

**REPORT
OF THE
COMPANY LAW COMMITTEE
ON DECRIMINALIZATION OF
THE LIMITED LIABILITY PARTNERSHIP
ACT, 2008**



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**Government of India
Ministry of Corporate Affairs
January 2021**

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REPORT OF THE COMPANY LAW COMMITTEE (2021)

New Delhi, 4th January, 2021

To

Honourable Union Minister of Corporate Affairs

Madam,

1. We have the privilege and honour to present the report of the Company Law Committee set up on 18th September, 2019, to make recommendations to the Government *inter alia* on further decriminalization of certain “compoundable offences”, consequential amendments and certain other changes in the LLP Act, 2008 to facilitate and promote ease of doing business and ease of living.
2. The Committee had the privilege of participation of various representatives in respect of decriminalization. During course of deliberations, it was endeavored to arrive at a meaningful understanding of the nature and gravity of the offences. In respect of offences involving frauds, deceit, injury to public interest and wrongful dealings, status quo has been retained. A principle-based approach was followed by the Committee while making recommendations for amendments in the LLP Act.
3. Through this Report the Committee has recommended to decriminalize twelve compoundable offences and omission of one penal provision in the Act. No change has been suggested in the serious non-compoundable offences provided under the LLP Act. The Committee also took note of certain issues which required urgent action to facilitate greater ease of doing business and thereby greater ease of living for corporates and stakeholders in the country. These were also examined and suitable recommendations have been included in this Report.

4. We thank you for providing us an opportunity to present our views on the issues concerning the regulatory approach and overall compliance of the provisions of the LLP Act, 2008 and related matters thereto.

Yours Sincerely,

(Shri Rajesh Verma)
Chairman

(Shri Uday Kotak)
Member

(Shri Sidharth Birla)
Member

(Shri. T. K. Viswanathan)
Member

(Shri Ajay Bahl)
Member

(Shri Shardul S. Shroff)
Member

(Shri Amarjit Chopra)
Member

(Ms. Preeti Malhotra)
Member

(Shri Rajib Sekhar Sahoo)
Member

(Shri G. Ramaswamy)
Member

(Shri K.V.R. Murty)
Member-Secretary

PREFACE

1. This report is in pursuance and continuation of the policy of the Government of the India to decriminalize non-compliances of minor, technical or procedural nature of violations and facilitate and promote ease of doing business and ease of living for law abiding corporates in the country. The Committee under took the detailed analysis and examined further scope of decriminalizing the compoundable offences through an In-house Adjudicating Mechanism or in any other appropriate manner within the broad framework of relevant laws.
2. The report proposes amendments in certain provisions with respect to decriminalization which will further incentivize the compliance by entrepreneurs or promote congenial business climate. In addition, it also addresses the need for certain other amendments so as to further improve ease of living for the corporates and other stakeholders of the Country.
3. The main recommendations of the Committee as included in Chapter -1 of the Report are as follows:
 - (i) Twelve offences have been recommended to be decriminalized and to be shifted to In-house Adjudication Mechanism.
 - (ii) One offence has been recommended for omission.
4. In addition to the above, Chapter -2 contains recommendations related to further ease of living and the main recommendations relate to:
 - (i) Introduction of new concepts into the LLP Act namely – Small LLP and provision for Issuance of Non-convertible Debentures (NCDs) by LLPs
 - (ii) Relaxing provisions relating to payment of additional fee under Section 69.

5. Chapter -3 contains Miscellaneous Provisions related to:
- (i) Reference to the Companies Act, 1956, proposed to be substituted with the Companies Act, 2013 in the LLP Act.
 - (ii) Concomitant and consequential amendments include the introduction of Section 68A for establishing registration offices with specified jurisdiction and Section 77A for adjudication of penalties under In-house Adjudication Mechanism (IAM).
 - (iii) Other amendments *inter-alia* include Introduction of an enabling provision in the Act to prescribe Accounting Standards for class or classes of LLPs.
6. I am confident that the recommendations of the Committee will result in incentivizing micro and small business enterprises to convert into bodies corporate such as LLPs and will create congenial business climate based on trust and compliances.

Rajesh Verma

Secretary, Ministry of Corporate Affairs &

Chairman, Company Law Committee (2019)

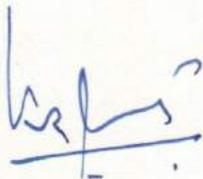
New Delhi, 4th January, 2021

ACKNOWLEDGEMENTS

The Committee appreciates the inputs received from various stakeholders namely, Deloitte Haskins & Sells LLP, CII, and the Institute of Company Secretaries of India.

The Committee would also like to make a special mention of the efforts made by the officers of MCA namely, Shri. Sridhar Pamarthi, Joint Director, Shri. N. K. Dua, Joint Director, Shri Pranay Chaturvedi, Deputy Director and Shri. Chandan Kumar, Deputy Director in drafting this report, besides providing administrative and technical support to the Committee.

The Committee appreciates the support provided by Ms. Binny Oberoi, STA, Ms. Deepali Agarwal, STA and Ms. Deepika Sharma, Young Professional in terms of legal research and drafting of this report, which proved to very useful to the Committee.



K V R Murty

Joint Secretary, Ministry of Corporate Affairs &

Member Secretary, Company Law Committee

New Delhi, 4th January, 2021

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BACKGROUND

1. INTRODUCTION

1.1 The Limited Liability Partnership is an alternative corporate business vehicle that provides the benefits of limited liability but allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The Limited Liability Partnership Act, 2008 is intended to bridge the gap between a company governed by the Companies Act and a general partnership firm governed by the Partnership Act, 1932.

The Limited Liability Partnership Act (hereinafter referred to as "LLP Act/Act") consists of 81 Sections and 4 Schedules. Following two set of Rules have been prescribed under the Act.

(a) Limited Liability Partnership Rules, 2009; and

(b) Limited Liability Partnership (Winding up and Dissolution) Rules 2012

1.2 The LLP is a body corporate and a legal entity separate from its partners. Two or more persons, associated for carrying on a lawful business with a view to profit, may by subscribing their names to an incorporation document and filing the same with the Registrar, form a Limited Liability Partnership. The mutual rights and duties of partners of an LLP *inter-se* and those of LLP and its partners are governed by the limited liability partnership agreement subject to the provisions of The Limited Liability Partnership Act, 2008.

