RESPONSES TO QUESTIONS POSED BY

MEMBERS OF THE JOINT COMMITTEE ON CORPORATE LAWS (AMENDMENT) BILL 2026

Submitted by

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Contents

1. **From a strict statutory interpretation standpoint, are there any lingering ambiguities or overlapping jurisdictions between the adjudication mechanism proposed in this bill & the existing power of the National Company Law Tribunal (NCLT)?**

Provisions in the Bill	**Existing NCLT Jurisdiction**	**Overlap**	**Ambiguities**
Sec. 252 (Clause 76) — restoring a struck-off company's name. This job moves from NCLT to the Regional Director under sub-section (1). NCLT is only kept for sub-section (3).	Right now, only NCLT can restore struck-off companies (Sec. 252).	A job that was always NCLT's is being handed to a government officer instead. But it's not clear when NCLT's sub-section (3) role kicks in versus the Regional Director's role.	The Bill needs to clearly say which restoration cases go to the Regional Director and which stay with NCLT. Without that, companies won't know which office to approach.
Sec. 441(1)(b) (Clause 97) — the Regional Director can now settle offences worth up to ₹1 crore, up from ₹25 lakh.	NCLT still handles settlements above the Regional Director's limit.	Raising the limit means many cases that used to go to NCLT will now go to the Regional Director instead.	What happens to cases already pending before NCLT under the old ₹25 lakh limit?
Sec. 454B (Clause 103) — new Recovery Officer: attachment, bank freeze, arrest, using Income-tax Act powers	NCLT handles winding up (Secs. 271–272) and oppression/mismanagement (Secs. 241–242)	-	Proposed Section 454B confers independent recovery powers on the Recovery Officer but does not expressly address how those powers are to operate where the NCLT has already passed orders concerning the same assets. The absence of a coordination mechanism may give

			rise to jurisdictional uncertainty.
Clauses inserting Sections 454B–454D - Introduce settlement of civil penalties and a statutory settlement mechanism	**Sections 230–232**, **241–242**, **252**, **271–272** and other provisions where NCLT grants substantive relief.		The Bill establishes a mechanism for settlement of civil penalties but does not expressly clarify the legal effect of such settlement on pending or subsequent proceedings before the NCLT arising from the same underlying facts.
Expanded Sections 454–454D	**All proceedings before the NCLT**		No statutory framework governing concurrent proceedings, sequencing, or coordination between administrative adjudication and Tribunal proceedings where both arise from the same facts.
Clause 67 – proviso to Section 230(1)	Multi-State merger/arrangement applications may presently require consideration by multiple NCLT Benches having jurisdiction over the respective companies.		The Bill provides that pending applications shall continue under the existing framework but does not define the scope of "pending applications". Clarification may be required regarding whether applications at different procedural stages (including part-heard matters) are covered.
No express saving clause anywhere in amended	Entire Chapter XXVII and all provisions conferring jurisdiction on the NCLT.	The Bill expands administrative adjudication but **does not insert any provision**	Absence of an express jurisdiction-saving provision may require courts to reconcile overlapping

Chapter XXVIII		**preserving NCLT jurisdiction**	forums through interpretation, contrary to the objective of reducing litigation.

2. **How does the institutional design of the bill address the requirement of reducing corporate litigation and does it provide sufficient legal clarity to withstand constitutional scrutiny regarding administrative overreach?**

The Corporate Laws (Amendment) Bill, 2026 majorly aims to reduce litigation through three pillars, namely decriminalisation, in-house adjudication, and jurisdictional rationalisation. This has been done to advance the twin goals of ease of doing business and reducing the burden on courts and tribunals.

Decriminalisation as the primary de-litigation tool

The Bill converts numerous criminal offences into civil penalties, to be adjudicated administratively. Some of the provisions include, Clause 24 (fraudulent prospectus, section 26), Clause 29 (buy-back defaults, section 68), Clause 47 (auditor-related defaults, section 147), Clause 56-57 (sections 166-167, director misconduct), Clause 61 (section 186, inter-corporate loans), Clause 65 (section 206), Clause 75 (section 249), Clause 88-90 (producer-company provisions, sections 378ZM, 378ZS, 392), Clause 100 (section 453), and Clause 107 (section 469). This shifts thousands of routine procedural defaults out of the criminal-court or Special-Court into a penalty regime. This directly reduces the volume of prosecutions and appeals arising from technical non-compliance. This shift is consistent with the aim (para 4(a)) of decriminalisation of various procedural defaults by replacing criminal provisions with civil penalties, stated in the Statement of Objects and Reasons.

Expanding and strengthening in-house adjudication

Clause 101 widens who can be an adjudicating officer (Assistant Registrar, not just Registrar) and inserts new section 454(1A) allowing companies to apply suo moto for adjudication of their own defaults, encouraging voluntary compliance rather than contested proceedings. section 454B (Clause 103) creates a Recovery Officer mechanism for penalty recovery (avoiding execution suits), and section 454C creates a ‘Specified Authority’ settlement route for compoundable contraventions, explicitly prohibiting appeal against a settlement order (sub-section (8)) once accepted. section 454D imposes a mandatory 10% pre-deposit before any appeal to the NCLAT, Regional Director, or Appellate Authority is entertained, which would act as a litigation-deterrent.

Jurisdictional rationalisation to decongest the NCLT and the NCLAT

Clause 67 (section 230 proviso) mandates that all merger and amalgamation applications under sections 230-233 be filed only before the NCLT bench having jurisdiction over the transferee or resultant company. This has ended the earlier requirement of parallel, potentially conflicting proceedings before multiple benches for merging entities located in different states, which was a long-standing source of delay and inconsistent orders. Clause 69 (section 233) also raises the majority threshold and aligns approval requirements for fast-track mergers with Tribunal-sanctioned schemes, reducing objections. Clause 96 (new section 419(4A)) empowers the President of NCLT to constitute special benches for specific classes of cases, and Clause 95 (new section 418A(3)) creates a formal majority or reference mechanism for NCLAT benches that differ in opinion. This reduces procedural uncertainty which would otherwise invite writ challenges. Clause 97 (section 441) raises the Regional Director's compounding threshold from ₹25 lakh to ₹1 crore, to reduce the burden on the National Company Law Tribunal by diverting more compounding applications to the executive route.

Gaps, lacunae and implications

Excessive delegated legislation: The phrases 'as may be prescribed', 'as may be provided by rules' and 'as may be notified' recurs multiple times across the Bill. Some of the instances include governing settlement sums [section 454C(5)], time limits for settlement negotiations (454C(6)), penalty percentages for small or start-up companies (section 446B, Clause 98), and the transitional scheme for migrating pending criminal complaints to adjudication (new section 454(10)). While this is efficient for a technical, fast-changing regulatory field, it also means the actual contours of liability, quantum, and procedure will be settled by executive rulemaking rather than parliamentary scrutiny. This gives rise to an 'excessive delegation' concern. It also creates uncertainty for companies until rules are notified, potentially generating fresh litigation.

No-appeal clause: section 454C (8) bars appeal against Specified Authority settlement orders, and section 454D imposes a 10% pre-deposit for appeals from NFRA, Valuation Authority and adjudicating-officer orders. While this may deter frivolous appeals, it also generates risks of converting the 'settlement' route into a pressure mechanism (effectively forcing the companies to accept the orders, in light of the costly appeals), and companies with genuine grievances against quantum may lack effective recourse. This is a major due-process gap.

