

**MINISTRY OF CORPORATE AFFAIRS**

In the view of difficulties arising due to resurgence of COVID-19 and its related restrictions and disruptions, Ministry of Corporate Affairs (MCA) has issued the following Circulars to provide following relaxation/ relief to the Companies:

**I. RELAXATION ON LEVY OF ADDITIONAL FEES IN FILING OF CERTAIN FORMS UNDER THE COMPANIES ACT, 2013 AND LLP ACT 2008.**

Ministry of Corporate Affairs issued General Circular No. 06/2021 dated 03<sup>rd</sup> May, 2021, provide a relaxation to the Companies in additional fees and grant an additional time **upto 31<sup>st</sup> July, 2021** for filing of various forms under the *Companies Act, 2013/ LLP Act, 2008 / Rules* made thereunder **due** for filing **during 1<sup>st</sup> April, 2021 to 31<sup>st</sup> May, 2021 (other than a CHG-1 Form, CHG-4 Form and CHG-9 Form)**.

Due to the COVID-19 second wave of the pandemic, a relief has been granted by MCA, as no additional fees shall be levied upto 31<sup>st</sup> July, 2021 for the delayed filing of forms falling due during 1st April, 2021 to 31st May, 2021 (other than a CHG-1 Form, CHG-4 Form and CHG-9 Form) and only normal fess shall be payable.

For detailed circulars, please refer the link:

[http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo6\\_03052021.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo6_03052021.pdf)

**II. RELAXATION OF TIME FOR FILING FORMS RELATED TO CREATION OR MODIFICATION OF CHARGES UNDER THE COMPANIES ACT, 2013**

As per provision of Section 77 of Companies Act, 2013, the Company creating a charge should file the particular of charge created or modified within a period of 30 days of date of creation or modification with the fee.

In case the charge is not created within such period of 30 days, the Registrar of Companies may on an application allow such registration within a period of 60 days of such creation or modification after payment of prescribed additional fee.

If the charge is not created within a period of 60 days of such creation or modification, then the Registrar of Companies may on an application allow such registration within a period of another 60 days with payment of prescribed ad-valoram fee.

As detailed above, it can be understood that the maximum time of 120 days is allowed for filing of form relating to creation / modification of charge.

Ministry of Corporate Affairs issued General Circular No. 07/2021 dated 03<sup>rd</sup> May, 2021, provides the following relaxation to the company or a charge holder, in respect of Form No.CHG-1 and Form No. CHG-9:

<u>Applicability</u>	<u>Relaxation of time</u>	<u>Applicable fees</u>
If the charge is Created / modified before 01.04.2021, but the timelines for filing such form had not expired under section 77 or Section 78 of the Act as on 01.04.2021	The time period from 01.04.2021 to 31.05.2021 shall not be counted for purpose of counting of number of days under section 77 or Section 78 of the Act.	<b><u>If form is filed on or before 31.05.2021:</u></b> The fees as payable on 31.03.2021 shall be charged.  <b><u>If the form is filed after 31.05.2021:</u></b> The total no of days from creation/ modification up to 31, March 2021 plus total no days from 01.06.2021 up to the date of filing, subject to the maximum timeline for filing, will be taken up for the purpose of calculation of fees including additional and/or ad-valoram fee.
If the charge is Created / modified between 01.04.2021 to 31.05.2021 (both dates inclusive)	The time period from date of creation / modification of charge to 31.05.2021 shall not be counted for purpose of counting of number of days under section 77 or Section 78 of the Act.	<b><u>If form is filed before 31.05.2021 -</u></b> Normal fees shall be charged.  <b><u>If form is filed after 31.05.2021 –</u></b> The date of creation / modification of charge shall be taken as 01.06.2021 and the number of days till the date of filing of the form, subject to the maximum timeline for filing, shall be counted accordingly for the purpose of payment of fees including additional and/or ad-valoram fee.

**Above relaxation relating to Form CHG-1 and CHG-9 shall not be available for following:**

- Form CHG-1 and CHG-9 have already been filed before the date of circular
- Timeline for filing of Form has already expired u/s 77 or 78 of the Companies Act, 2013 prior to 01.04.2021
- Timeline for filing of Form expires at a future date after taking into account the excluded time period of 01.04.2021 to 31.05.2021
- Filing of Form CHG-4 for satisfaction of Charge.

For detailed circular, please refer the link:

[http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo7\\_03052021.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo7_03052021.pdf)

### **III. GAP BETWEEN TWO BOARD MEETINGS UNDER SECTION 173 OF THE COMPANIES ACT, 2013 (CA-13) - CLARIFICATION – REG.**

Ministry of Corporate Affairs issued General Circular No. 08/2021 dated 03rd May, 2021, provides relief to the companies from mandatorily requirement of holding meetings of the Board of the Companies within the intervals of 120 days as provided in section 173 of the Companies Act, 2013 stands extended by a period of 60 days of first two quarters of the Financial year 2021-22 i.e., *April to June, 2021 and July to September, 2021*.

Accordingly, as a onetime relaxation, the gap between two consecutive meetings of the Board may extend to **180 days** till the next two quarters (i.e. during the Quarter – April to June 2021 and Quarter – July to September, 2021), instead of 120 days as required in the Companies Act, 2013. However, the companies should ensure to hold minimum 4 meeting in a calendar year.

For detailed notification, please refer the link:

[http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo8\\_03052021.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo8_03052021.pdf)

### **IV. CLARIFICATION ON SPENDING OF CSR FUNDS**

Considering the current alarming situation, the Ministry of Corporate Affairs vide its circulars No. 05/2021 dated 22 April, 2021 and 09/2021 dated 05 May, 2021 have clarified that the spending of funds by the Corporates for COVID related facilities would qualify as CSR under item (i) and (xii) of Schedule VII of Companies Act, 2013.

Accordingly, spending of funds on following activities is an eligible CSR activity relating to Promotion of health care including preventive health care, and, disaster management:

- a. Setting up makeshift hospitals and temporary COVID Care facilities;
- b. Creating health infrastructure for COVID care;
- c. Establishment of Medical Oxygen generation and storage plants;
- d. Manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19

For detailed notification, please refer the link:

[http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo5\\_22042021.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo5_22042021.pdf)

[http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo9\\_05052021.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo9_05052021.pdf)

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