1.3 It has been more than a decade since the Limited Liability Partnership Act, 2008 was enacted and notified in 2009. Over the period of time, it has emerged as one of the most popular business vehicles for professionals and Micro, Small and Medium enterprises. At present, more than 1, 45,000 LLPs are registered under the Act and a bulk of them are small and medium enterprises.

1.4 The Act enjoins upon an LLP, partners and designated partners thereof to comply with the provisions of the Act and rules made there under. Contraventions of provisions of the Act are punishable with fine (Compoundable) or, in case of violations of serious nature, with imprisonment and fine (non-compoundable). Thus, the Act assigns criminal liability on the LLP, its partners, designated partners and any other person (s) for non-compliance of certain provisions as the same are considered as offences under the Act.

- 1.5 In order to provide greater ease of doing business in India to law abiding LLPs, a need is being felt to review the penal provisions of the Act so as to decriminalize compoundable offences involving minor, procedural or technical violations of the Act, or offences which can be objectively identified as where no fraud or mala fide intent is present nor is there any harm to public interest. Criminalization of minor bona fide omissions or commissions during the course of businesses impinges upon the business sentiments and results in an unnecessary burden on the criminal justice system.
- 1.6 With the object of unleashing the entrepreneurial spirits of our youth and to remove the fear of criminal prosecutions for non- substantive minor and procedural omissions and commissions in the normal course of their business transactions, the Ministry of Corporate Affairs (the “MCA”) decided to initiate the process of decriminalization of offences under the limited liability partnership (LLP) Act, 2008, for greater ease of doing business for law abiding LLPs.
- 1.7 The Company Law Committee has been constituted vide office order dated 18.09.2019 with a wide mandate, including contemplating various reforms such as reviewing offences under the LLP Act; introducing mechanisms to reduce burden on courts and for effective disposal of cases; improving functioning of authorities under the LLP Act; and other changes aimed at promoting the ease of doing business in India. The Order of constitution of the Committee, along with a list of its members, has been provided in “Annexure -1”.

2. WORKING PROCESS OF THE COMMITTEE

- 2.1 A key action plan of the Ministry has been to carry out a systematic review of legislations to identify provisions for decriminalization of minor offences under various Acts and expeditious resolution through compounding with the objective of preventing harassment of citizens, de-clogging the criminal justice system and promoting ease of doing business. In this regard, in 2018 the Offences Committee set up by the Ministry had recommended 31 amendments to the Companies Act, 2013 of which 16 amendments pertained to decriminalization of minor technical and procedural defaults. This exercise was carried forward by the Ministry in 2019 by constituting the Company Law Committee

which has recommended 62 amendments to the Companies Act, 2013 of which, 48 related to Decriminalization of certain compoundable offences and reduction of penalties.

- 2.2 In furtherance of the same principles based approach, as a preparatory step, the Ministry, had undertaken action to identify twenty (20) Compoundable offences under the LLP Act, 2008 and a public notice was placed on MCA website for suggestions and comments from stakeholders with respect to Decriminalization of Compoundable Offences under the Limited Liability Partnership Act, 2008 for improving Business Sentiments. Stakeholders were requested to submit any other relevant suggestions for consideration by the Government. In response to the said notice, some suggestions were received from different stakeholders.
- 2.3 In addition to the suggestions made in response to the said notice, MCA has received certain other representations highlighting some difficulties faced by LLPs and to remove such difficulties, suggestions were made for appropriate amendments in the LLP Act, 2008.
- 2.4 For examination of recommendations and suggestions for decriminalization and other measures which would enable greater ease of doing business to law abiding LLPs, the Committee held its first meeting on 26th August, 2020 and second meeting on 2nd September, 2020. In these meetings, the Committee examined each penal provision under the Act and focused on decriminalization of compoundable offences under the LLP Act, greater Ease of Doing Business measures such as introduction of provisions for reduction in the additional fee charged for delayed filings, to allow LLPs to issue Non-convertible debentures to entities regulated by Securities and Exchange Board of India or Reserve Bank of India, classification of certain LLPs as "Small LLP" for regulatory purposes and also certain urgently needed structural changes for alignment with the provisions of Companies Act, 2013 and Companies Amendment Bill, 2020, now Companies (Amendment) Act, 2020, along with concomitant changes to the compliance and governance framework.
- 2.5 The Committee also undertook a detailed examination of the non-compoundable offences under the Act. It was noted by the Committee that each one of the non-compoundable offences dealt with offences related to either fraud or intent to deceive or dealt with offence which had impact on public interest. The Committee therefore unanimously agreed that Status Quo should be maintained in all non-compoundable offence provisions.

2.6. Extensive deliberations were held on each of the issues discussed in the report of this Committee (“Report”) so as to arrive at a consensus on various topics.

3. STRUCTURE OF THE REPORT

3.1 This Report is divided into three chapters. Chapter I deals with the decriminalization of offences in the LLP Act, Chapter II deals with the ease of living related changes and Chapter-III deals with miscellaneous provisions.

3.2 A list of defined terms as used throughout the Report has been attached at the end of the Report.

CHAPTER 1: DECRIMINALISING CERTAIN COMPOUNDABLE OFFENCES

1. BACKGROUND

Treatment of Corporate Criminal Liability in the Limited Liability Partnership

- 1.1 A Limited Liability Partnership is quintessentially a hybrid between a Limited Liability Company and a Partnership. It has the advantages of being a body corporate, but at the same time internal governance and inter-se relations amongst partners and LLP are regulated by the LLP Agreement and not by any statutory provisions.
- 1.2 The structure of an LLP has some major advantages over a Limited Liability Company in the terms of lesser regulatory compliances and non-mandatory requirements for auditing for certain specified LLPs.
- 1.3 The LLP structure is also tax efficient as LLPs are not subject to dividend distribution tax and obligations such as corporate social responsibility as would a Company under the Companies Act, 2013.
- 1.4 The Government of India has already taken steps to decriminalize certain offences under the Companies Act, 2013. The Offences Committee in its report¹ dated 14.08.2018 recommended for decriminalization of certain compoundable offences in the Companies Act, 2013 and pursuant to the recommendations of the said Committee, 16 offences were decriminalized and brought under the In-house Adjudication Mechanism (“IAM”) framework through the Companies Amendment Act, 2019².
- 1.5 In line with the government’s objective of promoting ease of living in the country by providing ease of doing business to law abiding corporates, fostering improved corporate

¹ (Link: http://www.mca.gov.in/Ministry/pdf/ReportCommittee_28082018)

² (Link: http://www.mca.gov.in/Ministry/pdf/AMENDMENTACT_01082019.pdf)

compliance for stakeholders at large and also to address emerging issues having impact on the working of corporates in the country, the Company Law Committee constituted vide order dated 18.09.2019 had recommended decriminalization of certain offences. Pursuant to the said recommendations, the government has now decriminalized 35 offences in the Companies (Amendment) Act, 2020³. So, the proposed decriminalization of penal provisions of the LLP Act is a natural corollary of the action taken up for decriminalization of certain provisions of the Companies Act, 2013.