Multiple parallel adjudicatory or appellate tracks create possible forum arbitrage: The Bill layers several bodies with overlapping or adjacent jurisdiction. The adjudicating officer and the Assistant Registrar under section 454, the Regional Director as compounding authority (section 441, threshold now ₹1 crore), the new 'Appellate Authority' (section 454(5)), the Specified Authority for settlement (section 454C), and the NCLT or the NCLAT for compounding above the threshold and for appeals. These thresholds, procedures and appeal rights differ across these routes, and entry into some (e.g., suo moto adjudication or settlement) is voluntary while others are triggered by Registrar action. This could allow certain corporations to be able to select the most favourable track by timing an application or choosing settlement over adjudication. This would result in a form of intra-regulatory arbitrage that smaller, less-advised companies cannot exploit, raising equity concerns even as aggregate litigation volume falls.

Decriminalisation without proportionate deterrence review. Conversion of certain offences into capped penalties may under-deter large, well-capitalised companies for whom such penalties are immaterial. This is particularly true for offences such as inter-corporate investment [section 186(9) and (10)] and investigation non-compliance (section 206). This can potentially increase low-stakes non-compliance.

Alignment with overall objectives

Read holistically, the institutional design of the bill attempts to substitute court-centred criminal adjudication with a graded administrative mechanism, which involves self-reporting, an adjudicating officer, a Regional Director or an Appellate Authority, settlement, and finally the NCLT or the NCLAT only for high-value or contested matters. This is consistent with the stated goals of ease of doing business, ease of living for corporations, and offloading routine matters from an overburdened tribunal system. However, this comes at a cost of a substantial transfer of normative power to delegated rulemaking and executive authorities with limited appellate checks. Hence, proper rules regarding the exercise of executive power must be drafted to ensure uniformity and non-arbitrary mechanisms to be followed by the executive.

Note: On whether it provides sufficient legal clarity to withstand constitutional scrutiny regarding administrative overreach, has been responded to in question 6.

3. **Given the evolving nature of digital assets & corporate data storage, how adequately does the bill define electronic corporate records & evidence admissibility standards compared to advanced global corporate jurisdictions?**

Introduction/Benefits of Electronic Records and Integration of Technology

Over the last few decades, the rise of the internet age has resulted in the increased integration and proliferation of technology into every activity. Companies and their managements are not immune to these developments. Technology has been integrated into multiple activities, including board and general meetings as well as different kinds of filings. These have numerable benefits in terms of saving time and costs.

This part of the response analyses the current framework of electronic corporate records and evidence admissibility standards, testing if they sufficiently account for the latest technological developments. Subsequently, it compares the Indian legal framework with that of advanced jurisdictions like the USA and Singapore, and ascertains whether some of the best practices of these jurisdictions may be incorporated into the Indian framework.

Understanding India's Legal Framework

India does not have a single, consolidated chapter on electronic corporate records and evidence admissibility standards, rather it draws from a patchwork of provisions in the Companies Act, 2013, the Bharatiya Sakshya Adhiniyam, 2023 and the Information Technology Act, 2000 along with delegated legislation and guidelines.

The Information Technology Act, 2000 was one of the first pieces of legislation to formally recognise electronic records. Section 4 of the Act states that, where any law provides that information hall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is — (a) rendered or made available in an electronic form; and (b) accessible so as to be usable for a subsequent reference. The Act and Rules provide substantial inputs regarding the authentication of such records.

The Bharatiya Sakshya Adhiniyam, 2023 (and earlier, the Indian Evidence Act), in section 61 recognises the admissibility of electronic or digital records and states that it has the same legal effect, validity and enforceability as any other document. Section 63 states the conditions which would make the electronic record admissible.

Therefore, despite the Companies Act, 2013 not making sector-specific-guidelines on validity and admissibility of electronic records, the abovementioned two legislations and their delegated legislations provide fairly detailed guidelines and are helpful in understanding the validity and admissibility of electronic corporate documents.

With this context in mind, it is relevant to refer to the Companies Act and Rules which have various provisions which deal with electronic corporate records. The table below highlights them.

Sr. No.	Legislation	Provision
•	Companies Act, 2013	**2. Definitions.** (36) "Document". "document" includes summons, notice, requisition, order, declaration, form and register, whether issued, sent or kept in pursuance of this Act or under any other law for the time being in force or otherwise, maintained on paper or in electronic form. (65) "postal ballot" means voting by post or through any electronic mode.
•	Companies Act, 2013	**20. Service of documents.** (1) A document may be served on a company or an officer thereof by sending it to the company or the officer at the registered office of the company by registered post or by speed post or by courier service or by leaving it at its registered office or by means of such electronic or other mode as may be prescribed. **Proposed Amendment** Provided that the service of such class of documents by such class or classes of companies, as may be prescribed, to its members, shall take place only through electronic mode, in such manner as may be prescribed, and such service shall be deemed to be sufficient compliance for the purposes of this Act. Provided further that a member may request for delivery of any document through a particular mode, for which he shall pay such fee as may be determined by the company in its general meeting.
Meetings		
•	Companies Act, 2013	**96. Annual general meeting.** Every company other than a One Person Company shall in each year hold in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall

		elapse between the date of one annual general meeting of a company and that of the next. **Proposed Amendment (introduces the provision of online AGMs):** A company may hold its annual general meeting physically, or through video conferencing or other audio-visual means, either wholly or partly, in such manner and subject to such terms and conditions, as may be prescribed: Provided that if the number of members referred to in sub-section (2) of section 100 requisition the meeting to be held in a hybrid mode, the company shall hold the meeting in such mode: Provided further that every company shall hold its annual general meeting in physical mode at least once in every three years.
Voting		
•	Companies Act, 2013	**108. Voting through electronic means.** The Central Government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means.
•	The Companies (Management and Administration) Rules, 2014	**Rule 20. Voting through electronic means.** <u>Every company which has listed its equity shares on a recognised stock exchange and every company having not less than one thousand members shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at a general meeting by electronic means</u>. Provided that a Nidhi, or an enterprise or institutional investor referred to in Chapter XB or Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 is not required to provide the facility to vote by electronic means. A company which provides the facility to its members to exercise voting by electronic means shall comply with the following procedure, which would include:- • the notice of the meeting shall be sent to all the members, directors and auditors of the company • the notice shall also be placed on the website, if any, of the company and of the agency forthwith after it is sent to the members • the facility for remote e-voting shall remain open for not less than thee days and shall close at 5.00 p.m. on the date Preceding the date of the general meeting; • during the period when facility for remote e-voting is provided, the members of the company, holding shares either in physical form or in dematerialised form, as on the cut-off date, may opt for remote e-voting. There are also certain safeguards: • The Board of Directors shall appoint one or more scrutiniser, who is not in employment of the company, and

		is a person of repute who, in the opinion of the Board can scrutinise the voting and remote e-voting process in a fair and transparent manner. • The scrutiniser shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority. • The scrutiniser shall, immediately after the conclusion of voting at the general meeting, first count the votes cast at the meeting, thereafter unblock the votes cast through remote e-voting in the presence of at least two witnesses not in the employment of the company and make, not later than three days of conclusion of the meeting, a consolidated scrutiniser's report of the total votes cast in favour or against, if any, to the Chairman or a person authorised by him in writing who shall countersign the same. • For the purpose of ensuring that members who have cast their votes through remote e-voting do not vote again at the general meeting, the scrutiniser shall have access, after the closure of period for remote e-voting and before the start of general meeting, to details relating to members such as their names, folios, number of shares held and such other information that the scrutiniser may require, who have cast votes through remote e-voting but not the manner in which they have cast their votes.
Maintenance and Inspection of Records		
•	Companies Act, 2013	**120. Maintenance and inspection of documents in electronic form.** Without prejudice to any other provisions of this Act, any document, record, register, minutes, etc., — (a) required to be kept by a company; or (b) allowed to be inspected or copies to be given to any person by a company under this Act, may be kept or inspected or copies given, as the case may be, in electronic form in such form and manner as may be prescribed.
•	The Companies (Management and Administration) Rules, 2014	**Rule 27. Maintenance and Inspection of Document in Electronic Form.** <u>Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, [1][may] maintain its records, as required to be maintained under the Act or rules made there under, in electronic form</u>. Guidelines within the rules: • the records are maintained in the same formats and in accordance with all other requirements as provided in the Act or the rules made there under; • the information as required under the provisions of the Act or the rules made there under should be adequately recorded for future reference;

