



## news flash

### August 2018



## **BOARD'S REPORT TO INCLUDE POSH COMPLIANCE AS PER COMPANIES (ACCOUNTS) RULES 2014**

### ***Background***

The Ministry of Corporate Affairs (“MCA”) has issued a notification bearing no. G.S.R. 725(E) dated 31 July 2018 amending the Companies (Accounts) Rules, 2014 (“Rules”) to include (amongst others) a statement in the board’s report on the compliance under the POSH Act as discussed below.

***Effective date of Amendment:*** 31 July 2018

### ***Amendments to the Rules***

The notification provides the following amendments to the Rules:

#### 1. Rule 8 - Matters to be Included in Board’s Report

- i. The Board’s Report must now contain the following additional information:

*“(ix) a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained,*

*(x) a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 [14 of 2013]”*

- ii. It has been further clarified that Rule 8 dealing with matters to be included in the Board’s report shall not apply to One Person Company (“OPC”) or Small Company.
- #### 2. Rule 8A - Matters to be included in Board’s Report for One Person Company and Small Company

New rule 8A has been inserted as follows:

*“(1) The Board’s Report of One Person Company and Small Company shall be prepared based on the stand alone financial statement of the company, which shall be in abridged form and contain the following:-*

- a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;*
- b) number of meetings of the Board;*
- c) Directors’ Responsibility Statement as referred to in sub-section (5) of section 134;*
- d) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;*
- e) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report;*
- f) the state of the company’s affairs;*
- g) the financial summary or highlights;*
- h) material changes from the date of closure of the financial year in the nature of business and their effect on the financial position of the company;*
- i) the details of directors who were appointed or have resigned during the year;*
- j) the details or significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company’s operations in future.*

*(2) The Report of the Board shall contain the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.”*

### **ALMT Analysis**

Below is a summary and analysis of the amendments made to the Rules:

- The Board’s Report must now mandatorily disclose a statement that the company has complied with provisions relating to the constitution of ICC under the POSH Act. This provision will apply to private and public companies but will not apply to OPCs and small companies.
- The above disclosure is in addition to the existing requirement under section 22 of the POSH Act which requires every company to include in the annual report of its organization the number of cases filed, if any, and their disposal under that Act.
- Further, the board’s report must also contain a disclosure regarding the maintenance of cost records under section 148(1) of the Companies Act, 2013.
- A new Rule 8A has been inserted for the benefit of OPCs and small companies who are now required to prepare the Board’s Report based on the stand alone financial statement of the company, in abridged form and include the specified disclosures as listed above.

### **Disclaimer**

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