- 1.6 The Government treats Honest and Ethical Corporate entrepreneurs as wealth creators and nation builders. The object is to remove criminality of offences from business laws where no malafide intentions are involved. In furtherance of the said objective, an exercise was undertaken to identify the provisions of the Limited Liability Partnership Act, violations of which do not result in injury to public interest but are presently criminal in nature and fine as well as punishment can be imposed by trial courts after conviction. An essential ingredient of crime is '*mens rea*'. A guilty mind is a must for an act or omission to be classified as a crime. This is embodied in the principle – "*actus non facit reum, nisi mens sit rea*". It is therefore a principle of our legal system, as probably it is of every other, that the essence of an offence is the wrongful intent, without which it cannot exist.
- 1.7 For an act to be punishable with fine imposed by a criminal court, the same should therefore contain an element of *mens rea*. Where in an act, *mens rea* is not present, there is a good case to argue that such act should not be punishable with a monetary fine, but may be punishable with imposition of a monetary penalty through a civil framework. Bona fide omissions or commissions resulting in technical or minor violations of the provisions of the Act may not qualify the test of *mens rea* and thus, it may be opined that such acts or omissions should be subjected to civil liabilities through an In-house adjudication mechanism.

³ (Link: http://www.mca.gov.in/Ministry/pdf/Amendment_18032020.pdf)

Fine vs. Penalty

- 1.8 “Fine” is a monetary punishment imposed by a Court after conviction of the accused person through the process of criminal trial. This entails the ignominy of conviction and there is a risk of the convicted person being disqualified or becoming ineligible for various posts, designations etc. Whereas, a penalty is a punishment imposed by an appropriate authority in a judicial or quasi-judicial proceedings for failing to comply with the provisions of the Act. Penalties as a mode of punishment are deemed more appropriate for violations of the provisions of business laws where no harm to the public interest is caused or where no criminality is intended.

Approach of the Committee

- 1.9 The Committee analyzed offences under the LLP Act to study their suitability for In-house Adjudication Mechanism (“IAM”) framework. In this analysis, Committee first considered compoundable offences i.e. an offence which is punishable with “fine” or fine only ⁴. The Committee also decided for examination of recommendations and suggestions for decriminalization and other measures which would enable greater ease of doing business to law abiding LLPs, the Committee held its first meeting on 26th August, 2020 and second meeting on 2nd September, 2020. In these meetings, the Committee examined each penal provision under the Act and focused on decriminalization of compoundable offences under the LLP Act, greater Ease of Doing Business measures such as introduction of provisions for reduction in the additional fee charged for delayed filings, to allow LLPs to issue non-convertible debentures to entities regulated by Securities and Exchange Board of India or Reserve Bank of India, classification of certain LLPs as “Small LLP” for regulatory purposes and also certain urgently needed structural changes for alignment with the provisions of Companies Act, 2013 and Companies Amendment Bill, 2020, now Companies (Amendment) Act, 2020, along with concomitant changes to the compliance and governance framework.

The Committee also undertook a detailed examination of the non-compoundable offences under the Act. It was noted by the Committee that each one of the non-compoundable offences dealt with offences related to either fraud or intent to deceive or dealt with offence which had impact on public interest. The Committee therefore unanimously agreed that Status Quo should be maintained in all non-compoundable offence provisions.

Extensive deliberations were held on each of the issues discussed in the report of this Committee (“Report”) so as to arrive at a consensus on various topics.

2. EXAMINATION OF PROPOSALS BY THE COMMITTEE

While undertaking the analysis, the Committee examined various proposals for the amendment in the LLP Act under the following heads:

- (I) **Decriminalization of compoundable offences:** A list of compoundable offences in the LLP Act, 2008 was annexed with the notice dated 19.06.2020. While analyzing this list of offences, the Committee decided to adopt the same principle based approach which was adopted by it to recommend decriminalization of certain provisions of the Companies Act, 2013. The Committee accordingly, decided to follow the following principles:

(a) Principle 1: Offences that relate to minor/ less serious compliance issues, involving predominantly objective determinations, have been recommended to be shifted to the IAM framework instead of being treated as criminal offences

(b) Principle 2: Offences that are more appropriate to be dealt with under other laws, have been proposed to be omitted from the LLP Act, 2008.

(c) Principle 3: For non-Compoundable offences that are very serious violations entailing an element of fraud intent to deceive and caused injury to public interest and non-compliance of order of statutory authorities impinging on effective regulation, the Committee has recommended that Status Quo be maintained.

This will ensure that common principles are adopted for decriminalization of offences under the Companies Act and the LLP Act. It will ensure an equality of treatment in meting out punishments by the Adjudicators for the similar nature of defaults under the two different Acts and this satisfies the principle of proportionality and fair treatment to the defaulters.

The Committee has recommended twelve (12) offences to be decriminalized and one (1) penal provision to be omitted totally, whereas twelve (12) offences are recommended for shifting to IAM framework.

⁴ *Section 39 of the LLP Act, 2008 i.e. Compounding of offences.—The Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine prescribed for the offence.*

FOLLOWING OFFENCES TO BE DECRIMINALIZED AND TO BE SHIFTED TO IN-HOUSE ADJUDICATION MECHANISM (IAM):

Sl. No.	Section under the LLP Act, 2008	Existing Provision	Observation of the Committee	Modified provisions on recommendations of Committee
1	Section 7 - Designated Partners	<p>Section 7 (1) - Every limited liability partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India: Provided that in case of a limited liability partnership in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such limited liability partnership or nominees of such bodies corporate shall act as designated partners.</p> <p>Explanation.—For the purposes of this section, the term "resident in India" means a person who has stayed in India for a period of not less than one hundred and twenty days during the immediately preceding one year.</p>	The Committee recommended that explanation may be aligned with sub-section (3) of Section 149 of the Companies Act, 2013	Explanation to sub-section(1) of Section 7 - For the purposes of this section, the term "resident in India" means a person who has stayed in India for a period of not less than one hundred and twenty days during the financial year.

