</b>	<p>Instead of detailed list of contents of the Prospectus, it is proposed that the prospectus shall state such information and set out such reports on financial information as may be specified by SEBI in consultation with the Central Government.</p> <p>Till the time SEBI specifies the information and reports on financial information, the regulations made by it under the SEBI Act, 1992, in respect of such financial information or reports on financial information shall apply.</p>
21	<b>Section 35- Civil liability for Mis-statements in prospectus</b>	It is proposed to amend section 35 of the Act to relieve the Director, promoter etc. from any civil liability if such person(s) has relied on a misleading statement made by an expert and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required and had not withdrawn it.
22	<b>Section 42- Private placement</b>	<p>Though the entire section is proposed to be substituted but major changes proposed are: -</p> <ul style="list-style-type: none"> <li>Return of allotment has to be filed within 15 days instead of 30 days.</li> </ul>

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		<ul style="list-style-type: none"> <li>• Money received under the private placement shall not be utilized unless the return of allotment is filed with the ROC.</li> <li>• Private Placement offer letter shall not contain any right of renunciation.</li> </ul>
23	<b>Section 47- Voting rights</b>	Since a member who is a related party cannot vote on a resolution to be passed under section 188 of the Companies Act 2013, it is proposed to clarify that the right of every member holding equity shares to vote on all resolutions placed before the meeting would be subject to sub-section (1) of section 188 of the Act.
24	<b>Section 53- Prohibition on issue of shares at discount</b>	<ul style="list-style-type: none"> <li>• It is proposed to replace the words “discounted price” with the word “discount”.</li> <li>• Further it is proposed to allow companies to issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by Reserve Bank of India under the Banking Regulation Act, 1949 or the Reserve Bank of India Act 1934.</li> </ul>
25	<b>Section 54- Issue of Sweat Equity Shares</b>	It is proposed to allow issue of sweat equity shares at any time after registration of the company. Currently such shares can be issued only after the expiry of one year from the date of commencement of business.
26	<b>Section 62- Further issue of share capital</b>	<ul style="list-style-type: none"> <li>• It is proposed to bring the requirement of compliance with section 42 in respect of the preferential offer in the section itself. Currently the applicability of section 42 is provided by the rules.</li> <li>• It is proposed that right issue offer letter can be sent through courier also.</li> </ul>
27	<b>Section 73- Prohibition on acceptance of deposits from public</b>	<ul style="list-style-type: none"> <li>• It is proposed that an amount being not less than 20% of the amount of deposits, maturing during the following financial year be deposited on or before the 30<sup>th</sup> day of April each year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account. Currently atleast 15% of such amount is required to be deposited and that is also of amount of deposits maturing during a financial year and the financial year next following.</li> <li>• Further it is proposed to omit the requirement of providing deposit insurance.</li> </ul>

S. No.	SECTION	AMENDMENT
		<ul style="list-style-type: none"> <li>It is also proposed that companies which had defaulted in repayment of deposits, can also accept deposits after a period of 5 years from the date of making good the default.</li> </ul>
28	<b>Section 74- Repayment of Deposits, etc., accepted before commencement of this act</b>	Where any amount of deposit or part thereof or interest thereof remains unpaid on the commencement of the Companies Act 2013, it is proposed that such amount shall be repaid within 3 years from the date of commencement or before the expiry of the period for which the deposit was accepted, whichever is earlier. Currently the amount was to be repaid within 1 year or before the expiry of the period for which the deposit was accepted, whichever is earlier.
29	<b>Section 76A- Punishment for Contravention of Section 73 or Section 76</b>	<ul style="list-style-type: none"> <li>It is proposed to change the penalty from a fine not less than rupees one crore to rupees one crore or twice the amount of deposits accepted by the company, whichever is lower.</li> <li>Further it is proposed that an officer of the company who is in default shall be punishable with imprisonment and fine. Earlier it was imprisonment or fine. In the process, the offence has been made non-compoundable.</li> </ul>
30	<b>Section 77- Duty to register charges, etc.</b>	It is proposed that this section shall not apply to certain charges, as may be prescribed by the Central Government in consultation with the Reserve Bank of India.
31	<b>Section 78- Application for Registration of charge</b>	It is proposed that the person in whose favour the charge has been created can file the charge on the expiry of 30 days from the creation of charge where a company fails to file so. Currently the charge holder can register the charge only in case the company fails to do so within the period specified under section 77, which is 300 days.
32	<b>Section 82- Company to report satisfaction of charge</b>	Timeline for filing of satisfaction of charge is proposed to be increased to 300 days on payment of additional fee.
33	<b>Section 89- Declaration in respect of beneficial interest in any share</b>	<ul style="list-style-type: none"> <li>As per the current law, return of beneficial interest declaration can also be filed on payment of additional fee within 270 days from the date by which it should have been filed. It is proposed to do away with the time limit of 270 days and the return can be filed at any time on payment of prescribed additional fee.</li> <li>For the purpose of declaration of beneficial interest, it is proposed that beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to— <ul style="list-style-type: none"> <li>(i) exercise or cause to be exercised any or all of the rights attached to such share; or</li> </ul> </li> </ul>

