



## **MCA introduces scheme regarding creation or modification of charges under the Companies Act, 2013**

The Ministry of Corporate Affairs, India (**MCA**) vide its circular dated June 17, 2020 has issued the scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013(Act) (hereinafter referred to as "**Charge Scheme**"). The Charge Scheme has been introduced keeping in mind the situation due to COVID-19 and for the purpose of condoning the delay in filing of certain forms related to creation/ modification of charges under the Act. Below are the highlights of the Charge Scheme:

### **1. Effective date and applicability:**

The Charge Scheme shall come into effect from June 17, 2020, and shall be applicable in respect of filing of Form no. CHG-1 and CHG-9 (hereinafter referred to as "**form**" or "**forms**") by a company or charge holder, where the date of creation/modification of charge:

(a) is before March 1, 2020, but the timeline for filing such form had not expired under section 77 of the Act as on March 1, 2020, **or**

(b) falls on any date between March 1, 2020 to September 30, 2020 (both dates inclusive).

### **2. Relaxation of time:**

(a) If a form is filed in respect of a situation covered under sub-para 1(a) above, the period beginning from March 1, 2020 and ending on September 30, 2020 shall not be reckoned for the purpose of counting the number of days under section 77 or section 78 of the Act. In case, the form is not filed within such period, the first day after February 29, 2020 shall be reckoned as October 1, 2020 for the purpose of counting the number of days within which the form is to be filed.

(b) If a form is filed in respect of a situation covered under sub-para 1(b) above, the period beginning from the date of creation/ modification of charge to September 30, 2020 shall not be reckoned for the purpose of counting of days under section 77 or section 78 of the Act. In case, the form is not filed within such period, the first day after the date of creation/ modification of charge shall be reckoned as October 1, 2020 for the purpose of counting the number of days within which the form is required to be filed.

### **3. Applicable Fees:**

(a) With respect to form filed prior to September 30, 2020 as per sub-para 2(a) above, the fees payable as on February 29, 2020 shall be charged by the MCA for filing of the form. If the form is filed post September 30, 2020, the applicable fees (including additional fee) shall be charged after adding the number of days beginning from October 1, 2020 and ending on the date of filing, plus the time period lapsed from the date of the creation of charge till February 29, 2020.



(b) With respect to form filed prior to September 30, 2020 as per sub-para 2(b) above, normal fees under the applicable Rules shall be payable to the MCA. If the form is filed post September 30, 2020, the first day after the date of creation/modification of charge shall be reckoned as October 1, 2020 and the number of days till the date of filing of the form shall be counted accordingly for the purposes of payment of fees under the applicable rules.

#### **4. Non-applicability of Charge Scheme:**

The Scheme shall not apply, if (a) the Form CHG-1 or CHG-9 was filed before the date of issue of the Charge Scheme, (b) the timeline for filing the form has already expired under section 77 or section 78 of the Act prior to March 1, 2020, (c) the timeline for filing the form expires at a future date, despite exclusion of the time provided in Para 2 above, and (d) in respect of filing of Form CHG-4 for satisfaction of charges.

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