	<p>(2) Subject to the provisions of subsection (1),—</p> <p>(i) if the incorporation document—</p> <p>(a) specifies who are to be designated partners, such persons shall be designated partners on incorporation; or</p> <p>(b) states that each of the partners from time to time of limited liability partnership is to be designated partner, every partner shall be a designated partner;</p> <p>(ii) any partner may become a designated partner by and in accordance with the limited liability partnership agreement and a partner may cease to be a designated partner in accordance with limited liability partnership agreement.</p> <p>(3) An individual shall not become a designated partner in any limited liability partnership unless he has given his prior consent to act as such to the limited liability partnership in such form and manner as may be prescribed.</p>	
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		<p>(4) Every limited liability partnership shall file with the registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within thirty days of his appointment.</p> <p>(5) An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed.</p> <p>(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 266A to 266G 8 (both inclusive) of the Companies Act, 1956 (1 of 1956) shall apply mutatis mutandis for the said purpose.</p>		
2	Section 8 Liabilities designated partners	Unless expressly provided otherwise in this Act, a designated partner shall be— (a) responsible for the doing of all acts, matters and things as	The Committee observed that Section 8 does not constitute a separate or an independent offence on its own. So, the committee	---

		<p>are required to be done by the limited liability partnership in respect of compliance of the provisions of this Act including filing of any document, return, statement and the like report pursuant to the provisions of this Act and as may be specified in the limited liability partnership agreement; and</p> <p>(b) liable to all penalties imposed on the limited liability partnership for any contravention of those provisions.</p>	<p>recommended that the reference of Section 8 in Section 10 (Section 10 provides punishment for contravention of Section 8) may be omitted.</p>	
3	<p>Section 9 Changes designated partners</p>	<p>A limited liability partnership may appoint a designated partner within thirty days of a vacancy arising for any reason and provisions of sub-section (4) and sub-section (5) of section 7 shall apply in respect of such new designated partner: Provided that if no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.</p>	<p>The Committee observed that defaults under section 9 may be rectified and recommend liability for the defaults may be subjected to a penalty in the In-house adjudication Mechanism (IAM). Accordingly, Section 10 may be modified.</p>	---

4	<p>Section 10 - Punishment for contravention of sections 7, 8 and 9</p>	<p>Section 10 (1) - If the limited liability partnership contravenes the provisions of sub-section (1) of section 7, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.</p> <p>(2) - If the limited liability partnership contravenes the provisions of sub-section (4) and sub-section (5) of section 7, section 8 or section 9, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>	<p>The committee observed, as stated in the serial no. 2 (for Section 8) of this table, that reference of Section 8 should be omitted. Section 8 does not create a separate or an independent offence. The committee also observed that punishments provided under sub-sections (1) and (2) for the contraventions for provisions of Sections 7 and Section 9 may be suitably amended to bring them under IAM.</p>	<p>Modified sub-section 1 of Section 10 - If the limited liability partnership contravenes the provisions of sub-section (1) of section 7, the limited liability partnership and its every partner shall be liable for penalty of ten thousand rupees and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every partner.</p> <p>Sub-section (2) of Section 10 - If the limited liability partnership fails to comply with the provision of sub-section (4) of section 7, the limited liability partnership and every designated partner shall be liable for a penalty of five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees per day after the first during which such failure continues, subject to a maximum of fifty thousand rupees for the limited liability partnership and twenty</p>
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				<p>five thousand rupees for every designated partner</p> <p>Sub-section (3) of Section 10 - if the limited liability partnership contravenes the provisions of sub-section (5) of section 7 or section 9, the limited liability partnership and its every partner shall be liable for a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every partner.</p>
5	<p>Section 13 - Registered office of limited liability partnership and change therein</p>	<p>Section 13 (1) - Every limited liability partnership shall have a registered office to which all communications and notices may be addressed and where they shall be received.</p> <p>(2) A document may be served on a limited liability partnership or a partner or designated partner thereof by</p>	<p>The Committee observed that contraventions pertain to non-maintenance of registered office for receiving and acknowledging communications and notices as may be addressed to it. The similar contraventions under the provisions of Section 12 of the Companies Act, 2013 are subject to a civil liability in the IAM. So, the committee recommended to align</p>	<p>Modified penal provisions of sub-section (4) of Section 13 -</p> <p>If any default is made in complying with the requirements of this section, the limited liability partnership and its every partner shall be liable to a penalty of five hundred rupees for every day during which the default continues but not exceeding fifty thousand rupees for the limited liability partnership and for every partner.”</p>