		• the records must be capable of being readable, retrievable and reproducible in printed form; • the records are capable of being dated and signed digitally wherever it is required under the provisions of the Act or the rules made there under; • the records, once dated and signed digitally, shall not be capable of being edited or altered; • the records shall be capable of being updated, according to the provisions of the Act or the rules made there under, and the date of updating shall be capable of being recorded on every updating.
•	The Companies (Management and Administration) Rules, 2014	**Rule 28. Security of Records Maintained in Electronic Form** The Managing Director, Company Secretary or any other director or officer of the company as the Board may decide shall be responsible for the maintenance and security of electronic records. Safeguards: (a) provide adequate protection against unauthorized access, alteration or tampering of records; (b) ensure against loss of the records as a result of damage to, or failure of the media on which the records are maintained; (c) ensure that the signatory of electronic records does not repudiate the signed record as not genuine; (d) ensure that computer systems, software and hardware are adequately secured and validated to ensure their accuracy, reliability and consistent intended performance; (e) ensure that the computer systems can discern invalid and altered records; (f) ensure that records are accurate, accessible, and capable of being reproduced for reference later; (g) ensure that the records are at all times capable of being retrieved to a readable and printable form; (h) ensure that records are kept in a non-rewriteable and non-erasable format like pdf. version or some other version which cannot be altered or tampered; (i) ensure that at least one backup, taken at a periodicity of not exceeding one day, are kept of the updated records kept in electronic form, every backup is authenticated and dated and such backups shall be securely kept at such places as may be decided by the Board; (j) limit the access to the records to the managing director, company secretary or any other director or officer or persons performing work of the company as may be authorized by the Board in this behalf; (k) ensure that any reproduction of non-electronic original records in electronic form is complete, authentic, true and legible when retrieved; (l) arrange and index the records in a way that permits easy location, access and retrieval of any particular record; and

		(m) take necessary steps to ensure security, integrity and confidentiality of records.
•	The Companies (Management and Administration) Rules, 2014	**Rule 29. Inspection and Copies of Records Maintained in Electronic Form** Where a company maintains its records in electronic form, any duty imposed by the Act or rules made there under to make those records available for inspection or to provide copies of the whole or a part of those records, shall be construed as a duty to make the records available for inspection in electronic form or to provide copies of those records containing a clear reproduction of the whole or part thereof, as the case may be on payment of not exceeding ten rupees per page.
		Different Kinds of Notice
•	Companies Act, 2013	**101. Notice of meeting.** A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as may be prescribed.
•	Companies Act, 2013	**62. Further issue of share capital.** The notice shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue.
•	Companies Act, 2013	**96. Annual general meeting.** The annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance.
•	Companies Act, 2013	**123. Declaration of dividend.** Any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.
•	Companies Act, 2013	**128. Books of Accounts, etc. to be kept by company.** The company may keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed.
•	The Companies (Accounts) Rules, 2014	**Rule 3. Manner of Books of Account to be Kept in Electronic Mode.** The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India, at all times so as to be usable for subsequent reference. Provided that for the financial year commencing on or after the 1st day of April, 2023, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change

		made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.
•	Companies Act, 2013	**173. Meetings of Board.** A meeting of the Board shall be called by giving not less than seven days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means.
•	The Companies (Meetings of Board and its Powers) Rules, 2014	**Rule 3. Meetings of Board Through Video Conferencing or Other Audio Visual Means.** A company shall comply with the following procedure, for convening and conducting the Board meetings through video conferencing or other audio-visual means. • Every Company shall make necessary arrangements to avoid failure of video or audio-visual connection. • The Chairperson of the meeting and the company secretary, if any, shall take due and reasonable care. **Note: Rule 4. Matters Not to be Dealt With in a Meeting Through Video Conferencing or Other Audio-Visual Means –** has been omitted. This is a welcome development.
•	Companies Act, 2013	**175. Passing of resolution by circulation.** No resolution shall be deemed to have been duly passed by the Board or by a committee thereof by circulation, unless the resolution has been circulated in draft, together with the necessary papers, if any, to all the directors, or members of the committee, as the case may be, at their addresses registered with the company in India by hand delivery or by post or by courier, or through such electronic means as may be prescribed and has been approved by a majority of the directors or members, who are entitled to vote on the resolution.

Suggestions and Comments for India's Companies Law Framework

- **Broaden the provision for electronic voting.** Section 108 states that the central government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means. The delegated legislation mandates only listed companies or those companies having not less than one thousand members to provide the facility of electronic voting to its members. We recommend the broadening of the provision of mandating companies to give members the option of electronic voting, by removing the minimum criteria of one thousand members. *Section 211 of the Delaware General Corporation Law* permits shareholders to participate virtually in meetings and places no qualifications on the basis of the company's size.

- **Broaden the provision for recording and inspecting documents in electronic form.** Section 120, read along with the delegated legislation states that a listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, may maintain its records under the Act or rules made there under, in electronic form. We recommend the broadening of the provision of mandating companies to give members the option of inspecting documents in electronic form, by removing the minimum criteria of one thousand members. While the *Delaware General Corporation Law* does not specifically mention whether such documents must be in electronic form, there are case laws like *KT4 Partners LLC v. Palantir Technologies, Inc.* (2019) that go so far as to allow for the inspection of emails related to Investors' Rights Agreement amendments, by stockholders. However, we recommend that broadening the ambit of electronic records that may be collected, must be done in a very careful and calibrated manner, taking into account risks of leaking confidential or personal information.
- **The proposed amendment to section 96 is a welcome move.** The proposed amendment to section 96 which permits for annual general meetings being held virtually is a welcome move, and is a sign of adaptation with the times. The provision to mandate a physical annual general meeting every three years is a reasonable one.

4. **To what extent does the bill conceptually integrate modern principles of the environment, social & governance (ESG) metrics into the statutory judiciary duties of board directors?**

Conceptually, the Corporate Laws (Amendment) Bill, 2026 does not substantially integrate modern ESG (Environmental, Social and Governance) principles into the statutory fiduciary duties of company directors.

I. Environment

The Bill contains almost no direct environmental integration. There are no amendments that require directors to consider climate change; impose environmental due diligence; introduce sustainability reporting; require environmental risk oversight; incorporate carbon emissions or biodiversity into board responsibilities; or amend directors' duties to include environmental stewardship.