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		(ii) receive or participate in any dividend or other distribution in respect of such share.
34	<b>Section 90- Investigation of beneficial ownership of shares in certain cases</b>	<p>The provisions are proposed to be revamped. Key changes proposed are as under:</p> <ul style="list-style-type: none"> <li>• Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company shall make a declaration to the company. The Central Government may however, prescribe class(es) of persons who shall not be required to make declaration.</li> <li>• Every company shall maintain a register of the interest declared by individuals as aforesaid and such register shall be open to inspection of members.</li> <li>• Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar.</li> <li>• Obligation is cast on the company to give notice, in the prescribed manner, to any person whom the company knows or has reasonable cause to believe to be a significant beneficial owner of the company who is not registered as a significant beneficial owner with the company as required under this section.</li> <li>• In case information asked is not provided, the Company shall apply to the Tribunal for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares.</li> <li>• Stringent penalties have been provided for default of this section including liability for fraud u/s 447.</li> </ul>
35	<b>Section 92- Annual Return</b>	<ul style="list-style-type: none"> <li>• It is proposed to omit the requirement of MGT-9 i.e. extract of annual return to form part of the Board's Report. Instead, the copy of annual return shall be uploaded on the website of the company, if any, and its link shall be disclosed in the Board's report.</li> </ul>

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		<ul style="list-style-type: none"> <li>• The Central Government may prescribe abridged form of annual return for One Person Company ('OPC'), Small Company and such other class or classes of companies as may be prescribed.</li> <li>• It is also proposed to omit the requirement related to disclosing indebtedness and details with respect to name, address, country of incorporation etc. of FII in the annual return of the company.</li> <li>• Time limit of 270 days within which annual return could be filed on payment of additional fee has been done away with. It is proposed that a company can file the annual return with ROC at any time on payment of prescribed additional fee.</li> </ul>
36	<b>Section 93- Return to be filed with Registrar in case Promoters' stake changes</b>	It is proposed to omit section 93 relating to return to be filed with respect to changes in promoters' and top ten shareholders' stake.
37	<b>Section 94- Place of keeping and inspection of registers, returns, etc.</b>	<ul style="list-style-type: none"> <li>• It is proposed to omit the requirement of filing of special resolution in advance with the Registrar of Companies for keeping of the registers and returns at a place other than the registered office of the company.</li> <li>• Further it is proposed that certain prescribed particulars in the return, register or index referred to in this section shall not be available for inspection or for taking extracts or copies.</li> </ul>
38	<b>Section 96- Annual General Meeting</b>	It is proposed that Annual General Meeting ('AGM') of unlisted company may be held at anyplace in India if consent is given in writing or by electronic mode by all the members in advance.
39	<b>Section 100- Calling of Extraordinary General Meeting</b>	It is proposed that Extraordinary General Meeting ('EGM') of wholly owned subsidiary of a company incorporated outside India can be held outside India. A company other than wholly owned subsidiary of a company incorporated outside India must hold EGM at a place within India.
40	<b>Section 101- Notice of meeting</b>	<ul style="list-style-type: none"> <li>• It is proposed that a general meeting may be held at a shorter notice if in case of an Annual General Meeting consent in writing or by electronic mode is given by not less than 95% of the members entitled to vote and in case of other general meetings consent is given by majority in number of members entitled to vote and who represent not less than 95% of paid-up share capital (in case of company having share capital) or total voting power exercisable at the meeting (in case of company not having share capital).</li> </ul>

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		<p>Where any member of a company is entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, then his vote with respect to shorter notice shall only be counted for the purpose of the resolution on which he can vote.</p> <ul style="list-style-type: none"> <li>Currently for calling both AGM and EGM at shorter notice, consent of 95% of members entitled to vote at the meeting is required.</li> </ul>
41	<b>Section 110- Postal Ballot</b>	It is proposed to allow companies which are mandatorily required to provide electronic voting facility, to transact items in general meetings , which are mandatorily required to be transacted through postal ballot.
42	<b>Section 117- Resolutions and Agreements to be filed</b>	<ul style="list-style-type: none"> <li>It is proposed to provide exemption to banking companies from filing resolutions with respect to grant of loans, giving of guarantee or providing of security in respect of loans in the ordinary course of its business.</li> <li>It is proposed to omit clause (e) of sub-section (3) of the section as the requirement under the clause is already covered in clause (a).</li> <li>The minimum fine for non-filing under this section for company and officer in default is proposed to be reduced from rupees five lakh to one lakh rupees and from rupees one lakh to rupees fifty thousand.</li> <li>Time limit of 270 days within which resolutions and agreements could be filed on payment of additional fee has been done away with. It is proposed that a company can file the resolutions and agreements with ROC at any time on payment of prescribed additional fee.</li> </ul>
43	<b>Section 121- Report on annual general meeting</b>	Time limit of 270 days within which report on annual general meeting could be filed on payment of additional fee has been done away with. It is proposed that a company can file the report on annual general meeting with ROC at any time on payment of prescribed additional fee
44	<b>Section 123- Declaration of dividend</b>	<ul style="list-style-type: none"> <li>It is proposed that in computing profits any amount representing unrealized gains, notional gains or revaluation of assets and any change in carrying of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded</li> <li>In the case of inadequate or absence of profits, dividend can be declared out of accumulated profits earned by the company in previous years and transferred by the company to free reserves (instead of reserves).</li> </ul>