		<p>sending it by post under a certificate of posting or by registered post or by any other manner, as may be prescribed, at the registered office and any other address specifically declared by the limited liability partnership for the purpose in such form and manner as may be prescribed.</p> <p>(3) A limited liability partnership may change the place of its registered office and file the notice of such change with the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take effect only upon such filing.</p> <p>(4) If the limited liability partnership contravenes any provisions of this section, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.</p>	<p>the penal provision of the Section 13 with that of the provisions of the Companies Act, 2013 with suitable modifications as may be required.</p>	
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6	<p>Section 17 - Change of name of limited liability partnership</p>	<p>Section 17 (1) - Notwithstanding anything contained in sections 15 and 16, where the Central Government is satisfied that a limited liability partnership has been registered (whether through inadvertence or otherwise and whether originally or by a change of name) under a name which—</p> <p>(a) is a name referred to in sub-section (2) of section 15; or</p> <p>(b) is identical with or too nearly resembles the name of any other limited liability partnership or body corporate or other name as to be likely to be mistaken for it,</p> <p>the Central Government may direct such limited liability partnership to change its name, and the limited liability partnership shall comply with the said direction within three months after the date of the direction or such longer period as the Central Government may allow.</p>	<p>The Committee observed that for the rectification of name of a Company in case the name is found to be identical with or to nearly resembles with existing name of the Company or a registered trademark, it has been provided in the Companies (Amendment) Bill, 2020 now Companies (Amendment) Act, 2020, as recommended by the Company Law Committee's Report, 2019, to auto allot a new name to the Company which fails to change its name on the direction of the Central Government. The Committee felt that the similar remedy may be provided in the LLP Act. Accordingly, the Committee recommended to suitably modify the provisions of Section 17 and align it with the amendment of Section 16 of the Companies (Amendment) Bill, 2020 now Companies (Amendment) Act, 2020</p>	<p>Modified sub-section (1) of Section 17 - Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a limited liability partnership on its first registration or on its registration by a new name, is registered by a name which,-</p> <p>(a) In the opinion of the Central Government, is identical with or too nearly resembles to that of any other limited liability partnership or a company, it may direct the limited liability partnership to change its name, the limited liability partnership shall change its name or new name, as the case may be, within a period of three months from the issue of such direction;</p> <p>(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of</p>
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		<p>(2) Any limited liability partnership which fails to comply with a direction given under sub-section (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees and the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>		<p>incorporation or registration or change of name of the limited liability partnership under this Act, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the limited liability partnership to change its name or new name, as the case may be, within a period of three months from the issue of such direction.</p> <p>Sub-section (2) of Section 17 - Where a limited liability partnership changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to Registrar along with the Order of Central Government, who shall carry out necessary changes in the certificate of incorporation and within thirty days of such change in the certificate of incorporation, the limited liability partnership shall change its name in the limited</p>
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				<p>liability partnership agreement.</p> <p>Sub-section (3) of Section 17 - if the limited liability partnership is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the limited liability partnership in such manner as may be prescribed and the Registrar shall enter the new name in the register of limited liability partnership in place of the old name and issue a fresh certificate of incorporation with new name, which the limited liability partnership shall use thereafter: Provided nothing in this sub-section shall prevent a limited liability partnership from subsequently changing its name in accordance with section 16 of this Act.</p>
7	Section 21 - Publication of name and limited liability	Section 21 (1) - Every limited liability partnership shall ensure that its invoices, official correspondence and publications bear the following, namely:— (a) the name, address of its registered office and registration number of the limited liability partnership; and (b) a statement that it is registered with limited liability.	The Committee observed that it is a procedural violation and contravention of the same may be subjected to a civil liability under IAM.	Modified sub-section 2 of Section 21 — If any default is made in complying with the requirements of this section, the limited liability partnership shall be liable to a penalty of ten thousand rupees.

		<p>(2) Any limited liability partnership which contravenes the provisions of sub-section (1) shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.</p>		
8	<p>Section 25 Registration changes partners</p>	<p>Section 25 (1) - Every partner shall inform the limited liability partnership of any change in his name or address within a period of fifteen days of such change.</p> <p>(2) A limited liability partnership shall— (a) where a person becomes or ceases to be a partner, file a notice with the Registrar within thirty days from the date he becomes or ceases to be a partner; and (b) where there is any change in the name or address of a partner, file a notice with the Registrar within thirty days of such change.</p> <p>(3) A notice filed with the Registrar under sub-section (2)— (a) shall be in such form and accompanied by such fees as may be prescribed;</p>	<p>The Committee observed that failure to give information to Registrar regarding changes in the partners within stipulated time is largely a procedural violation and non-compliance of which may be rectified by the LLP and punishment for such contraventions may be subjected to a civil liability by way of a penalty under IAM.</p>	<p>Modified sub-section 4 of Section 25—</p> <p>If any default is made in complying with the requirements of sub-section (2), the limited liability partnership and every designated partner shall be liable to a penalty of ten thousand rupees.</p> <p>Modified sub-section 5 of Section 25—</p> <p>If any default is made in complying with the requirements of sub-section (1) by any partner, such partner shall be liable to a penalty of ten thousand rupees.”</p>

	<p>(b) shall be signed by the designated partner of the limited liability partnership and authenticated in a manner as may be prescribed; and</p> <p>(c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.</p> <p>(4) If the limited liability partnership contravenes the provisions of subsection (2), the limited liability partnership and every designated partner of the limited liability partnership shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.</p> <p>(5) If any partner contravenes the provisions of subsection (1), such partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.</p>	
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		<p>(6) Any person who ceases to be a partner of a limited liability partnership may himself file with the Registrar the notice referred to in sub-section (3) if he has reasonable cause to believe that the limited liability partnership may not file the notice with the Registrar and in case of any such notice filed by a partner, the Registrar shall obtain a confirmation to this effect from the limited liability partnership unless the limited liability partnership has also filed such notice: Provided that where no confirmation is given by the limited liability partnership within fifteen days, the registrar shall register the notice made by a person ceasing to be a partner under this section.</p>		
9	<p>Section 34 - Maintenance of books of account, other records and audit, etc.</p>	<p>Section 34 (1) - The limited liability partnership shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of</p>	<p>The Committee observed that provisions of Section 34 provides two different compliances namely –</p> <ol style="list-style-type: none"> 1. Maintenance of books of accounts as per prescription at the registered office and preparations of accounts and its audit 	<p>Modified sub-section (5) of Section 34 -</p> <p>(i) Any limited liability partnership which fails to comply with sub-section (3) this section, the limited liability partnership and its designated partners shall be</p>

	<p>accounting and shall maintain the same at its registered office for such period as may be prescribed.</p> <p>(2) Every limited liability partnership shall, within a period of six months from the end of each financial year, prepare a Statement of Account and Solvency for the said financial year as at the last day of the said financial year in such form as may be prescribed, and such statement shall be signed by the designated partners of the limited liability partnership.</p> <p>(3) Every limited liability partnership shall file within the prescribed time, the Statement of Account and Solvency prepared pursuant to sub-section (2) with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.</p> <p>(4) The accounts of limited liability partnerships shall be audited in accordance with such rules as may be prescribed: Provided that the</p>	<p>as per prescribed rules.</p> <p>2. Filing of a Statement of Account and Solvency within a period of six months from the end of each financial year.</p> <p>The first compliance is meant for financial discipline and ensuring integrity of Financial data. The committee recommended no legal change for punishment for non-compliance.</p> <p>However, the Committee felt that non-filing of financial statement (Statement of Account and Solvency) within the prescribed time may be subjected to a civil liability under IAM as it has been done in a case of the Companies Act, 2013. The committee recommended decriminalization of non-filing of Statement of Account and Solvency.</p>	<p>liable to a penalty of one hundred rupees every day during which failure continues, subject to maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every designated partner.</p> <p>(ii) Any limited liability partnership which fails to comply with sub-section (1), sub-section (2) and sub-section (4) of this section, the limited liability partnership shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.”</p>
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		<p>Central Government may, by notification in the Official Gazette, exempt any class or classes of limited liability partnerships from the requirements of this sub-section.</p> <p>(5) Any limited liability partnership which fails to comply with the provisions of this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>		
10	Section 35 - Annual Return	<p>Section 35 (1) - Every limited liability partnership shall file an annual return duly authenticated with the Registrar within sixty days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed.</p> <p>(2) Any limited liability partnership which fails to comply with the provisions of</p>	<p>The Committee observed that principles adopted for filing of Statement of Account and Solvency (under section 34) should be adopted for non-filing of Annual Return under this section and recommended decriminalization of penal provisions for non-filing of Annual Return by the LLP within the period prescribed .</p>	<p>Modified sub-section (2) & (3) of Section 35.</p> <p>Sub-section(2) and sub-section (3) shall be substituted by sub-section (2)-</p> <p>If any limited liability partnership fails to file its annual return under sub-section (1) before the expiry of the period specified therein, such limited liability partnership and its designated partners shall</p>

