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MINISTRY OF CORPORATE AFFAIRS
Notification

New Delhi, dated 14th December, 2016

GSR No. _____ (E).- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with sections 230 to 233 and sections 235 to 240 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely:-

1. Short Title and Commencement. - (1) These rules may be called the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

(2) They shall come into force with effect from 15th December, 2016.

2. Definitions.- (1) In these rules, unless the context otherwise requires.—

(a) "Act" means the Companies Act, 2013 (18 of 2013);

(b) "Annexure" means the annexure to these rules;

(c) "Form" means a form set forth in annexure "A" to these rules which shall be used for the matter to which it relates, and includes an electronic version thereof;

(d) "Liquidator" means the Liquidator appointed under the Act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(2) All other words and expressions used in these rules but not defined herein, and defined in the Act or in the Companies (Specification of Definitions Details) Rules, 2014 or in the National Company Law Tribunal Rules, 2016, shall have the same meanings respectively assigned to them in the Act or in the said rules.

3. Application for order of a meeting. - (1) An application under sub-section (1) of section 230 of the Act may be submitted in Form no. NCLT-1 (appended in the National Company Law Tribunal Rules, 2016) along with:-

(i) a notice of admission in Form No. NCLT-2 (appended in the National Company Law Tribunal Rules, 2016);

(ii) an affidavit in Form No. NCLT-6 (appended in the National Company Law Tribunal Rules, 2016);

(iii) a copy of scheme of compromise or arrangement, which should include disclosures as per sub-section (2) of section 230 of the Act; and

(iv) fee as prescribed in the Schedule of Fees.

(2) Where more than one company is involved in a scheme in relation to which an application under sub-rule (1) is being filed, such application may, at the discretion of such companies, be filed as a joint-application.

(3) Where the company is not the applicant, a copy of the notice of admission and of the affidavit shall be served on the company, or, where the company is being wound up, on its liquidator, not less than fourteen days before the date fixed for the hearing of the notice of admission.

(4) The applicant shall also disclose to the Tribunal in the application under sub-rule (1), the basis on which each class of members or creditors has been identified for the purposes of approval of the scheme.

4. Disclosures in application made to the Tribunal for compromise or arrangement – Creditors Responsibility Statement. - For the purposes of sub-clause (i) of clause (c) of sub-section (2) of section 230 of the Act, the creditor's responsibility statement in **Form No.CAA.1** shall be included in the scheme of corporate debt restructuring.

Explanation:- For the purpose of this rule, it is clarified that a scheme of corporate debt restructuring as referred to in clause (c) of sub-section (2) of section 230 of the Act shall mean a scheme that restructures or varies the debt obligations of a company towards its creditors.

5. Directions at hearing of the application.- Upon hearing the application under sub-section (1) of section 230 of the Act, the Tribunal shall, unless it thinks fit for any reason to dismiss the application, give such directions as it may think necessary in respect of the following matters:-

(a) determining the class or classes of creditors or of members whose meeting or meetings have to be held for considering the proposed compromise or arrangement; or dispensing with the meeting or meetings for any class or classes of creditors in terms of sub-section (9) of section 230;

(b) fixing the time and place of the meeting or meetings;

- (c) appointing a Chairperson and scrutinizer for the meeting or meetings to be held, as the case may be and fixing the terms of his appointment including remuneration;
- (d) fixing the quorum and the procedure to be followed at the meeting or meetings, including voting in person or by proxy or by postal ballot or by voting through electronic means;

Explanation.- For the purposes of these rules, "voting through electronic means" shall take place, *mutatis mutandis*, in accordance with the procedure as specified in rule 20 of Companies (Management and Administration) Rules, 2014.

- (e) determining the values of the creditors or the members, or the creditors or members of any class, as the case may be, whose meetings have to be held;
- (f) notice to be given of the meeting or meetings and the advertisement of such notice;
- (g) notice to be given to sectoral regulators or authorities as required under sub-section (5) of section 230;
- (h) the time within which the chairperson of the meeting is required to report the result of the meeting to the Tribunal; and
- (i) such other matters as the Tribunal may deem necessary.

6. Notice of meeting. - (1) Where a meeting of any class or classes of creditors or members has been directed to be convened, the notice of the meeting pursuant to the order of the Tribunal to be given in the manner provided in sub-section (3) of section 230 of the Act shall be in **Form No. CAA.2** and shall be sent individually to each of the creditors or members.

(2) The notice shall be sent by the Chairperson appointed for the meeting, or, if the Tribunal so directs, by the company (or its liquidator), or any other person as the Tribunal may direct, by registered post or speed post or by courier or by e-mail or by hand delivery or any other mode as directed by the Tribunal to their last known address at least one month before the date fixed for the meeting.