S. No.	SECTION	AMENDMENT
		<ul style="list-style-type: none"> <li>It is also proposed that the Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend.</li> <li>In case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years.</li> </ul>
45	<b>Section 129- Financial Statement</b>	<ul style="list-style-type: none"> <li>The explanation providing that subsidiary includes associate company and joint venture has been deleted. The section has been amended to provide for consolidation of the accounts of associate companies in addition to its subsidiaries in the same form and manner as that of its own in accordance with applicable accounting standards.</li> <li>The company shall also attach along with its financial statement, a separate statement containing the salient features of the subsidiary and associate companies.</li> </ul>
46	<b>Section 130- Re-opening of accounts on court's or tribunal's orders</b>	<ul style="list-style-type: none"> <li>It is proposed that in addition to authorities already specified, any other person concerned shall be given notice before passing an order for re-opening of accounts and the court or the Tribunal shall also take into consideration the representations made by the other person.</li> <li>It is also proposed that order for reopening of accounts can be made upto eight financial years preceding the current financial year unless there is a specific direction under section 128(5) from the Central Government that the books of accounts may be kept for longer period in which case the books of account may be ordered to be reopened for a longer period</li> </ul>
47	<b>Section 132- Constitution of National Financial Reporting Authority</b>	<ul style="list-style-type: none"> <li>It is proposed to reduce the minimum fine in respect of professional or other misconduct from ten lakh rupees to five lakh rupees.</li> <li>It is proposed to omit the provisions regarding constitution of separate Appellate Authority under this section and appeal against any order of NFRA shall lie before the National Company Law Appellate Tribunal in the prescribed manner.</li> </ul>

S. No.	SECTION	AMENDMENT
48	<b>Section 134- Financial Statement, Board's report, etc.</b>	<ul style="list-style-type: none"> <li>• It is proposed that CEO whether appointed as a Director or not, will sign the financial statement, in case there is no chairperson of the Company. Currently CEO is required to sign, only if he is also acting as a director.</li> <li>• In case of Board report, it is proposed that disclosures which have been provided in the financial statement shall not be required to be reproduced in the report again.</li> <li>• It is proposed that in place of extract of the annual return, only the web address, if any, where annual return has been placed shall be mentioned</li> <li>• It is proposed that instead of exact text of the policies, key feature of policies along with its web link shall be disclosed in Board report.</li> <li>• In respect to performance evaluation, it is proposed to omit the responsibility of the Board for carrying the performance evaluation of Board, Directors and committee. It is now required to include in the Board's report of listed companies and other prescribed public companies that annual evaluation of the performance of the Board, its Committees and of individual directors has been made.</li> <li>• Central Government may prescribe abridged Board Report for small company and one-person company.</li> </ul>
49	<b>Section 135- Corporate Social Responsibility</b>	<ul style="list-style-type: none"> <li>• Eligibility criteria for the purpose of constituting the corporate social responsibility committee and incurring expenditure towards CSR is proposed to be calculated based on immediately preceding financial year. Currently this eligibility is decided based on preceding three financial years.</li> <li>• Further it is proposed that where a company is not required to appoint an independent director, it shall have in its Corporate Social Responsibility Committee two or more directors.</li> <li>• It also proposed to empower the Central Government to prescribe sums which shall not be included for calculating 'net profit' of a company under section 135.</li> </ul>

S. No.	SECTION	AMENDMENT
50	<b>Section 136- Right of member to copies of audited financial statement</b>	<ul style="list-style-type: none"> <li>• It is proposed that copies of audited financial statements and other documents can be sent at shorter notice if it is so agreed by members-               <ul style="list-style-type: none"> <li>(a) holding, if the company has a share capital, majority in number entitled to vote and who represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or</li> <li>(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at the meeting.</li> </ul> </li> <li>• It is proposed that only listed companies shall place on its website, if any the separate audited accounts of its subsidiary or subsidiaries. Currently all companies required to comply this.</li> <li>• If the foreign subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, it is proposed that the requirement of posting audited accounts of subsidiary shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company.</li> <li>• If the foreign subsidiary is not required to get its financial statement audited, it is proposed that the holding listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.</li> <li>• It is proposed that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited financial statements, as the case may be, as prepared in respect of each of its subsidiary to any member who asks for it.</li> </ul>
51	<b>Section 137- Copy of Financial Statement to be filed with Registrar</b>	<ul style="list-style-type: none"> <li>• It is proposed to allow the filing of unaudited financial statements of foreign subsidiary which is not required to get its accounts audited along with a declaration to that effect.</li> <li>• Time limit of 270 days within which financial statement could be filed on payment of additional fee has been done away with under all the sub-sections. It is proposed that a company can file the financial statement with ROC at any time on payment of prescribed additional fee</li> </ul>

