

CORPORATE

LAW ALERT

LUTHRA & LUTHRA LLP

CHARTERED ACCOUNTANTS



PRESS RELEASE

Ministry of Corporate Affairs (MCA) and Insolvency and Bankruptcy Code, 2016 related announcement by Hon'ble Finance Minister:

MCA

1. Moratorium from 1st April till 30th September, 2020 in MCA-21 Registry.
2. No additional fees for late filings.
3. Holding board meetings period of 60 days relaxation till next 2 quarters.
4. **Applicability of Companies (Auditor's Report) Order, 2020 (CARO 2020)**

As per Para 2 of the CARO 2020, every report made by the auditor under section 143 of the

Companies Act on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2019, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable.

The applicability of the same has been extended from FY 2019-20 to FY 2020-21.

5. In FY 2019-20, if Independent director did not attend even one meeting, then also it will not be treated as non-compliance.
6. **Declaration for Commencement of Business:**

As per Section 10A of the Companies Act, 2013, the newly incorporated companies are required to file declaration with ROC for commencement of business within a period of 180 days of incorporation of the Company. The same is being extended by additional time period of 6 months.

7. **Requirement of Resident Director:**

As per Section 149(3) of the Companies Act, 2013, every company shall have at least one director who stays in India for a total period of not less than 182 days during the financial year.

As per the announcement by FM, if company director not comply with minimum mandatory period to be stayed in India u/s 149 of Companies Act, 2013, it will not be treated as violation.

8. **Deposit repayment reserve**

As per Section 73(2)(b), every company accepting deposits from its members is required to deposit, on or before the April 30 each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account. **The timeline for the same has been extended till 30th June, 2020.**

9. As per Rule 18(7)(b)(v) of the Companies (Share Capital and Debentures) Rules, 2014, Company shall on or before the 30th day of April in each year, in respect of debentures issued by a company invest or deposit, as the case may be, a sum which shall not be less than **15% of the amount of its debentures maturing during the year**, ending on the 31st day of March of the next year in any one or more methods

of investments or deposits as provided in the said Rule. **The timeline for the same has been extended till 30th June, 2020.**

INSOLVENCY AND BANKRUPTCY CODE, 2016 (IBC)

1. **Threshold of default increased from Rs. 1 Lakh to Rs. 1 Crore**

Section 4 of the IBC provides that the provisions of IBC shall apply to the insolvency and liquidation of corporate debtors where the minimum amount of the default is Rs. 1 lakh. The said limit has been increased from Rs. 1 Lakh to Rs. 1 Crore. This is being done in order to prevent triggering of IBC proceedings for medium and small enterprises.

2. **If situation of COVID-90 continues like this, then after 30th April, 2020, the applicability of Section 7** i.e. Initiation of corporate insolvency resolution process by financial creditor, Section 9 (i.e. Application for initiation of corporate insolvency resolution process by operational creditor) and **Section 10** (i.e. Initiation of corporate insolvency resolution process by corporate applicant) of IBC **may be suspended for next 6 months** so as to avoid the initiation of IBC proceedings.
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For a detailed discussion regarding how the various announcements by Hon'ble Finance Minister may impact / affect your organisation, please contact us at corphelpdesk@llca.net.

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