The Bill does not modify section 166 of the Companies Act (Directors' Duties) to require consideration of environmental interests. section 166(2) of the existing Companies Act requires directors to act in good faith in the interests of the company, its employees, the shareholders, the community and for the protection of the environment. The Clause 56 of the Bill amends section 166 only to narrow the criminal penalty under sub-section (7) so it applies only to sub-section (5) (related-party misuse of position/undue gain), and add a new civil penalty (sub-section 8) for other contraventions, decriminalizing them. It doesn't strengthen or elaborate the substantive community/environment language in sub-section (2).

II. Social

The Bill makes only limited movement toward the social dimension of ESG. Clause 43 (amending section 135) introduces the following changes:

1. Raises the net-profit threshold triggering mandatory CSR from ₹5 crore to ₹10 crore (fewer companies covered).
2. Extends the deadline to transfer unspent CSR funds from 30 to 90 days.

3. Raises the CSR-spend threshold requiring a CSR Committee from ₹50 lakh to ₹1 crore.
4. Adds a new power to exempt prescribed classes of companies from section 135 entirely.
5. The Statement of Objects explicitly frames this as "relaxations in CSR requirements" and exemptions for small companies.

It must be noted that these changes affect administration of CSR, not the substantive social obligations owed by directors.

III. Governance

The Corporate Laws (Amendment) Bill, 2026 most substantially alters the governance aspect of ESG, particularly the aspects of board accountability, audit independence, regulatory oversight, and institutional integrity. The Bill introduces several substantive amendments that collectively strengthen corporate governance standards and improve transparency within the statutory framework.

1. Enhanced Board Accountability through Amendments to section 134 (Clause 42 of the Amendment Bill)

The Bill amends section 134 of the Companies Act, 2013 by requiring the Board's Report to expressly disclose the reasons for rejecting recommendations made by the Audit Committee and to provide explanations regarding adverse observations or qualifications made by statutory auditors. This amendment significantly expands the Board's disclosure obligations by imposing a statutory duty of reasoned justification, thereby limiting arbitrary departures from independent oversight mechanisms. The reform strengthens board accountability, enhances shareholder transparency, and reinforces the fiduciary expectation that directors exercise informed and rational decision-making supported by documented reasons.

2. Strengthened the eligibility and independence requirements for Independent Directors under section 149 (Clause 49 of the Amendment Bill)

The Bill revises section 149 by requiring independent directors to continuously satisfy the prescribed independence criteria throughout their tenure rather than merely at the time of appointment. It also includes independence assessment to include the current financial year, tightens conflict-of-interest thresholds applicable to legal and consulting firms associated with independent directors, and broadens the application of these restrictions to transactions involving the company's holding, subsidiary and associate companies. These amendments recognise director independence as a continuing statutory obligation rather than a one-time qualification. By reducing the likelihood of compromised oversight, the reforms strengthen board impartiality and improve the effectiveness of independent directors in supervising executive management.

3. Restructuring of NFRA

The Bill substantially restructures section 132 and inserts sections 132A-132K to strengthen the institutional framework of the National Financial Reporting Authority (NFRA). It converts NFRA into a body corporate, enhances its regulatory autonomy, mandates registration and periodic reporting by auditors, and empowers it to issue directions, impose disciplinary sanctions and monetary penalties, and frame regulations governing its functions. The amendments also establish an NFRA Fund and provide a dedicated enforcement and appellate framework. Collectively, these reforms significantly strengthen India’s audit oversight.

The Bill’s silence on environmental and social duties stands in sharp contrast to the trajectory SEBI has independently set through the Business Responsibility and Sustainability Reporting (BRSR) framework. Since 2021, SEBI has required the top 1,000 listed entities to report ESG performance in a standardised format, and since July 2023. This is a securities-law, disclosure-based regime and it binds listed companies through the Listing Obligations and Disclosure Requirements (LODR) Regulations, not through directors’ statutory duties under the Companies Act. The Amendment Bill had a clear opportunity to anchor BRSR’s substantive expectations into company law itself. This could have been done by linking the Board’s Report disclosures under section 134 to the metrics under BRSR Core, or by making environmental risk oversight a director-level obligation along the lines of SEBI’s requirements. Thus, there exists a bifurcated mechanism. With SEBI regulating ESG disclosure quality for listed companies through circulars and LODR amendments, and the Companies Act remaining silent on the underlying duty.

Is the legal language sufficiently defined to prevent arbitrary enforcement?

Some of the governance-oriented amendments are drafted with sufficient clarity to support transparent corporate governance. For instance, the amendments to section 134 require the Board's Report to disclose the reasons for rejecting recommendations of the Audit Committee and to explain adverse observations made by statutory auditors. The drafting reflects the objective and mandatory nature of the

However, certain provisions rely on broad and open-textured legal language that may weaken governance certainty. The most prominent example of this is the introduction of the 'fit and proper person' criterion for directors under section 164. Although the provision seeks to improve board quality and integrity, the Bill does not define the substantive parameters of fitness or propriety within the parent statute. Instead, these standards are left to be prescribed through subordinate legislation. From an ESG governance perspective, such legislative indeterminacy may create uncertainty for companies seeking to evaluate director eligibility and may permit inconsistent application unless supported by objective regulatory criteria.

The Bill also makes extensive use of delegated legislative expressions such as 'as may be prescribed' and 'subject to such conditions as may be prescribed'. While delegated legislation is an accepted mechanism for addressing technical and procedural matters, excessive reliance on future rule-making may reduce legal predictability. ESG governance frameworks emphasise transparency, consistency and accountability in regulatory compliance. Therefore, where essential governance standards are deferred to executive rule-making, stakeholders may face uncertainty regarding the scope and content of their legal obligations until subordinate legislation is promulgated.

5. Comment on the constitutional morality of CSR.

Constitutional morality has been defined to mean bowing down to the norms of the constitution, the morality or conscience inherent within the constitution or the conspectus of values underpinning its literal text. In the case of *Manoj Narula v Union of India* (2014) 9 SCC 1, the Supreme Court indicated that the maxim '*salus populi suprema lex esto* (the welfare of the people shall be the supreme law)' is an aspect of constitutional morality. The Supreme Court has also held that constitutional morality is more than just adherence to the provisions or the text of the constitution but 'a constitutional culture which *each individual* in a democracy must imbibe (emphasis supplied).' In *Navtej Singh Johar v. Union of India (2018),* the SC further held that constitutional morality is the 'the guiding spirit to achieve which, above all, the Constitution seeks to achieve'. Values contained in the preamble such as justice, equality, liberty and fraternity have been held to be core aspects of constitutional morality. Justice, as per the doctrine of constitutional morality, must be secured in all three dimensions: *social*, political and *economic.*

The philosophy of Corporate Social Responsibility (CSR) is also founded on similar constitutional values as highlighted in the preceding paragraph. It is intended to facilitate social justice, reduce inequality and contribute to economic development, and also protect environment. All of these values are found in the preamble of the constitution and the Directive Principles of State Policy (DPSP). The preamble declares the commitment to economic, political and social justice as well as equality. Article 38 also declares that the state shall secure and protect a social order in which social, political and economic justice exist. Various provisions of the DPSP call on the state to commit to reduce inequality, secure a just distribution of resources, improve health and protect the environment.

In its decision in *Sujata Bora v. Coal India Ltd (2026),* the Supreme Court, in the context of rights of disabled people, recognized the connection between CSR and constitutional values such as equality. It held that '[t]rue equality at the workplace can be achieved only with the right impetus given to disability rights as a facet of Corporate Social Responsibility.' The Bombay High Court has also exhorted the government to resort to CSR in the health sector to fulfil its commitments to health of people under the DPSP and Article 21 of the Constitution, thus implicitly recognizing the role that CSR can play in achieving a society as envisioned by the Constitution. Further, CSR has been recognized as obligating corporations to protect affected persons from environmental hazards and prevent pollution. The concept of sustainable development has also been affirmed as an inseparable twin of CSR.