S. No.	SECTION	AMENDMENT
52	<b>Section 139- Appointment of Auditors</b>	It is proposed to omit the requirement related to ratification of appointment of auditors by members at every annual general meeting.
53	<b>Section 140- Removal, Resignation of Auditor and giving of special notice</b>	It is proposed to reduce the fine in case of failure to file resignation by auditor in Form ADT-3 to fifty thousand rupees or the remuneration of auditor whichever is less.
54	<b>Section 141- Eligibility, Qualification and Disqualifications of Auditors</b>	It is proposed that a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company will not be eligible for appointment as Auditor. Currently the restriction is only on the person, whose subsidiary, associate company or any other form of entity is engaged as on the date of appointment in consulting and specialized services as provided in section 144.
55	<b>Section 143- Powers and duties of auditors and auditing standards</b>	<ul style="list-style-type: none"> <li>• It is proposed to cover associate companies along with subsidiary companies with respect to right of auditors to have access to accounts and records.</li> <li>• The auditor's report is to include whether internal financial controls with reference to financial statement are in place and not in respect of internal financial control system.</li> </ul>
56	<b>Section 147- Punishment for contravention</b>	<ul style="list-style-type: none"> <li>• The maximum fine which can be imposed on an auditor has been revised from rupees five lakh to rupees five lakh or four times the remuneration of the auditor, whichever is less. If the auditor has contravened provisions knowingly or willfully with the intention to deceive the company etc., the amount of fine has been changed to minimum of fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less.</li> <li>• It is proposed to restrict the liability of auditor who is convicted of any default, to pay the damages to any person for loss arising out of incorrect or misleading statements made in the audit report, to only members and creditors of the company. Currently the Auditor is liable to pay damages to any person concerned.</li> <li>• It is proposed that criminal liability of an audit firm, in respect of liability other than fine, the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable. Currently the criminal liability is of the partner or partners concerned of the audit firm and the firm, jointly and severally.</li> </ul>

S. No.	SECTION	AMENDMENT
57	<b>Section 148- Central Government to specify audit of items of Cost in respect of Certain Companies</b>	It is proposed to substitute the words 'cost accountant in practice' with the words 'cost accountant' and also to substitute the words 'Institute of Cost and Works Accountants of India' with the words 'Institute of Cost Accountants of India' for clarity purpose.
58	<b>Section 149- Company to have Board of Directors</b>	<ul style="list-style-type: none"> <li>• It is proposed that 182 days for determining whether a director is resident in India shall be computed with reference to the financial year. Currently it is calculated in reference to previous calendar year.</li> <li>• Further it is proposed that in case of new companies, the requirement of period of 182 days shall apply proportionately at the end of the financial year in which it is incorporated.</li> <li>• In the definition of Independent Director, the words 'pecuniary interest' is proposed to be substituted by "pecuniary relationship, other than remuneration as such director or having transaction not exceeding ten per cent, of his total income or such amount as may be prescribed.</li> <li>• While determining the eligibility for appointment as Independent director, it is proposed to extend the restriction related to pecuniary relationships with respect to relative of a director to include the following: <ul style="list-style-type: none"> <li>(i) is holding any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year. Provided that the relative may hold security or interest in the company of face value not exceeding fifty lakh rupees or two per cent. of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;</li> <li>(ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;</li> <li>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; or</li> </ul> </li> </ul>

S. No.	SECTION	AMENDMENT
		<p>(iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii) above.</p> <ul style="list-style-type: none"> <li>It is proposed to allow the appointment of person as an independent director, whose relative is an employee during the three financial years immediately preceding the financial year, in which the person is proposed to be appointed as Independent Director.</li> </ul>
59	<b>Section 152- Appointment of directors</b>	It is proposed to make necessary provision to provide that in addition to DIN, a director may hold any other identification as may be prescribed by the Central Government under section 153.
60	<b>Section 153- Application for allotment of Director Identification Number</b>	It is proposed to empower the Central Government to recognize any other identification number to be treated as director identification number. It is expected that Central Government will notify either PAN or Aadhar as DIN.
61	<b>Section 157- Company to inform Director Identification Number to Registrar</b>	Time limit of 270 days within which a company could furnish DIN of all its directors on payment of additional fee has been done away with. It is proposed that a company can furnish DIN of all directors to ROC at any time on payment of prescribed additional fee
62	<b>Section 160- Right of persons other than retiring directors to stand for directorship</b>	It is proposed that the requirement of deposit of rupees one lakh with respect to nomination of directors shall not be applicable in case of appointment of independent directors or directors nominated by nomination and remuneration committee or a director recommended by the Board of Directors of the Company, in the case of a company not required to constitute Nomination and Remuneration Committee.
63	<b>Section 161- Appointment of Additional director, Alternate director and Nominee director</b>	<ul style="list-style-type: none"> <li>It is proposed to restrict a person from being appointed as an alternate director if he is holding directorship in the same company.</li> <li>It is also proposed that all companies including a private company may fill up the causal vacancy by the board and casual vacancy filled by the Board shall be subsequently approved in the immediate next general meeting.</li> </ul>
64	<b>Section 164- Disqualifications for appointment of director</b>	<ul style="list-style-type: none"> <li>It is proposed that when a director is appointed in company which is in default of filing of financial statements or annual return or repayment of deposits or pay interest or redemption of debentures or payment of interest thereon or payment of dividend then such director shall not incur the disqualification for a period of six months from the date of his appointment.</li> </ul>

S. No.	SECTION	AMENDMENT
		<ul style="list-style-type: none"> <li>It is also proposed to be clarified that disqualification arising due to conviction by court or order passed by court or tribunal or conviction related to section 188, shall continue to exist even if appeal or petition has been filed against the order of conviction or disqualification.</li> </ul>
65	<b>Section 165- Number of Directorship</b>	It is proposed that the directorship in a dormant company shall not be included in the limit of directorships of 20 companies.
66	<b>Section 167- Vacation of office of director</b>	<ul style="list-style-type: none"> <li>It is proposed that in case a director incurs any of disqualifications under section 164 (2) due to default of filing of financial statements or annual return or repayment of deposits or pay interest or redemption of debentures or payment of interest thereon or payment of dividend, then he shall vacate office in all the companies other than the company which is in default.</li> <li>It is also proposed that the director will not vacate office in certain cases where an appeal is preferred.</li> </ul>
67	<b>Section 168- Resignation of director</b>	It is proposed to make filing of Form DIR-11 regarding forwarding of copy of resignation by director to the Registrar of Companies, optional.
68	<b>Section 173- Meetings of Board</b>	It is proposed to allow participation of directors on restricted items at Board meetings through video conferencing or other audio-visual means if there is quorum through physical presence of directors.
69	<b>Section 177- Audit Committee</b>	<ul style="list-style-type: none"> <li>It is proposed that instead of every listed company, every listed public company shall constitute an audit committee.</li> <li>It is proposed that related party transactions other than those prescribed under section 188, if not approved by Audit committee, will require the approval of Board of Directors.</li> <li>In case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it</li> <li>It is also proposed that approval of audit committee with respect to transactions between a holding company and its wholly owned</li> </ul>