Explanation: - It is hereby clarified that the service of notice of meeting shall be deemed to have been effected in case of delivery by post, at the expiration of forty eight hours after the letter containing the same is posted.

(3) The notice of the meeting to the creditors and members shall be accompanied by a copy of the scheme of compromise or arrangement and a statement disclosing the following details of the compromise or arrangement, if such details are not already included in the said scheme:-

- (i) details of the order of the Tribunal directing the calling, convening and conducting of the meeting:-
 - (a) date of the Order;
 - (b) date, time and venue of the meeting.
- (ii) details of the company including:
 - (a) Corporate Identification Number (CIN) or Global Location Number (GLN) of the company;
 - (b) Permanent Account Number (PAN);
 - (c) name of the company;
 - (d) date of incorporation;
 - (e) type of the company (whether public or private or one-person company);
 - (f) registered office address and e-mail address;
 - (g) summary of main object as per the memorandum of association; and main business carried on by the company;
 - (h) details of change of name, registered office and objects of the company during the last five years;
 - (i) name of the stock exchange (s) where securities of the company are listed, if applicable;
 - (j) details of the capital structure of the company including authorised, issued, subscribed and paid up share capital; and
 - (k) names of the promoters and directors along with their addresses.
- (iii) if the scheme of compromise or arrangement relates to more than one company, the fact and details of any relationship subsisting between such companies who are parties to such scheme of compromise or arrangement, including holding, subsidiary or of associate companies;
- (iv) the date of the board meeting at which the scheme was approved by the board of directors including the name of the directors who voted in favour of the resolution, who voted against the resolution and who did not vote or participate on such resolution;
- (v) explanatory statement disclosing details of the scheme of compromise or arrangement including:-
 - (a) parties involved in such compromise or arrangement;

- (b) in case of amalgamation or merger, appointed date, effective date, share exchange ratio (if applicable) and other considerations, if any;
 - (c) summary of valuation report (if applicable) including basis of valuation and fairness opinion of the registered valuer, if any, and the declaration that the valuation report is available for inspection at the registered office of the company;
 - (d) details of capital or debt restructuring, if any;
 - (e) rationale for the compromise or arrangement;
 - (f) benefits of the compromise or arrangement as perceived by the Board of directors to the company, members, creditors and others (as applicable);
 - (g) amount due to unsecured creditors.
- (vi) disclosure about the effect of the compromise or arrangement on:
- (a) key managerial personnel;
 - (b) directors;
 - (c) promoters;
 - (d) non-promoter members;
 - (e) depositors;
 - (f) creditors;
 - (g) debenture holders;
 - (h) deposit trustee and debenture trustee;
 - (i) employees of the company;
- (vii) Disclosure about effect of compromise or arrangement on material interests of directors, Key Managerial Personnel (KMP) and debenture trustee.

Explanation – For the purposes of these rules it is clarified that-

(a) the term 'interest' extends beyond an interest in the shares of the company, and is with reference to the proposed scheme of compromise or arrangement.

(b) the valuation report shall be made by a registered valuer, and till the registration of persons as valuers is prescribed under section 247 of the Act, the valuation report shall be made by an independent merchant banker who

is registered with the Securities and Exchange Board or an independent chartered accountant in practice having a minimum experience of ten years.

(viii) investigation or proceedings, if any, pending against the company under the Act.

(ix) details of the availability of the following documents for obtaining extract from or for making or obtaining copies of or for inspection by the members and creditors, namely:

(a) latest audited financial statements of the company including consolidated financial statements;

(b) copy of the order of Tribunal in pursuance of which the meeting is to be convened or has been dispensed with;

(c) copy of scheme of compromise or arrangement;

(d) contracts or agreements material to the compromise or arrangement;

(e) the certificate issued by Auditor of the company to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013; and

(f) such other information or documents as the Board or Management believes necessary and relevant for making decision for or against the scheme;

(x) details of approvals, sanctions or no-objection(s), if any, from regulatory or any other governmental authorities required, received or pending for the proposed scheme of compromise or arrangement.

(xi) a statement to the effect that the persons to whom the notice is sent may vote in the meeting either in person or by proxies, or where applicable, by voting through electronic means.

Explanation- For the purposes of this rule, disclosure required to be made by a company shall be made in respect of all the companies, which are part of the compromise or arrangement.

7. Advertisement of the notice of the meeting.- The notice of the meeting under sub-section (3) of Section 230 of the Act shall be advertised in **Form No. CAA.2** in at least one English newspaper and in at least one vernacular newspaper having wide circulation in the State in which the registered office of the company is situated, or such newspapers as may be directed by the