The Corporate Laws (Amendment) Bill, 2026 must be tested against this backdrop of constitutional morality. The Statement of Objects and Reasons frame the Bill as a continuation of the government's endeavour to promote 'ease of doing business and ease of living for corporates', through targeted relaxations for small, One Person, start-up and producer companies. The Bill amends Section 135 of the Companies Act to exempt small companies from mandatory CSR altogether, raises the net-profit and CSR-spend thresholds that trigger constitution of a CSR Committee, and extends the timeline for transferring unspent CSR amounts to the designated bank account.

At first glance, easing CSR compliance may appear to sit uneasily with the constitutional values discussed above. However, constitutional morality does not demand rigid uniformity of obligation irrespective of context; it demands substantive fairness in how burdens and duties are distributed. Small companies, start-ups and producer companies typically operate with thin margins and limited administrative capacity, and subjecting them to the same CSR committee, spending and disclosure mechanisms as large corporation risks converting a redistributive mechanism into a disproportionate compliance burden. This is a facet of the economic justice and equality of opportunity contemplated under Articles 38 and 39. Thus, the Bill's calibrated relaxation is not a repudiation of the constitutional foundation of CSR but an attempt to align it with proportionality. This attempt ensures that the obligation continues to bind entities genuinely capable of discharging it while sparing smaller enterprises from disproportionate criminal and procedural exposure.

6. What are the consequences of excessive delegation to the Executive?

An overarching feature of this Amendment Bill is the feature of delegated legislation and also an attempt to reduce corporate litigation thus easing the burden on the NCLT. However, these reforms present itself with some challenges. They include:-

Excessive Delegation

A significant concern regarding the bill is excessive delegation. Many prevalent financial frameworks of the bill including the settlement amount is to be decided as per the discretion of the executive authority. Let's take the example of 454C (5):-

"The Specified Authority may, after taking into consideration the nature, gravity and impact of contraventions, agree to the proposal for settlement, on payment of such sum by the applicant or on such other terms and manner of implementation of settlement and monitoring, as may be Prescribed."

The specified authority herein is an executive committee comprising officers of the central government as specified in 454C (2):-

"The Central Government may constitute a Specified Authority comprising of an officer or group of officers of the Central Government which may discharge the functions of Specified Authority under this section."

This is a case of excessive delegation to the executive where the executive is having administrative discretion to decide penalties. In addition, 454C (6), postulates as follows:-

"<u>If the Specified Authority is of the opinion</u> that the settlement offered is not appropriate in the circumstances, or if the Specified Authority and applicant concerned do not reach an agreement on the terms of the settlement within such time as may be prescribed, it shall by an order reject the application for settlement and the proceedings initiated against the applicant shall be continued."

All these provisions highlight how there is excess power and discretion in the hands of an executive body. In addition, another example is 446B which provides for the penalties payable in case of small companies, one person companies, start-up companies or producer companies. Through clause 98 of the amendment, this has been modified to bring in excessive delegation by substituting the old clause to, *"liable to a penalty of one-half, or such per cent. not exceeding one-half, as may be prescribed, of the penalty"*

These are instances where excessive delegation and discretion is being imposed within the bill. Now, a lot of the provisions of the current bill relies on the rules which are to come and that creates a regulatory vacuum. Wherever the Act has used *'as prescribed'* it is essentially reverting back to the Central Government's power to make rules to operationalise the Act and that creates a regulatory vacuum where the full framework is not clear until the rules are made.

Due Process and Appeal Rights

In the amendment, Section 454C have been added to include the provision of settlement of penalties. Under Section 454C (8), *"No appeal shall lie against any order passed by the Specified Authority under this section"*. The specified authority deciding the settlement claims is necessarily a body comprising executives as stated in Section 454C (2), which states that, *"The Central Government may constitute a Specified Authority comprising of an officer or group of officers of the Central Government which may discharge the functions of Specified Authority under this section."*

This framework creates a due process problem here as the specified authority is not a judicial body and since no appeal lies against the orders of this body, there is a chance of administrative overreach that could happen through this framework. **As illustrated by the NLU Delhi Delegation in its report submitted to the MCA titled, *"A Study on Streamlining of Compounding Procedure under the Companies Act, 2013" submitted to DGCOA, MCA*,** this could lead to administrative overreach and arbitrariness in decision making when excessive power is delegated to the executive.

Constitutional Scrutiny of Delegated legislation

The power to make laws in India wrest with the Parliament. As held in *In Re: Delhi Laws Act 1912*, this power to delegate can be exercised to delegate ancillary and procedural details to the executive within strict constitutional boundaries, the determination of legislative policy must remain with the Parliament. This means that the power of the executive to make rules is not absolute and they can only do so for ancillary and procedural matters strictly related to the parent legislation. An important aim of these amendments is to regularise the penalties and settlement sums, however the same in its entirety will now be decided by the Central Government through its rule making powers.

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creates a regulatory vacuum. Wherever the act has used ‘as prescribed’ it is essentially reverting back to the Central Government’s power to make rules to operationalise the act and that creates a regulatory vacuum where the full framework is not clear until the rules are made. Now, another issue with this is that the Central Government which is an executive organ will use its executive powers to make these rules and these rules will not be subjected to parliamentary scrutiny unless the parliament is not in session. More specifically, under Section 469 of the Companies Act, the rules made for operationalising the provisions of the Act, can be notified and under Section 469(4) has to be laid down in the Parliament while it is in session. The relevant provisions have been reproduced below: -

“Section 469. Power of Central Government to make rules
(1) The Central Government may, by notification , make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision is to be or may be made by rules.

(3) Any rule made under sub-section (1) may provide that a contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such contravention continues.

(4) Every rule made under this section and every regulation made by Securities and Exchange Board under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.”

Now, this provision clearly states that rules framed under Section 469 has to be laid down before the Parliament for 30 days, but even if Parliament rejects or modifies the rules, any decision taken under the rules notified shall stand valid. This opens a theoretical loophole, meaning that the executive could notify the rules while the House is not in session, which essentially operationalises the rules and later on when the Parliament comes to session, the same shall be voted upon but even if a modification happens, a decision taken in the interim period, using the rules shall stand. This mean that the rules will have validity even without a parliamentary scrutiny.

Secondly, from a bare reading of the Act, the power of Parliament under 469(4) is not to give a ratification vote, but rather to suggest modifications or annul the rules altogether, which is essentially a negative vote. This would mean that the rules made are not ratified by Parliament but the Parliament receives the right to a negative vote to annul or modify the provisions. Hence this is a post facto approval scenario.

Another issue with this is that a major chunk of the amendments will only receive its final shape after the central government uses its powers to make the rules which would mean bypassing the Parliament initially and seeking a post facto approval from Parliament. This also presents with another practical problem in itself, as the rules shall be tabled in the house for 30 days, meaning a clause by clause analysis or a detailed discussion that follows when a law is passed through the legislative might not be possible for the Rules notified by the Central Government.

Suggestion: To address the issue of delegated legislation it is recommended that the rules made under Companies Act shall either be subjected to a longer discussion period from the current 30 days or the Parliament's power be elevated to ratification power and not mere negative voting power.

As mentioned earlier, the rules shall form the procedures and in the absence of the same the operational vacuum would leave the companies in a confusion. Additionally, given that many penalty provisions involve the discretion of the executive, the same shall lead to opening of another floodgate of writ jurisdiction to the High Court and the Supreme Court.