		<p>this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.</p> <p>(3) If the limited liability partnership contravenes the provisions of this section, the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>		<p>be liable to a penalty of one hundred rupees for every day during which failure continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for designated partners.</p>
11	<p>Section 60 - Compromise, or arrangement of limited liability partnerships</p>	<p>Section 60 (1) - Where a compromise or arrangement is proposed—</p> <p>(a) between a limited liability partnership and its creditors; or</p> <p>(b) between a limited liability partnership and its partners,</p> <p>the Tribunal may, on the application of the limited liability partnership or of any creditor or partner of the limited liability partnership, or, in the case of a limited liability partnership which is being wound up, of the liquidator, order a meeting of the creditors or of the partners, as the case may be, to be called,</p>	<p>The Committee observed that default related to non-filing of the order of Tribunal within the prescribed time, may be rectified. The Committee recommended that penal provisions for such default should be decriminalized.</p>	<p>Modified sub-section (4) of Section 60-</p> <p>If default is made in complying with sub-section (3), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees, and in case of the continuing default, a further penalty of one hundred rupees for every day after the first during which such default continues subject to a maximum of one lakh for limited liability partnership and fifty thousand for every designated partners.</p>

		<p>held and conducted in such manner as may be prescribed or as the Tribunal directs.</p> <p>(2) If a majority representing three-fourths in value of the creditors, or partners, as the case may be, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Tribunal, by order be binding on all the creditors or all the partners, as the case may be, and also on the limited liability partnership, or in the case of a limited liability partnership which is being wound up, on the liquidator and contributories of the limited liability partnership:</p> <p>Provided that no order sanctioning any compromise or arrangement shall be made by the Tribunal unless the Tribunal is satisfied that the limited liability partnership or any other person by whom an application has been made under subsection (1) has disclosed to the Tribunal, by affidavit or otherwise, all</p>		
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	<p>material facts relating to the limited liability partnership, including the latest financial position of the limited liability partnership and the pendency of any investigation proceedings in relation to the limited liability partnership.</p> <p>(3) An order made by the Tribunal under sub-section (2) shall be filed by the limited liability partnership with the Registrar within thirty days after making such an order and shall have effect only after it is so filed.</p> <p>(4) If default is made in complying with sub-section (3), the limited liability partnership, and every designated partner of the limited liability partnership shall be punishable with fine which may extend to one lakh rupees.</p> <p>(5) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the limited liability partnership on such terms as the</p>		
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		Tribunal thinks fit, until the application is finally disposed of.		
12	Section 62 - Provisions for facilitating reconstruction or amalgamation of limited liability partnerships	<p>Section 62 (1) - Where an application is made to the Tribunal under section 60 for sanctioning of a compromise or arrangement proposed between a limited liability partnership and any such persons as are mentioned in that section, and it is shown to the Tribunal that—</p> <p>(a) compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any limited liability partnership or limited liability partnerships, or the amalgamation of any two or more limited liability partnerships; and</p> <p>(b) under the scheme the whole or any part of the undertaking, property or liabilities of any limited liability partnership concerned in the scheme (in this section referred to as a "transferor limited liability partnership") is to be transferred to another limited liability partnership (in this section referred to as the "transferee</p>	The Committee observed that the default related to non-filing of the order of Tribunal within the prescribed time is such a default that may be rectified. The Committee recommended that penal provisions for such default should be decriminalized.	<p>Modified sub-section (4) of Section 62 - if default is made in complying with sub-section (3), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees, and in case of the continuing default, further penalty of one hundred rupees for every day after the first during which such default continues subject to a maximum of one lakh for limited liability partnership and fifty thousand for every designated partners.</p> <p>Insertion of <i>explanation</i> in Section 62:</p> <p><i>Explanation -I</i> thereof and after Explanation-I as so numbered, the following Explanation shall be inserted, namely:-</p> <p><i>Explanation-II.</i> - A limited liability partnership shall not be amalgamated with a company.</p>