S. No.	SECTION	AMENDMENT
		subsidiary company will only be required, if the transactions falls under section 188
70	<b>Section 178- Nomination and remuneration Committee and Stakeholders Relationship Committee</b>	<ul style="list-style-type: none"> <li>• It is proposed that instead of every listed company, every listed public company shall constitute a Nomination and Remuneration Committee ('NRC').</li> <li>• It is proposed that committee will specify methodology for effective evaluation of performance of Board and committees and individual directors either by the Board, NRC or an independent external agency and NRC can review the implementation of evaluation system.</li> <li>• It is further proposed that instead of disclosing the policy in the Board's report, such policy shall be placed on the website of the company, if any and only the salient features of the policy and the changes therein need to be disclosed in the Board's report.</li> </ul>
71	<b>Section 180- Restrictions on powers of board</b>	It is proposed to include securities premium along with paid-up share capital and free reserves for calculation of maximum limits on borrowing powers of the Board.
72	<b>Section 184- Disclosure of interest by directors</b>	<ul style="list-style-type: none"> <li>• It is proposed to omit the minimum penalty with respect to failure by directors to disclose interest.</li> <li>• It is also proposed to exempt body corporate where any director or two or more of them holds or hold not more than 2% of the paid-up share capital, from the purview of section 184.</li> </ul>
73	<b>Section 185- Loan to directors, etc.</b>	<p>A completely new section 185 is proposed. Some of the key changes are :</p> <ul style="list-style-type: none"> <li>• Complete restriction on providing loan, guarantee or security in connection with loan to any director, director of the holding company or any partner or relative of any such director or any firm in which any such director or relative in a partner.</li> <li>• Loan to following parties is allowed subject to special resolution of shareholders and certain other prescribed conditions <ul style="list-style-type: none"> <li>(i) any private company of which any such director is a director or member;</li> <li>(ii) any body corporate at a general meeting of which not less than twenty- five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or</li> </ul> </li> </ul>

S. No.	SECTION	AMENDMENT
		<p>(iii) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company</p> <p>Currently transactions with aforesaid categories is prohibited</p> <ul style="list-style-type: none"> <li>• Current exemption provided under section 185(1) continues to remain except that when company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the rate of prevailing yield of one year, three year, five year or ten year Government security closest to the tenor of the loan. The rate of interest is clarified</li> <li>• It is also proposed to penalize defaulting officer in the company along with the company and director or the other person to whom any loan is advanced or guarantee or security is given.</li> </ul>
74	<b>Section 186- Loan and investment by company</b>	<ul style="list-style-type: none"> <li>• It also proposed to exclude employees from the ambit of this section.</li> <li>• It is proposed that shareholders' approval will not be required where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company.</li> </ul>
75	<b>Section 188- Related Party Transactions</b>	<ul style="list-style-type: none"> <li>• It is proposed that the requirement related to restriction on voting by relatives in the general meeting shall not apply to a company in which ninety per cent or more members in numbers are relatives of promoters or related parties.</li> <li>• It is also proposed to provide that non-ratification of transaction shall be voidable at the option of the Board or shareholders, as the case may be. This amendment aims at bringing clarity since currently though ratification is allowed both by Board or Shareholders but transaction was only voidable at the option of the Board.</li> </ul>
76	<b>Section 194- Prohibition on Forward dealings in securities of company by director or Key Managerial Personnel</b>	It is proposed to omit this section.

S. No.	SECTION	AMENDMENT
77	<b>Section 195- Prohibition on Insider trading of securities</b>	It is proposed to omit this section.
78	<b>Section 196- Appointment of Managing Director, Whole-time director or Manager</b>	<ul style="list-style-type: none"> <li>It is proposed that a person beyond the age of seventy years can be appointed as managing director or whole time director or manager even when such appointment has not been approved by special resolution provided that the resolution for such appointment is passed with votes cast in favour of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made.</li> <li>Further it is proposed that in respect of appointment of managing director, whole time director or manager, approval of Central Government shall only be required in case the appointment is not in accordance with the matters specified in Part I of Schedule V.</li> </ul>
79	<b>Section 197- Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits</b>	<ul style="list-style-type: none"> <li>It is proposed that the approval of the Central Government shall not be required at the time of the payment of remuneration exceeding 11% of the net profits of the company.</li> <li>It is proposed that company with the approval of shareholders by way of special resolution can pay the remuneration in excess of individual limits provided for payment of remuneration to executive or non-executive directors. Further where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting. Currently requirement is of ordinary resolution and no provision is there for approval of financial institutions etc.</li> <li>It is also proposed that in case of loss or inadequacy of profits, remuneration can only be paid in accordance with Schedule V. This is very important amendment because currently in case where remuneration is not paid in accordance with Schedule V, then approval of Central Government can be obtained but by way of amendment, the provision of approval is proposed to be omitted.</li> </ul>

