



LexCognito

This issue of LexCognito, which in Latin means 'awareness about law', seeks to provide you an insight into significant legal and regulatory developments that have taken place very recently in India.

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MCA issues Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024

Ministry of Corporate Affairs (**MCA**), vide Notification G.S.R. 61(E) dated 24th January 2024, has notified the Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024 which permits direct listing of equity shares by an Indian public company on the 'India International Exchange' and the 'NSE International Exchange' located in Gujarat International Finance Tec-City, International Financial Services Centre (**GIFT – IFSC**) to attract foreign investments and aligning India's capital market regulations with global standards. Since Security and Exchange Board of India (**SEBI**) is currently working on releasing operating rules for listed public firms, as of right now, the framework permits unlisted public companies to list their shares on an international market. The notification clarifies and provides for;

1. **Eligibility of companies to list equity shares:**
 - a. Unlisted public companies;
 - b. Listed public companies, as so far, they are in accordance with the operational guidelines framed by SEBI.

The issue of equity shares also includes offer for sale of equity shares by existing shareholders of an unlisted public company for listing on a stock exchange in a permissible jurisdiction. The issuance of equity shares or offer for sale should comply with the sectoral caps and restrictions/prohibitions prescribed under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

2. **Ineligible companies who are not permitted to list equity shares:**
 - a. registered under section 8 or declared as Nidhi under section 406 of the Companies Act, 2013;
 - b. company limited by guarantee and also having share capital;
 - c. having negative net worth;
 - d. having any outstanding deposits accepted from the public;
 - e. defaulted payments as agreed upon with any bank, publicly traded company, holder of a non-convertible debenture, or secured creditor albeit if the company has made good on the default and two years have passed after the date of making good on the default, then this provision will not apply;

- f. made application for winding-up under the Act or for resolution or winding-up under the Insolvency and Bankruptcy Code, 2016; and
- g. defaults in filing of an annual return or financial statement within the specified period.

3. **Listing of equity shares in GIFT – IFSC:**

- a. The unlisted public company shall file the prospectus in *e-Form LEAP-1* along with the fees within a period of seven days after the same has been finalised and filed in the permitted exchange; and
- b. After listing, comply with Indian Accounting Standards as specified in the Companies (Indian Accounting Standards) Rules, 2015 in preparation of their financial statements, in addition to any other accounting standard, which they may be required to comply for the preparation of the financial statements filed before the securities regulator concerned, or with the stock exchange concerned, as the case may be.

CHRI Legal Comment:

These rules enable global investments into Indian eligible companies and discovery of a better valuation, in line with global standards. The majority of the benefits would go to start ups and services companies. By prescribing Ineligibility Criteria, the rules together seek to strike a balance among market integrity, investor protection, and transparency. These measures demonstrate how committed the Indian government is to creating an environment that makes it easier for businesses to access international financial markets.

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