		<p>limited liability partnership"), the Tribunal may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provisions for all or any of the following matters, namely:—</p> <p>(i) the transfer to the transferee limited liability partnership of the whole or any part of the undertaking, property or liabilities of any transferor limited liability partnership;</p> <p>(ii) the continuation by or against the transferee limited liability partnership of any legal proceedings pending by or against any transferor limited liability partnership;</p> <p>(iii) the dissolution, without winding up, of any transferor limited liability partnership;</p> <p>(iv) the provision to be made for any person who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement; and</p> <p>(v) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or</p>		
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	<p>amalgamation shall be fully and effectively carried out:</p> <p>Provided that no compromise or arrangement proposed for the purposes of, or in connection with, a scheme for the amalgamation of a limited liability partnership, which is being wound up, with any other limited liability partnership or limited liability partnerships, shall be sanctioned by the Tribunal unless the Tribunal has received a report from the Registrar that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest:</p> <p>Provided further that no order for the dissolution of any transferor limited liability partnership under clause (iii) shall be made by the Tribunal unless the Official Liquidator has, on scrutiny of the books and papers of the limited liability partnership, made a report to the Tribunal that the affairs of the limited liability partnership have not</p>	
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	<p>been conducted in a manner prejudicial to the interests of its partners or to public interest.</p> <p>(2) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to and vest in, and those liabilities shall be transferred to and become the liabilities of, the transferee limited liability partnership; and in the case of any property, if the order so directs, freed from any charge which is, by virtue of the compromise or arrangement, to cease to have effect.</p> <p>(3) Within thirty days after the making of an order under this section, every limited liability partnership in relation to which the order is made shall cause a certified copy thereof to be filed with the Registrar for registration.</p> <p>(4) If default is made in complying with the provisions of subsection (3), the limited liability partnership,</p>		
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		<p>every designated partner of the limited liability partnership shall be punishable with fine which may extend to fifty thousand rupees.</p> <p><i>Explanation.</i>—In this section "property" includes property, rights and powers of every description; and "liabilities" includes duties of every description.</p>		
13	<p>Section 73- Penalty on non-compliance of any order passed by Tribunal</p>	<p>Whoever fails to comply with any order made by the Tribunal under any provision of this Act shall be punishable with imprisonment which may extend to six months and shall also be liable to a fine which shall not be less than fifty thousand rupees.</p>	<p>The Committee observed that Company Law Committee's Report, 2019 has recommended that non-compliances of any order passed by the Tribunal under the Companies Act, 2013 may not be subjected to punishments or penalties. Section 425 of the Companies Act, 2013 empowers the Tribunal and the Appellate Tribunal with a power to punish for contempt under the provisions of the contempt of Court Act, 1974 (70 of 1971). Based on this principle, the committee recommended that non-compliance of the order of the Tribunal or the Appellate Tribunal may be dealt under the contempt jurisdiction of the Tribunal and penal</p>	<p>Section is omitted</p>

			provisions for such non-compliances may be omitted from the LLP Act.	
14	Section 74 General penalties	Any person guilty of an offence under this Act for which no punishment is expressly provided shall be liable to a fine which may extend to five lakh rupees but which shall not be less than five thousand rupees and with a further fine which may extend to fifty rupees for every day after the first day after which the default continues.	The Committee observed that on the recommendations of Company Law Committee's report 2019, the Companies (Amendment) Bill, 2020 now Companies (Amendment) Act, 2020 provides for decriminalization of Section 450 which provides for punishment where no specific penalty or punishment is provided in the Act. The Committee recommended the same principle may be followed and Section 74 of the LLP Act should be decriminalized.	Any person guilty of default under this Act for which no punishment is expressly provided shall be liable to a penalty of five thousand rupees and in case of a continuing contravention with a further penalty of one hundred rupees for every day after the first during which the contravention continues, subject to a maximum of one lakh rupees.

II. OFFENCES WHERE STATUS QUO IS TO BE MAINTAINED

Finally, after going through all the offences proposed to be analyzed, the Committee felt that there were some offences that were best left untouched. Due to the nature of these offences, the Committee noted that these were not suitable to be brought within the IAM framework. In this regard, the Committee adopted a principle-based approach in filtering through the provisions and specifically decided to maintain status quo for offences which involved an element of fraud, deceit, injury to public interest and wrongful dealings.

The Committee, therefore, suggested no change to the offences contained in the below-listed provisions except for the provision of Section 20:

COMPOUNDABLE OFFENCES			
S. No.	Section/Schedule under the LLP Act, 2008	Ingredients of Section and Penal provisions	Observation of the Committee
1	Section 20 - Penalty for improper use of words "limited liability partnership" or "LLP"	Section 20 - If any person or persons carry on business under any name or title of which the words "Limited Liability Partnership" or "LLP" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated as limited liability partnership, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.	The Committee observed that use of the words "limited liability partnership" or "LLP" by the business entity without being duly incorporated as an LLP amounts to deception and may also entail an element of fraud or deceit. So the Committee recommended no change in the penal provision of Section 20 of the Act.
2	Section 34 - Maintenance of books of account, other records and audit, etc.	Section 34 (1) - The limited liability partnership shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of accounting and shall maintain the same at its registered office for such period as may be prescribed. (2) Every limited liability partnership shall, within a period of six months from the end of each financial year, prepare a Statement of Account and Solvency for the said financial year as at the last day of the said financial year in such form as may be prescribed, and	The Committee observed that the provisions under section 34 provide punishment to ensure financial discipline and integrity of financial information of the LLP. The committee also observed that for proper regulations and enforcement of the LLP Act, it is desirable to have a criminal liability for non-compliances of order of statutory authorities. The committee, therefore, recommended no

		<p>such statement shall be signed by the designated partners of the limited liability partnership.</p> <p>(3) Every limited liability partnership shall file within the prescribed time, the Statement of Account and Solvency prepared pursuant to sub-section (2) with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.</p> <p>(4) The accounts of limited liability partnerships shall be audited in accordance with such rules as may be prescribed: Provided that the Central Government may, by notification in the Official Gazette, exempt any class or classes of limited liability partnerships from the requirements of this sub-section.</p> <p>(5) Any limited liability partnership which fails to comply with the provisions of this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>	<p>change in penal provisions Section 34 (1) (2) (4), 38 and 47.</p>
3	<p>Section 38 -Power of Registrar to obtain information</p>	<p>Section 38 (1) - In order to obtain such information as the Registrar may consider necessary for the purposes of carrying out the provisions of this Act, the Registrar may require any person including any present or former partner or designated partner</p>	

		<p>or employee of a limited liability partnership to answer any question or make any declaration or supply any details or particulars in writing to him within a reasonable period.</p> <p>(2) In case any person referred to in sub- section (1) does not answer such question or make such declaration or supply such details or particulars asked for by the Registrar within a reasonable time or time given by the Registrar or when the Registrar is not satisfied with the reply or declaration or details or particulars provided by such person, the Registrar shall have power to summon that person to appear before him or an inspector or any other public officer whom the Registrar may designate, to answer any such question or make such declaration or supply such details, as the case may be.</p> <p>(3) Any person who, without lawful excuse, fails to comply with any summons or requisition of the Registrar under this section shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.</p>	
4	<p>Section 47 - Production of documents and evidence</p>	<p>Section 47 (1) - It shall be the duty of the designated partner and partners of the limited liability partnership—</p> <p>(a) to preserve and to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government, all books and papers of, or relating to, the limited liability partnership or, as</p>	

