

Shareholders' prior nod needed for related party transactions

Providing more clarity, the government has said that certain class of related party transactions whose value is more than Rs 100 crore would require shareholders' prior approval by way of a special resolution.

The Corporate Affairs Ministry has also said that companies should provide detailed explanation about proposed related party transactions, including nature of the deal, while seeking approval.

The rules, part of the new Companies Act, would be applicable to contracts and arrangements coming under related party transactions.

Sale, purchase or supply of any goods or materials - directly or through appointment of agent - that exceeds ten per cent of the company's turnover or Rs 100 crore would require approval through special resolutions, the Ministry said in the latest Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014. This was issued on August 14.

With respect to "selling or otherwise disposing of or buying property of any kind, directly or indirectly through appointment of agent", the same norms would be applicable only if the value exceeds Rs 100 crore or ten per cent of the company's net worth.

In case of leasing of property, only those transactions where the value exceeds Rs 100 crore or ten per cent of the company's turnover or ten per cent of its net worth would require nod through special resolution.

The norms would be applicable for "availing or rendering of any services, directly or through appointment of agent, in case the value is more than ten per cent or the company's turnover or Rs 50 crore.

For this purposes, the Ministry said turnover and net worth would be computed on the basis of audited financial statement of the preceding financial year.

Special resolutions require at least 75 per cent shareholders' nod to get passed.

Besides the company has to annex an explanatory statement about related party transactions in general meeting notice.

The statement should include details such as name of the related party, key managerial personnel who is related to the transaction and nature of relationship, among others.

It should also detail the "nature, material terms, monetary value and particulars of the contract or arrangement" as well as any other information relevant for the members to take a decision on the proposed resolution.

With regard to wholly owned subsidiaries, the special resolution passed by the holding company would be sufficient to enter into related transactions between them.

Easing norms, the Ministry last month said that corporate restructuring activities, including amalgamations, are excluded from the ambit of related party transactions.

There are strict norms for related party transactions under Section 188 of the new Companies Act, which is being implemented by the Corporate Affairs Ministry.

(Economic Times)