7. What need not be eased in the name of ease of doing business?

While ease of doing business in a critical component of making investments in India attractive, a major force through which Ease of doing business is established is through lighter compliance requirements. While lighter compliance thresholds could reduce documentation requirements and avoid bureaucratic red-tapism, it is essential that the same does not open up chances to commit fraud. The following provisions in the amendment Act needs critical relook under this reason:-

Small Companies

Small Companies are defined under Section 2(85) of the Companies Act. These companies are provided with a reduced compliance burden, including lesser number of Board meetings, non-requirment of maintaining cash flow statements, less penalties, less registration fees and no requirement to give report on internal financial controls. As per the clause 18(5) of the amendment, the upper limit of the paid-up capital has increased to 20 crores and the upper limit of the turnover has increased to 200 crores. Now, this would mean a lot of medium sized companies can also fit under this definition and claim lighter compliance regime. While reduction in compliance is an aim of ease of doing business, the same cannot be used as a method to provide escape route for companies into lighter compliance regime. With less compliance and relaxed regimes in place, more companies might register as small companies and might misuse the relaxed arrangements.

Decriminalisation

An important feature of the current amendment is the replacement of criminal penalties with civil penalties. This has been hailed as a reform and this is a broader trend across the current Government's legislations including the Jan Vishwas Bill. However, this trend of decriminalisation is a double-edged sword as now corporations can deliberately miss compliances and move away by paying a fine. Let's take the case of Clause 61 which seeks to amend the Section 186 of the Companies Act. Section 186 of the Companies Act is an important provision that governs the Loan and Investment by the company. Section 186(13) of the Act envisaged criminal penalties for violations however the current amendment reduced the scope by carving out violations under 186(9) and 186(10) to include only civil penalties for this. Here, it is important to look at Sec 186(9):-

"(9) Every company giving loan or giving a guarantee or providing security or making an acquisition under this section shall keep a register which shall contain such particulars and shall be maintained in such manner as may be prescribed.

(10) The register referred to in sub-section (9) shall be kept at the registered office of the company and-

(a) shall be open to inspection at such office; and

(b) extracts may be taken therefrom by any member, and copies thereof may be furnished to any member of the company on payment of such fees as may be prescribed."

A closer look at these provisions reveals that these are not mere compliance provisions that could be waived off. These are provisions that ensures transparency in the transactions of the company and is an integral part of Corporate Governance. Reducing the penalty on Section 186(9) and 186(10) violations essentially give large companies a chance to ignore this important corporate governance provision and get away by paying a fine.

Buy Back of Shares

Another important amendment is the clause no 29 which seeks to amend Section 68 of the Companies Act. Through this amendment, certain classes of companies will be permitted to conduct two buy back within a year provided there is a six month gap between both the offers. This is concerning as multiple buy back could provide companies with a chance to commit fraud including artificial inflating of prices and also a chance to divert the money required for operational capital. It is important that such a broad provision regarding buy backs be given more scrutiny and the ease of doing business doesn't become ease of doing fraud.

Specified IFSC LLP

It is appreciable that the current amendment has defined Specified IFSC LLPs and recognised their conversion from Specified trusts to LLPs. However, the concern herein is that IFSCs are fundamentally a set up brought in to do ease of doing business and facilitate investments in foreign currency. Bringing in IFSC LLPs are appreciable, however the concerns stems from how they are defined in the current framework. Rather than bringing in the definition within the LLP Act, the Bill adopted the definition as illustrated under the IFSCA Act. This is not improving the status quo. Given the high-risk nature of IFSCs, it is imperative that the exact definitions, compliances, and operational limits of these trusts which are getting converted to LLPs be defined under the LLP Act.

8. **How will conversion of specified trusts into companies take place?**

Conversion of Specified Trusts into Limited Liability Partnerships

Section 57A, Section 58 and the Fifth Schedule of the Limited Liability Partnership Act, 2008, as inserted/substituted by the Corporate Laws (Amendment) Bill, 2026 (Bill No. 85 of 2026).

A. Introduction

The Corporate Laws (Amendment) Bill, 2026 ("the Bill") does not create any new statutory route for a trust to convert into a company. The conversion mechanism introduced by the Bill under Section 57A, substituted Section 58, and the new Fifth Schedule is inserted into the Limited Liability Partnership Act, 2008, and permits only one transformation: a 'specified trust' converting into a Limited Liability Partnership (LLP). It does not touch Section 366 of the Companies Act, 2013 (the pre-existing route by which societies, cooperative societies and certain other entities may register as companies), except for a minor, unrelated widening of that section to also cover 'non-trading companies' registered with State Governments (Clauses 81 and 82 of the Bill).

B. Statutory Architecture

- Section 57A (new, inserted by Clause 12) the enabling provision. It states that 'a specified trust may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Fifth Schedule', and defines 'specified trust' as:

  For the purposes of this section, the term "specified trust" means a trust established under the Indian Trusts Act, 1882 or under a Central Act or State Act, and registered by the Securities and Exchange Board of India, or by the International Financial Services Centres Authority, as the case may be, having such activities as may be prescribed.".

- Section 58 (substituted in its entirety by Clause 13): previously dealt only with conversion of a firm, private company or unlisted public company into an LLP (via the Second, Third and Fourth Schedules respectively). It now also covers a 'specified trust' converting under the Fifth Schedule, and lays down (i) the Registrar's power to register and issue a certificate of registration, (ii) who is bound by the Schedule, (iii) that the effects of conversion are as specified in the relevant Schedule, and (iv) the universal-succession consequences (vesting of property, dissolution of the transferor).

- The Fifth Schedule (new, inserted by Clause 17) governing eligibility, the application/statement to be filed, registration, refusal of registration, the legal effects of registration, and post-conversion obligations and liabilities. This Schedule is the operative machinery; Sections 57A and 58 are the enabling and registration-effect provisions that cross-refer to it.

  The three provisions must be read together: Section 57A confers the power to convert; Section 58 vests the Registrar with the power to register and states the legal consequence of registration in general terms common to all four Schedules; and the Fifth Schedule supplies the trust-specific procedural detail.

C. Meaning of "Specified Trust" the Threshold Eligibility Definition

The Explanation to Section 57A defines a 'specified trust' as a trust that satisfies two cumulative conditions:

- it is established under the Indian Trusts Act, 1882, or under a Central Act or State Act; and
- it is registered by the Securities and Exchange Board of India (SEBI), or by the International Financial Services Centres Authority (IFSCA), as the case may be, and has such activities as may be prescribed.

Parliament has fixed the outer boundary (SEBI- or IFSCA-registered trusts) but has left the Central Government to prescribe, by rules, the specific class(es) of activity that will qualify a SEBI/IFSCA-registered trust as a 'specified trust' for this purpose. The Memorandum Regarding Delegated Legislation confirms this at the entry for Clause 12: the Central Government is empowered to make rules 'in respect of the activities that may be carried out by a specified trust'. Until such rules are notified, the precise universe of trusts eligible to use Section 57A cannot be fixed with certainty, although from Statement of Objects and Reasons the evident legislative target is SEBI-registered Alternative Investment Funds (AIFs) and similar SEBI/IFSCA-regulated investment vehicles structured as trusts.

PRESCRIBED: The eligibility of 'specified trusts' is incomplete until the Central Government notifies rules under the Explanation to Section 57A specifying the qualifying 'activities'. The scope of eligible trusts cannot be determined until activities are prescribed.

