



## Ministry of Corporate Affairs permits buyback of shares on the basis of limited review financials

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### Background

The Ministry of Corporate Affairs (MCA), vide notification dated 10 March 2016, has issued the Companies (Share Capital and Debentures) Amendment Rules, 2016 (Amendment Rules) relating to the buyback of shares and securities by private companies and unlisted public companies. The amendment provides that where the audited accounts are more than six months old, the calculations with reference to buyback should be on the basis of unaudited accounts not older than six months from the date of offer document which is subjected to limited review by the auditors of the company.

The notification will be effective from the date of its publication in the Official Gazette

Rule 17(1)(n)(iii) of the Companies (Share Capital and Debentures) Rules, 2014 currently provides that the explanatory statement to be annexed to the notice of the general meeting pursuant to Section 102 shall contain a report addressed to the board of directors by the company's auditors, inter alia, stating that the audited accounts on the basis of which calculation with reference to buyback is done are not more than six months old from the date of offer document.

A new proviso has now been sought to be inserted to the above rule to provide that where the audited accounts are more than six months old the calculations may be done with reference to unaudited financials, not more than six months old from the date of offer document, which is subject to limited review by the auditors.

### Our comments

The requirement for audited accounts not more than six months old was a major constraint for companies while planning a buyback. The MCA has been continuously revising the notified Rules based on representations received from the industry. This is another move towards making the law more user-friendly and providing greater flexibility to corporates.

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