S. No.	SECTION	AMENDMENT
		<ul style="list-style-type: none"> <li>• It is also proposed to provide relief to director to refund the excess remuneration received by providing a timeline of two years or such lesser period as may be allowed by the company. Further until such sum is refunded, the director shall hold it in trust for the company. Consequently, it is proposed to delete the provisions related to waiver of excess remuneration paid to directors with the approval of Central Government.</li> <li>• It is also proposed to make a provision which empowers the Company to waive the recovery of excess remuneration paid to directors provided approval of company by special resolution within two years from the date the sum becomes refundable is obtained. Further where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting.</li> <li>• It is also proposed that the auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details as may be prescribed.</li> <li>• It is also proposed to provide relief to the company whose application is pending for approval before the Central Government under section 197 by making a provision under which on and from the commencement of the Companies (Amendment) Act, 2017, any application made to the Central Government under the provisions of this section as it stood before such commencement, which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended.</li> </ul>
80	<b>Section 198- Calculation of profits</b>	<ul style="list-style-type: none"> <li>• It is proposed that credit for profit arising by way of premium on shares or debentures of the company which are issued or sold by an investment company as referred to in clause (a) of the explanation</li> </ul>

S. No.	SECTION	AMENDMENT
		<p>to section 186 shall be allowed as credit to the profit and loss account. Currently such credit is not allowed in case of all companies including investment companies.</p> <ul style="list-style-type: none"> <li>• It is also proposed that at the time of calculation of profits, credit shall not be given for any amount representing unrealized gains, notional gains or revaluation of assets.</li> <li>• It is further proposed that sums related to excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year, in so far as such excess has not been deducted in any subsequent year preceding the year in respect of which the net profits have to be ascertained, shall be allowed as a deduction.</li> </ul>
81	<b>Section 200-Central Government or company to fix limits with regard to remuneration</b>	It is proposed to omit the power of the Central Government to fix the remuneration within the limits specified in the Act, at such amount or percentage of profits as it may deem fit.
82	<b>Section 201- Forms of, and procedure in relation to, certain applications</b>	It is proposed to amend the section as a consequential change to amendment in section 196.
83	<b>Section 216- Investigation of ownership of company</b>	It is proposed to empower the Central Government to appoint inspectors for determining true persons who have or had beneficial interest in shares of a company or who are or have been beneficial owners or significant beneficial owner of the company.
84	<b>Section 223- Inspector's report</b>	It is proposed that a copy of inspector's report shall be made available only to members, creditors or any other person whose interest is likely to be affected, on their request. Currently any person can request for the copy.
85	<b>Section 236- Purchase of Minority Shareholding</b>	It is proposed to substitute the words 'transferor company' with the words 'company whose shares are being transferred' for providing clarity in sub-sections (4), (5) and (6).
86	<b>Section 247- Valuation by Registered Valuers</b>	It is proposed to dilute the restriction on appointment of a registered valuer by providing that that registered valuer can be appointed for valuation of an asset in which he has a direct or indirect interest or becomes so interested during a period of three years prior to appointment as valuer or three years after valuation of assets.