D. Complete Conversion Process: Step by Step (Fifth Schedule and Section 58)

The Fifth Schedule lays down conversion as a sequential, registrar-driven process. The steps below track the Schedule's own paragraph numbers (paras 1-17) and Section 58, in the chronological order in which they would actually be executed.

Step 1 - Eligibility Screening (Fifth Schedule, para 3)

Before any application is filed, the trust must confirm that it is a 'specified trust' as defined (Section C above), and that the persons who are to become partners of the resulting LLP are the trustees of the trust, and no one else. Paragraph 3 is an absolute eligibility bar: 'A specified trust may apply to convert into a limited liability partnership in accordance with this Schedule, only if the partners of the limited liability partnership into which the specified trust is to be converted, are trustees of such specified trust and no one else.' This has an important practical consequence: because an LLP requires a minimum of two partners under the LLP Act, a specified trust with a sole institutional trustee (a common structure for SEBI-registered AIF trusts) cannot convert unless and until its trustee base is restructured to at least two trustees prior to filing the conversion application. The Bill does not itself provide a mechanism or transitional relief for this restructuring; it is left to ordinary trust law and the trust deed.

Step 2 - Internal Trust Governance and Investor Consent

The trustees must resolve to convert and must obtain the consent of at least three-fourths (75%) of the investors of the trust, by value (Fifth Schedule, para 4(a)(iv)). 'Investor' is itself a defined term (para 1(b)) an investor to the funds of the specified trust in accordance with the relevant SEBI or IFSCA regulations, so the class of persons whose consent must be sought is itself governed by the sectoral regulator's own investor-definition regulations, not by the Bill.

Step 3 - Filing the Statement of Particulars (Fifth Schedule, para 4(a))

All of the trustees (not a subset) must file with the Registrar a statement, in the form, manner and on payment of the fee that will be prescribed, containing:

- the name and registration number (if applicable) of the specified trust;
- the date on which the specified trust was established under the Indian Trusts Act, 1882, or under a Central/State Act;
- the date on which the specified trust was registered with SEBI or IFSCA, under the relevant regulations; and
- the consent of three-fourths of the investors of the trust (see Step 2).

PRESCRIBED: The form, manner and fee for this statement of particulars (Fifth Schedule para 4(a)) are all left to be prescribed. The Memorandum Regarding Delegated Legislation confirms rule-making power under 'paragraph 4(a) of the Fifth Schedule, in respect of the form and manner, and such fee for the statement by all of its trustees'. No standard form currently exists.

Step 4 - Filing the Incorporation Document and Section 11 Statement (Fifth Schedule, para 4(b))

Alongside the trustees' statement, the application must be accompanied by (i) the LLP incorporation document, and (ii) the statement of compliance required under Section 11 of the LLP Act (as itself amended by Clause 3 of the Bill) i.e., a statement, in the prescribed form, by a subscriber to the incorporation document that all requirements as to incorporation have been complied with, and, only where the LLP has engaged a professional (advocate/CA/CS/cost accountant) for its formation, a declaration by that professional. This harmonises the trust-conversion route with the standard LLP incorporation formalities that would apply to any new LLP.

Step 5 - Registrar's Scrutiny and Power to Require Verification (Fifth Schedule, para 6)

The Registrar is not obliged to register merely because the paragraph 4 documents have been filed. Paragraph 6(1) preserves the Registrar's discretion to decline registration if not satisfied with the particulars or information furnished, subject to a right of appeal to the Tribunal against refusal. Paragraph 6(2) additionally empowers the Registrar to require the paragraph 4 documents to be verified in such manner as the Registrar considers fitThis is a further open-ended, case-by-case procedural power (rather than a delegated rule-making power) that may, in practice, require additional certifications.

Step 6 - Registration and Certificate of Registration (Fifth Schedule, para 5; Section 58(1))

On being satisfied, the Registrar registers the documents and issues a certificate of registration, in a form the Registrar may determine, stating that the LLP is, from the date specified in the certificate, registered under the LLP Act. This certificate is the operative trigger date for every downstream legal consequence described below.

PRESCRIBED: The form of the certificate of registration is left to the Registrar's determination rather than to Government rules, so this particular element is administrative discretion rather than a rule-making gap.

Step 7 - Fifteen-Day Post-Registration Intimation to the Original Registering Authority (Fifth Schedule, para 5 proviso; Section 58(1) proviso)

Within 15 days of the date of registration, the new LLP must inform the authority with which the specified trust was originally established/registered (e.g., under the Indian Trusts Act or the relevant Central/State Act) about the conversion and furnish the LLP's particulars, in such form and manner as may be prescribed.

PRESCRIBED: Both the form/manner of this intimation (Fifth Schedule para 5 proviso) and the parallel, more general 15-day intimation obligation under substituted Section 58(1) proviso are left to future rules. The Memorandum Regarding Delegated Legislation confirms rule-making power under 'paragraph 5 of the Fifth Schedule, in respect of the form and manner in which the limited liability partnership shall inform the concerned authority about the conversion.'

Step 8 - Legal Effect of Registration: Universal Succession (Fifth Schedule, para 7; Section 58(3)-(4))

On and from the date of registration specified in the certificate:

- a limited liability partnership by the certified name comes into existence, registered under the LLP Act;
- all tangible (movable and immovable) property and intangible property vested in the specified trust, and all assets, interests, rights, privileges, liabilities and obligations relating to it, and the whole of its undertaking, are transferred to and vest in the LLP automatically - 'without further assurance, act or deed' (i.e., no separate conveyance, assignment or deed of transfer is required); and
- he specified trust is deemed to be dissolved.

Step 9 - Registration of Vested Property with Other Authorities (Fifth Schedule, para 8)

Where any vested property is itself registered with some other authority (for example, immovable property registered with a sub-registrar, or securities recorded in a depository), the LLP must, as soon as practicable after the date of registration, take the steps required by that authority to notify it of the conversion and of the LLP's particulars, in such medium and form as that authority may specify. This is a residual, authority-specific formality distinct from the Section 58/Fifth Schedule intimation to the original registering authority under Step 7.

Step 10 - Continuity of Pending Proceedings and Existing Orders (Fifth Schedule, paras 9–10)

- All proceedings by or against the specified trust, or its trustees acting on its behalf, pending before any Court, Tribunal or authority on the date of registration may be continued, completed and enforced by or against the LLP.
- Any existing conviction, ruling, order or judgment in favour of or against the specified trust or its trustees may likewise be enforced by or against the LLP.

Step 11 - Continuity of Agreements, Contracts, Employment, Appointments, Approvals and Licences (Fifth Schedule, paras 11–15)

- Existing agreements (para 11): every agreement to which the trust was a party immediately before registration continues, with the LLP substituted for the trust as a party, and every reference to the trust read as a reference to the LLP for anything done on or after that date, regardless of whether the agreement was, by its terms, assignable.
- Existing contracts, deeds, bonds, schemes, applications, instruments and arrangements (para 12): all such instruments subsisting immediately before registration continue in force and are enforceable by or against the LLP as if it were named in, or a party to, them instead of the trust.
- Employment contracts (para 13): every contract of employment covered by paras 11/12 continues, with the LLP as employer instead of the trust.
- Existing appointments (para 14(1)): any appointment of the trust or its trustee in any role/capacity in force immediately before registration takes effect and operates as if the LLP were appointed.
- Existing authority or power (para 14(2)): any authority or power conferred on the trust or trustee, in force immediately before registration, likewise operates as if conferred on the LLP.
- Approvals, permits and licences (para 15): paragraphs 7 to 14 apply equally to any approval, permit or licence issued to the trust under any other Act and in force immediately before registration subject, however, to the provisions of that other Act under which the approval/permit/licence was issued. This is an important qualifier: a sectoral regulator's own statute (e.g., the SEBI Act or SEBI (AIF) Regulations) could impose its own conditions or require its own intimation/approval before a SEBI

registration is treated as continuing in the LLP's hands, notwithstanding the general continuity rule in the Fifth Schedule.

