

SNR & COMPANY
CHARTERED
ACCOUNTANTS

A background image showing a person's hand holding a gold pen over a calculator. Overlaid on the image are various financial graphics, including a line graph with a peak and a bar chart with vertical bars of varying heights. The overall color scheme is teal and white.

CORPORATE LAW UPDATE

06th November 2023

Ministry of Corporate Affairs (MCA) has issued three notifications on 27th October 2023 inter alia notifying the following changes:

- Requirement of Designated person for reporting of beneficial interest
- Dematerialization of Share Warrants of Unlisted Public Companies and Securities of Private Limited Company
- Introduction of new Rules and Forms under LLP Rules 2009

A. REQUIREMENT OF DESIGNATED PERSON FOR REPORTING OF BENEFICIAL INTEREST

As per the notification issued by the Ministry of Corporate Affairs (MCA) on 27th October 2023, amendments have been notified in Companies (Management & Administration) Rules, 2014 whereby every company is mandated to designate a person who shall be responsible for furnishing and providing information to the Registrar with respect to beneficial interest in shares of the company

The responsible person shall be any one of:

- a company secretary, if there is a requirement of appointment of such company secretary; or
- a key managerial personnel, other than the company secretary; or
- every director, if there is no company secretary or key managerial personnel.

Deemed designated person: If there is no specific person is designated, the following persons shall be considered as deemed designated person:

- company secretary, if there is a requirement for appointment of such company secretary under the Act and the rules made thereunder; or
- every Managing Director or Manager, in case a company secretary has not been appointed; or
- every director, if there is no company secretary or a Managing Director or Manager

Reporting: Details of the designated person shall be disclosed in the annual return of the Company

Change in designated person: if there is any change in designated person the same will be informed to the Registrar in e-form GNL-2.

B. DEMATERIALISATION OF SHARE WARRANTS OF UNLISTED PUBLIC COMPANIES AND SECURITIES OF PRIVATE LIMITED COMPANY.

As per the notification issued by the Ministry of Corporate Affairs (MCA) dated 27th October 2023, MCA had introduced rule 9A [Reporting of pending share warrants by Public Companies] and rule 9B [Mandatory Dematerialization of Securities by the Private Companies]

a. For Public Companies (Unlisted) in reference of share warrants:

- Within 3 months, public companies must inform the Registrar about the details of such share warrants in Form PAS-7 which were issued before the commencement of the Companies Act, 2013.
- Within 6 months, these companies must request bearers of the share warrants to surrender them and get the shares dematerialized.
- Further, requires putting the notice on the company's website and publishing the same in local and English newspapers.
- If the bearer fails to surrender the share warrants, the company shall convert such share warrants into dematerialized form and further transfer to the Investor Education and Protection Fund.

b. Conversion of physical securities into dematerialized form by the Private Companies except Small Companies & Government Companies.

- Every Private company, except Small Companies & Government Companies shall:

- a. issue the securities only in dematerialized form
- b. facilitate the dematerialisation of all its securities

- Every Private company, that is not a small company as per the last audited financial statements ie 31st March 2023, must comply with these rules within eighteen (18) months of that financial year's closure (i.e. till September 30, 2024).

**Small Company is the company whose paid-up share capital does not exceed INR 4 Crores and Turnover does not exceed INR 40 Crores. However, nothing in the above clause shall apply to:*

- A Holding Company or Subsidiary Company;
- A Company registered under Section 8;
- A Company or Body Corporate registered under any Special Act;

- The entire holding of securities of their promoters, directors, and Key Managerial Personnel has to be dematerialized before issuing any offer for the issuance of securities, buyback of securities, or the issuance of bonus shares or rights offers.
- Holders of securities who intend to transfer or subscribe to securities must ensure that their securities are in dematerialized form.

C. INTRODUCTION OF NEW RULES AND FORMS UNDER LLP RULES 2009

As per the Notification dated 27th October 2023, MCA had inserted new Rule 22A (Register of Partners) and Rule 22B (Declaration in respect of beneficial interest in any contribution) in the Limited Liability Partnership (LLP) Rules 2009 and accordingly, introduced new Forms, Form 4A (Maintenance of Register of partners), Form 4B (Declaration by the Registered partner who does not hold the beneficial interest in the Contribution), Form 4C (Declaration by the Partner who holds or acquires a beneficial interest in the Contribution but whose name is not entered in the Register of Partners) and Form 4D (Return to the Registrar in respect of declaration).

BRIEF DESCRIPTION OF THE NEW RULES AND ADDED FORMS

A. Maintenance of Register of Partners in Form 4A

- Every Limited Liability Partnership ('LLP'), from the date of its incorporation/registration, shall maintain a register of partners in Form 4A.
- In the case of LLPs registered before 27th October 2023, they will have to maintain the register within 30 days from the commencement of new rules ie up to 25th November 2023.
- The register should contain the Name of the partners, Address, Permanent Account Number/Corporate Identification Number; Unique Identification Number; Father or mother or spouse's name; Occupation; Status; Nationality; Name and address of the nominee, Date of becoming a partner; Date of cessation; Amount and nature of contribution with monetary value etc.
- Further, in case of a change of name and details of partner, change in contribution amount, or cessation of a partnership interest, entries should be made within 7 days of such change.

B. Declaration in respect of a beneficial interest in any contribution

- **Form 4B (Declaration by the Registered Partner who does not hold the beneficial interest in the Contribution):**

Where a person's name is entered in the register, but he/she does not hold any beneficial interest in contribution or there is any change, then he/she has to file a Declaration in Form 4B, **within 30 days** from the date on which his name is entered in the register of partners.

- **Form 4C (Declaration by the Partner who holds or acquires a beneficial interest in the Contribution but whose name is not entered in the Register of Partners):**

Where a person's name is not entered in the register, but he/she hold beneficial interest in contribution or there is any change, then he/she has to file a Declaration in Form 4C, **within 30 days** after acquiring such beneficial interest in the contribution of the LLP.

- **Form 4D (Return to the Registrar in respect of declaration):**

The LLP should record the declaration received in Forms 4B and 4C and file the return of beneficial interest with the Registrar in Form 4D within 30 days from the date of receipt of such declaration to the Registrar.

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