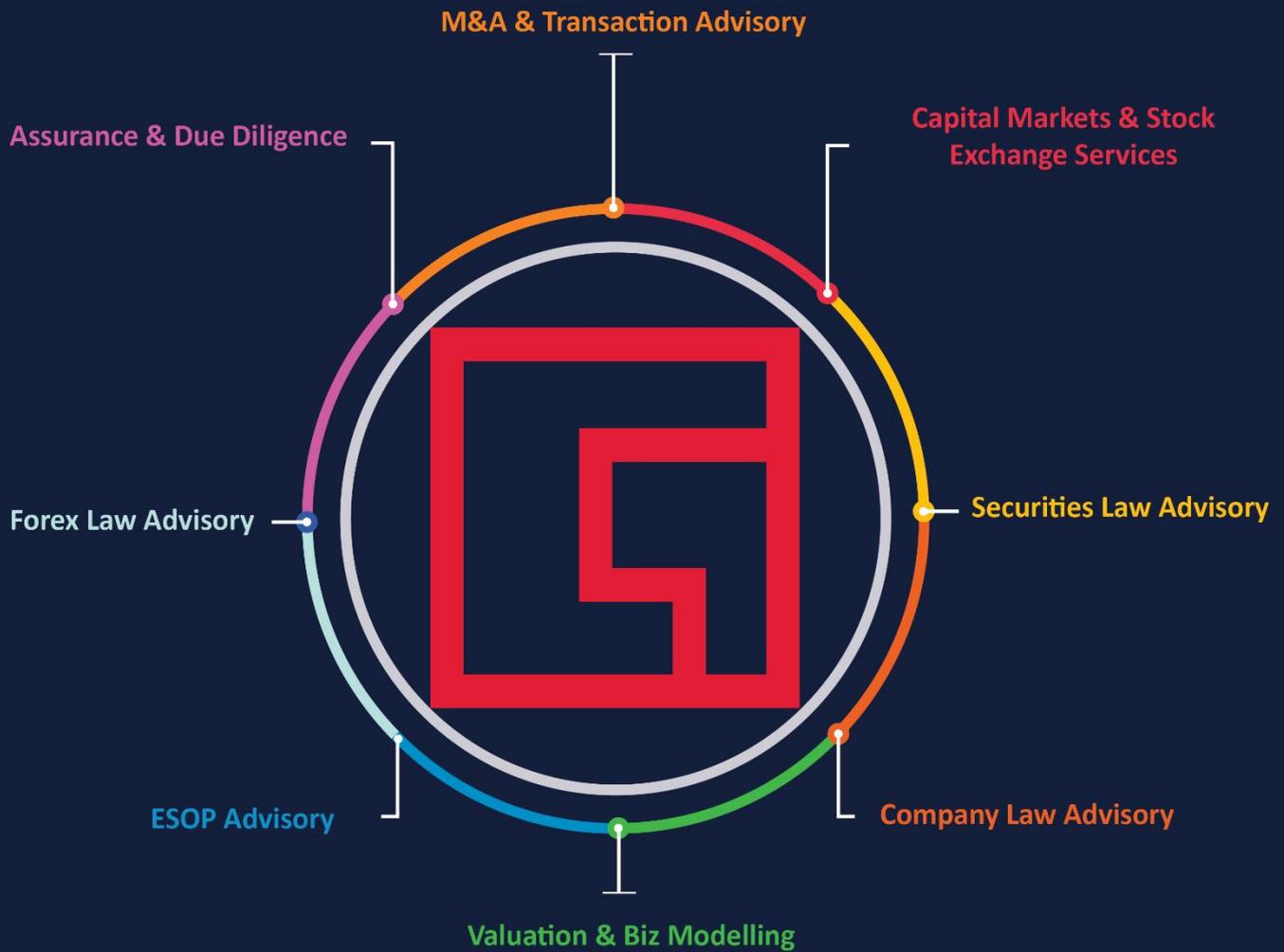
S. No.	SECTION	AMENDMENT
		Currently restriction on appointment of registered valuer for undertaking valuation of any assets in which he has a direct or indirect interest or becomes so interested is without any limitation on time.
87	<b>Section 366- Companies capable of being registered</b>	It is proposed to allow conversions of partnership firms, LLP, etc. with two or more partners into private companies. Currently they must have seven partners
88	<b>Section 374- Obligations of companies registering under this Part</b>	It is proposed to bring the clarity that upon registration as a company under the Part-I of Chapter-XXI, a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 shall be deemed to have been dissolved under that Act without any further act or deed.
89	<b>Section 379- Application of Act to foreign companies</b>	<ul style="list-style-type: none"> <li>It is proposed to bring clarity with respect to applicability of provisions of the Act to foreign companies by providing that sections 380 to 386 and 392 and 393 shall apply to foreign companies.</li> <li>It is also proposed to empower the Central Government to exempt any class of foreign companies from complying with the aforesaid provisions.</li> </ul>
90	<b>Section 384- Debentures, Annual Return, Registration of charges, books of account and their Inspection</b>	It is proposed to amend the section for providing applicability of section 135 on foreign companies.
91	<b>Section 391- Application of sections 34 to 36 and Chapter XX</b>	It is proposed that the provisions relating to winding up contained in Chapter XX shall apply for closure of place of business of a foreign company in India as if it were a company incorporated in India in case such foreign company has raised monies through offer or issue of securities which have not been repaid or redeemed. In other words, if a foreign company has not raised monies, the provisions relating to winding up will not be applicable.
92	<b>Section 403- Fee for Filings, etc.</b>	<ul style="list-style-type: none"> <li>It is proposed that only document, fact or information required to be submitted under section 92 (Annual Return) or 137 (Copy of financial statement to be filed with Registrar of Companies) may be submitted, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed which shall not be less than Rs. 100 per day and different amounts may be prescribed for different classes of companies.</li> <li>Further it is proposed that where the document, fact or information, in cases other than sections 92 or 137, is not submitted, within the period provided in the relevant section, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed,</li> </ul>

S. No.	SECTION	AMENDMENT
		<p>registered or recorded, on payment of such additional fee as may be prescribed and different fees may be prescribed for different classes of companies.</p> <ul style="list-style-type: none"> <li>It is also proposed that where there is default on two or more occasions in submitting, filing, registering or recording of the document, fact or information, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, on payment of a higher additional fee, as may be prescribed and which shall not be lesser than twice the additional fee provided under the first or the second proviso as applicable.</li> <li>Further it is proposed that where a company fails or commits any default to submit, file, register or record any document, fact or information before the expiry of the period specified in the relevant section, the company and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default.</li> </ul>
93	<b>Section 406- Power to modify act in its application to 'Nidhis'</b>	<ul style="list-style-type: none"> <li>It is proposed to provide that "Nidhi" or "Mutual Benefit Society" means a company which the Central Government may, by notification in the Official Gazette, declare to be a Nidhi or Mutual Benefit Society, as the case may be. Currently mutual benefit society is not covered.</li> <li>Further exhaustive definition of Nidhi company has been deleted and it is left to the Government to declare a company to be a Nidhi or Mutual Benefit Society by notification in the Official Gazette.</li> <li>It is also proposed to modify the requirements relating to laying of copy of exemption notification before both Houses of parliament.</li> </ul>
94	<b>Section 409- Qualification of President and Members of Tribunal</b>	<p>Following changes are proposed with respect to eligibility for technical members with respect to the constitution of the National Company Law Tribunal:</p> <ul style="list-style-type: none"> <li>Instead of Joint Secretary to the Government of India, person who has been holding the rank of Secretary or Additional Secretary to the Government of India, will be eligible</li> <li>A person of proven ability, integrity and standing having special knowledge and professional experience of not less than fifteen years in industrial finance, industrial management, industrial reconstruction, investment and accountancy will be eligible. Expertise in other disciplines like law, labour laws, and disciplines</li> </ul>

