

INDIA LEGAL UPDATE

June 26, 2023

MCA amends the Companies (Accounts) Rules, 2014 on back-ups of the Books of Accounts

Notification Date:
August 5, 2022
Effective Date:
August 5, 2022
Legal Framework:
Companies Act, 2013; Companies (Accounts) Rules, 2014 Companies (Accounts) Fourth Amendment Rules, 2022
Government Authority:
Ministry of Corporate Affairs
Weblink:
MCA Notification

LEGAL UPDATE

- The Ministry of Corporate Affairs (MCA) has amended the Companies (Account) Rules, 2014, regarding books of accounts. As per these Amendment Rules, there shall be a proper system for storage, retrieval, display, or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate.
- Such records shall not be disposed of or rendered unusable, unless permitted by law.
- It is also provided that the back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any shall be kept in servers physically located in India on a daily basis.

KEY QUESTIONS

Is there any auditors' responsibility related to back up?

- Yes, the auditor is required to report any non-compliance with respect to the back-up Rules. As per section 143(3) of the Companies Act, 2023, the auditor has to opine on whether proper books of accounts as required by law have been kept by the company.
- In the author's view, proper books of accounts should be interpreted to include not only situations where the books of accounts do not present a true and fair view but also situations where other requirements of law relating to books of accounts are not complied with as daily back-ups or maintenance of an audit trail.
- The auditor will have to state in his audit report that it was not possible to verify if daily backups were being taken in the absence of any evidence to that effect.
- The obligation of a daily back-up is highly onerous and there are many situations which could lead to an audit qualification.

KEY QUESTIONS

What is the purpose of this Amendment?

Back-ups are an important features of any disaster recovery plan. Pre-amendment, the requirement to take periodic back-up could have been complied with by the entities by taking a backup once in a financial year, say, at the end of the financial year. By changing the back-up rules to requiring it on a daily basis, the objective of a disaster recovery plan is better met. Besides, regulators have ensured that up-to-date information is available from a company in case of an investigation.

Is there any penal consequence in case of failure?

As per section 128 of the Companies Act, 2013, the person charged by the Board with a duty to comply with the above provisions, if in case contravenes these provisions, such person shall be punishable with a *minimum fine of Rs. 50,000 which may extend upto Rs. 5,00,000*.

Queries?

If you have any queries about this article, please reach out to our experts:



Mayank Srivastava (マヤンク スリバスタバ)
Director | Tax Practice

Mobile: +91-93-3536-3533
Email: Mayank@HLS-Global.in



Ejima Naoto (江嶋直人)
General Manager | Japan Desk

Mobile: +91-91-0803-0825
Email: nejima@HLS-Global.in



Priyanka Bhutani (プリヤンカブータニ)
Senior Manager | Knowledge Management

Mobile: +91-85-8797-2798
Email: Priyanka@HLS-Global.in

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

HLS Global in India

New Delhi (Corporate Office)

Vegas Mall, Office Block-B, 8th Floor, Unit No.883, Sector-14, Dwarka, New Delhi 110075 | India
Tel.: +91-11-6134-0450
Email: Info@HLS-Global.in
JapanDesk@HLS-Global.in

Gurugram

Level 1, Building No. 10A, DLF Cyber City, Gurugram
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

Japanese Zone - Neemrana

Office No. 206, Regent Square Mall, CP-4, Japanese Zone, Neemrana, Rajasthan - 301705
Tel.: +91-73-5732-0237
Email: JapanDesk@HLS-Global.in

Lucknow

Office No. 22/181, Indira Nagar, Lucknow, Uttar Pradesh - 226016
Tel.: +91-93-3536-3533
Email: Info@HLS-Global.in

Mumbai

Plot C-20, G Block Near MCA, Bandra Kurla Complex, Bandra(East), Mumbai City MH 400051
Tel.: +91-93-3536-3533
Email: Info@HLS-Global.in

Ahmedabad

A - 413, Titanium Business Park, Beside Railway underpass, Makarba, Ahmedabad-380051
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

Connect with us on Social Media



www.HLS-Global.in

Noida

304, 3rd Floor, Tradex Tower-1, Alpha Commercial Belt, Alpha-1, Greater Noida, Uttar Pradesh-201310
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

Bangalore

Old Data Center, West Wing, North Tower, Level 6, ITC Green Centre, Dodda Banaswadi Main Rd, Bengaluru, Karnataka 560005
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

HLS Global Worldwide

Japan Office

Tokyo

www.HLS-Global.jp

US Offices

Los Angeles (Headquarters)
New York
Indianapolis
Chicago
Atlanta
San Jose

www.HLS-Global.com

Mexico Offices

Mexico City
Irapuato

www.HLS-Global.mx

Germany Office

Stuttgart

www.HLS-Global.de



ASTHOM

A member firm of ASTHOM Partners, Japan

<https://asthom.co.jp/>

Germany

Hong Kong

India

Japan

Malaysia

Philippines

Singapore

Thailand

USA

Vietnam