Step 12 - Post-Conversion: Trustee Personal Liability for Pre-Conversion Debts (Fifth Schedule, para 16)

Notwithstanding the universal-succession rule in paragraphs 7–14, every trustee of the converted specified trust remains personally liable, jointly and severally with the LLP, for liabilities and obligations of the trust incurred before conversion, or arising from a contract entered into before conversion (para 16(1)). If a trustee discharges any such liability, he is entitled (unless otherwise agreed) to be fully indemnified by the LLP (para 16(2)). This is the principal safeguard against the conversion mechanism being used to shed legacy liabilities: while the LLP structure prospectively caps future exposure for partners, it does not retrospectively immunise trustees for what accrued under the trust regime.

Step 13 - Twelve-Month Mandatory Disclosure of Former Trust Status on Correspondence (Fifth Schedule, para 17)

For a period of 12 months, commencing not later than 14 days after the date of registration, every item of the LLP's official correspondence must bear (a) a statement that it was, from the date of registration, converted from a specified trust into an LLP, and (b) the name and registration number (if applicable) of the erstwhile specified trust. Contravention is punishable with a fine of not less than ₹10,000, extendable to ₹1,00,000, plus a further daily fine of not less than ₹50, extendable to ₹500, for continuing default.

Refusal of Registration and Appeal (Fifth Schedule, para 6 proviso)

If the Registrar refuses registration under paragraph 6(1), an appeal lies to the Tribunal (the National Company Law Tribunal, by cross-reference to the LLP Act's general appellate architecture).

E. Consolidated Table: Every Point at Which the Bill Leaves the Procedure to Future Rules

The table below draws together every 'as may be prescribed' / 'as may be specified' reference bearing directly on Section 57A, Section 58 and the Fifth Schedule, cross-checked against the Memorandum Regarding Delegated Legislation appended to the Bill. Until the corresponding rules are notified under the LLP Act (principally under Section 79, the general rule-making section, read with the specific provisions below), the relevant step in Section D above cannot be operationalised in a standard, predictable form.

Clause / Provision	Statutory Location	Matter Left to Rules / Specification
Cl. 12	Explanation to s. 57A, LLP Act	The class(es) of "activities" a SEBI/IFSCA-registered trust must carry on to qualify as a "specified trust"— the core eligibility gate for the entire conversion route.
Cl. 13	s. 58(1) proviso	Form and manner in which the LLP must intimate the original Registrar of Firms/Companies/other authority, within 15 days of registration, about the conversion and the LLP's particulars (general provision, applies across all four Schedules).
Cl. 17 / Fifth Sch. para 4(a)	Fifth Schedule, para 4(a)	Form, manner and fee for the trustees' statement of particulars filed to initiate conversion.
Cl. 17 / Fifth Sch. para 5	Fifth Schedule, para 5 proviso	Form and manner of the LLP's 15-day post-registration intimation to the authority with which the specified trust was originally established.

Lacunae and Suggestions

Procedural Lacunae

The following are lacunae in the Fifth Schedule's drafting that will not be cured merely by notifying rules, they require amendment of the Schedule/Sections themselves:

1. No time-bound decision requirement on the Registrar

Unlike some other approval provisions in company law that build in a default or deemed outcome after a fixed period, paragraph 6(1) gives the Registrar an open-ended discretion to refuse registration, and paragraph 6(2) an open-ended power to demand further verification "in such manner as he considers fit", with no outer time limit on either. An applicant trust has no statutory clock running in its favour and no remedy for delay short of a refusal actually being issued (which alone triggers the right of appeal to the Tribunal).

2. Undefined method of computing the 75% investor-consent threshold

Paragraph 4(a)(iv) requires "the consent of three-fourths of the investors of the trust", but neither the Schedule nor Section 57A specifies whether this 75% is measured by number of investors, by capital contributed, by current net asset value etc. 'Investor' itself is tied to the sectoral regulator's own definition (paragraph 1(b)), so the computation basis may end up varying by regulator without the Bill saying so.

3. No dissenting-investor protection or exit right

Once 75% consent by value is obtained, the remaining (up to) 25% of investors are bound with no exit, buy-out, or appraisal right of the kind available to dissenting members/creditors in a compromise or arrangement under Section 230, or to minority shareholders in an oppression/mismanagement petition under Section 241. A dissenting investor in a converting AIF trust simply becomes, without more, an investor in an LLP.

Suggestions to Simplify and Facilitate the Measure

- Prescribe, in the Fifth Schedule itself rather than leaving it to rules, the basis on which the 75% investor-consent threshold is computed, so the threshold is not left to inconsistent sectoral-regulation cross-reference.
- Introduce a statutory outer time limit for the Registrar to register or refuse (e.g., 30 working days from a complete application), with reasons required for refusal and silence not to be read as approval, but at least giving the applicant a fixed point at which the right of appeal accrues by operation of law.
- Build in a single-window filing mechanism between the MCA (Registrar) and SEBI/IFSCA, so that the sectoral regulator's no-objection or continuity confirmation is obtained before, or simultaneously with, registration, rather than the current sequencing where SEBI/IFSCA is informed only after the fact (para 5 proviso).

Practical Implementation Issues and Open Questions

- The eligibility gate is not yet operative. Until the Central Government prescribes the qualifying "activities" under the Explanation to Section 57A, no trust which is SEBI or IFSCA registered can be conclusively confirmed as a "specified trust" entitled to convert.
- No standard forms exist yet for the two central filings, the trustees' statement of particulars (Fifth Schedule para 4(a)) and the post-registration intimations (Fifth Schedule para 5 proviso; Section 58(1) proviso) since their form, manner and fees are all left to prescribed rules.
- Sectoral overlay is not displaced. Paragraph 15 continuity of approvals/licences is expressly "subject to the provisions of such other Act" meaning SEBI's own AIF Regulations, or IFSCA's regulations, could impose independent conditions, consents or intimation requirements on a change of registered entity, over and above the Fifth Schedule's automatic continuity rule. Coordination between the LLP-Act conversion process and the sectoral regulator's own approval process will be necessary in practice.

Further Observations

- Sponsor/manager 'skin-in-the-game' continuity. SEBI's AIF Regulations impose minimum continuing-interest ('skin in the game') requirements on sponsors/managers. The Fifth Schedule does not address whether, or how, that continuing interest is preserved through a change of legal for, worth an explicit cross-reference or savings clause rather than leaving it to be inferred from paragraph 15's general 'subject to such other Act' formula.
- The Bill is silent on whether the converted LLP will be treated as inheriting the trust's regulatory track record, an issue that sectoral regulators may need to clarify. Like express recognition that a converted LLP inherits the trust's regulatory 'track record' (compliance history, past NAV/performance disclosures) for continuing regulatory and investor-disclosure purposes, the Fifth Schedule's continuity provisions (paras 9-15) cover legal proceedings, contracts, and licences, but do not squarely address performance-record portability, which matters to investors assessing a fund manager's history.