S. No.	SECTION	AMENDMENT
		related to management, conduct of affairs, revival, rehabilitation and winding-up of companies are proposed to be deleted.
95	<b>Section 410- Constitution of Appellate Tribunal</b>	In addition to the order of the Tribunal, it is proposed to bring out the order of the National Financial Reporting Authority also for appeal before the National Company Law Appellate Tribunal.
96	<b>Section 411- Qualifications of Chairperson and Members of Appellate Tribunal</b>	Eligibility for appointment as Technical member is proposed to be brought in sync with the amendment proposed in section 409.
97	<b>Section 412- Selection of Members of Tribunal and Appellate Tribunal</b>	It is proposed to align with Supreme Court directions with respect to constitution of Selection Committee.
98	<b>Section 435- Establishment of Special Courts</b>	<ul style="list-style-type: none"> <li>It is proposed to authorize Central Government to establish Special Courts for the purpose of speedy trials of offences under the Act. Currently Special Court can be established for trying offences punishable with imprisonment of two years or more.</li> <li>The constitution of Special Court has been changed and will depend upon the nature of offence</li> </ul>
99	<b>Section 438- Application of Code to proceedings before Special Court</b>	It is proposed to amend section 438 of the Act as a consequence of amendments to section 435.
100	<b>Section 439- Offences to be non-cognizable</b>	It is proposed to include member along with shareholders in respect of complaint with respect to taking cognizance of offences under the Act by the Court.
101	<b>Section 440- Transitional provisions</b>	It is proposed to provide that till the time a Special Court is established, the trial of offences shall be continued with Court of Session or Court of Metropolitan Magistrate or a Judicial Magistrate of the First Class.
102	<b>Section 441- Compounding of certain offences</b>	It is proposed to enable the Tribunal to compound offences punishable with fine only as well as offences punishable with fine or imprisonment. The provision has now been brought in line with section 621A of the 1956 Act.
103	<b>Section 446A- Factors for determining level of punishment</b>	It is proposed to insert a new section providing for the following factors which the court or special court will consider while determining level of punishment: <ul style="list-style-type: none"> <li>(a) size of the company;</li> <li>(b) Nature of business carried on by the company;</li> <li>(c) Injury to public interest;</li> <li>(d) Nature of the default; and</li> <li>(e) Repetition of the default.</li> </ul>

S. No.	SECTION	AMENDMENT
104	<b>Section 446B- Lesser penalties for One Person Companies or small companies</b>	It is proposed to provide relief to OPC and Small co., in case of failure to comply with the provisions of sub-section (5) of section 92 (Annual Return), clause (c) of sub-section (2) of section 117 (Resolutions and agreements to be filed), sub-section (3) of section 137 (Copy of financial statement to be filed with Registrar). In case of default, such company and officer in default of such company shall be punishable with fine or imprisonment or fine and imprisonment, as the case may be, which shall not be more than one-half of the fine or imprisonment or fine and imprisonment, as the case may be, of the minimum or maximum fine or imprisonment or fine and imprisonment, as the case may be, specified in such sections.
105	<b>Section 447- Punishment for Fraud</b>	<ul style="list-style-type: none"> <li>It is proposed that only person guilty of fraud involving an amount of at least ten lakh rupees or one percent. of the turnover of the company, whichever is lower shall be punishable with imprisonment for a term which shall not be less than 6 months but which may extend to ten years and shall also be liable to a fine which shall not less than the amount involved in the fraud but which may extend to three times the amount involved in the fraud.</li> <li>Further that where the fraud involves an amount of less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both.</li> </ul>
106	<b>Section 458 Delegation by Central Government of its powers and functions</b>	Consequent upon omission of sections 194(Forward dealings) and 195(Insider trading), the proviso to sub-section (1) of section 458 is proposed to be omitted.

**DISCLAIMER:** The information given in this Note has been made on the basis of the provisions stated in the Companies (Amendment) Bill, 2017 and Companies Act, 2013. It is based on the analysis of the facts and our understanding and interpretation of applicable laws as on date. We expressly disclaim any financial or other responsibility arising due to any action taken by any person on the basis of this note.



## Our Offices

### Indian Offices

#### Delhi Office

D 28, South Extn. Part- I,  
New Delhi 110049, India

T: +91 1140622200 F: +91 1140622201

D 38, 1st Floor, South Extn. Part- I,  
New Delhi 110049, India

T: +91 1140622250 F: +91 1140622201

#### Mumbai Office

301, Mastermind - 1, Royal Palms Estate, Aarey Colony,  
Mumbai 400065, India

T: +91 2266930167

**E:** [info@indiacp.com](mailto:info@indiacp.com)

**W:** [www.corporateprofessionals.com](http://www.corporateprofessionals.com)

### Overseas Offices

#### Bedford Office

Vijay House, 1 Stephenson Court, Fraser Road Priory Business Park,  
Bedford, Bedfordshire MK443WJ, U.K.

T: +44 (0) 2030063248