	<p>the case may be, the other entity, which are in their custody or power; and</p> <p>(b) Otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.</p> <p>(2) The inspector may, with the previous approval of the Central Government, require any entity other than an entity referred to in sub-section (1) to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf, with the previous approval of that Government, as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.</p> <p>(3) The inspector may keep in his custody any books and papers produced under sub-section (1) or sub-section (2) for thirty days and thereafter shall return the same to the limited liability partnership, other entity or individual by whom or on whose behalf the books and papers are produced: Provided that the inspector may call for the books and papers if they are needed again: Provided further that if certified copies of the books and papers produced under sub-section (2) are furnished to the inspector, he shall return those books and papers to the entity or person concerned.</p> <p>(4) An inspector may examine on oath—</p> <p>(a) any of the persons referred to in sub-section (1);</p> <p>(b) with the previous approval of the Central Government, any other person in relation to the affairs of the limited liability partnership or any</p>	
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		<p>other entity, as the case may be; and (c) May administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.</p> <p>(5) If any person fails without reasonable cause or refuses—</p> <p>(a) to produce before an inspector or any person authorized by him in this behalf with the previous approval of the Central Government any book or paper which it is his duty under sub-section (1) or sub-section (2) to produce; or</p> <p>(b) to furnish any information which is his duty under sub-section (2) to furnish; or</p> <p>(c) to appear before the inspector personally when required to do so under sub-section (4) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or</p> <p>(d) to sign the notes of any examination,</p> <p>He shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.</p> <p>(6) The notes of any examination under sub-section (4) shall be taken down in writing and signed by the person whose examination was made on oath and a copy of such notes shall be given to the person so examined on oath and thereafter be used as an evidence by the inspector.</p>	
5	Para 17 (1) of the Second Schedule	(1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of	The Committee observed that the provisions of Schedule 2 , 3 and 4 require that the LLP shall ensure that for a period of twelve months

	<p>of the LLP Act, 2008</p>	<p>registration, every official correspondence of the limited liability partnership bears the following:</p> <p>(a) a statement that it was, as from the date of registration, converted from a firm into a limited liability partnership; and</p> <p>(b) the name and registration number, if applicable, of the firm from which it was converted.</p> <p>(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.</p>	<p>commencing not later than fourteen days after the date of registration upon conversion from firm/company to LLP every official correspondence of the limited liability partnership bears the following, namely:—</p> <p>(a) a statement that it was, as from the date of registration, converted from a firm/company into a limited liability partnership; and</p> <p>(b) the name and registration number of the firm/company from which it was converted.</p> <p>The intimation in the correspondence is intended to protect the interest of stakeholders by giving disclosures of the past identity and credentials of the entity which converted into an LLP and to prevent the fraud that might be committed by hiding the past identity or credit credentials of the business entity .The Committee recommended no change in penal provisions provided under Schedules of the Act.</p>
6	<p>Para 15 (1) of the Third Schedule of the LLP Act</p>	<p>(1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely:—</p> <p>(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and</p> <p>(b) the name and registration number of the company from which it was converted.</p> <p>(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for</p>	

		every day after the first day after which the default continues.	
7	Para 16 (1) of the Fourth Schedule of the LLP Act	<p>(1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely:—</p> <p>(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and</p> <p>(b) the name and registration number of the company from which it was converted.</p> <p>(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.</p>	

NON-COMPOUNDABLE OFFENCES			
S. No.	Section/Schedule under the LLP Act, 2008	Ingredients of Section and Penal provisions	Observation of the Committee
1	Section 11 - Incorporation document	Section 11 (1) - For a limited liability partnership to be incorporated,—	The Committee recommended no change in penal provisions of non-compoundable offences as such

	<p>(a) two or more persons associated for carrying on a lawful business with a view to profit shall subscribe their names to an incorporation document;</p> <p>(b) the incorporation document shall be filed in such manner and with such fees, as may be prescribed with the Registrar of the State in which the registered office of the limited liability partnership is to be situated; and</p> <p>(c) there shall be filed along with the incorporation document, a statement in the prescribed form, made by either an advocate, or a Company Secretary or a Chartered Accountant or a Cost Accountant, who is engaged in the formation of the limited liability partnership and by anyone who subscribed his name to the incorporation document, that all the requirements of this Act and the rules made thereunder have been complied with, in respect of incorporation and matters precedent and incidental thereto.</p> <p>(2) The incorporation document shall—</p> <p>(a) be in a form as may be prescribed;</p> <p>(b) state the name of the limited liability partnership;</p> <p>(c) state the proposed business of the limited liability partnership;</p>	<p>offences could involve elements of fraud, intent to deceive, injury to public interest and wrongful dealing.</p>
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		<p>(d) state the address of the registered office of the limited liability partnership;</p> <p>(e) state the name and address of each of the persons who are to be partners of the limited liability partnership on incorporation;</p> <p>(f) state the name and address of the persons who are to be designated partners of the limited liability partnership on incorporation;</p> <p>(g) contain such other information concerning the proposed limited liability partnership as may be prescribed.</p> <p>(3) If a person makes a statement under clause (c) of sub-section (1) which he—</p> <p>(a) knows to be false; or</p> <p>(b) does not believe to be true, shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.</p>	
2	<p>Section 30 - Unlimited liability in case of fraud</p>	<p>Section 30 (1) - In the event of an act carried out by a limited liability partnership, or any of its partners, with intent to defraud creditors of the limited liability partnership or any other person, or for any fraudulent purpose, the liability of the limited liability partnership and partners who</p>	

		<p>acted with intent to defraud creditors or for any fraudulent purpose shall be unlimited for all or any of the debts or other liabilities of the limited liability partnership:</p> <p>Provided that in case any such act is carried out by a partner, the limited liability partnership is liable to the same extent as the partner unless it is established by the limited liability partnership that such act was without the knowledge or the authority of the limited liability partnership.</p> <p>(2) Where any business is carried on with such intent or for such purpose as mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.</p> <p>(3) Where a limited liability partnership or any partner or designated partner or employee of such limited liability partnership has conducted the affairs of the limited liability partnership in a fraudulent manner, then without prejudice to any criminal proceedings which may arise under any law for the time being in</p>	
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		<p>force, the limited liability partnership and any such partner or designated partner or employee shall be liable to pay compensation to any person who has suffered any loss or damage by reason of such conduct:</p> <p>Provided that such limited liability partnership shall not be liable if any such partner or designated partner or employee has acted fraudulently without knowledge of the limited liability partnership.</p>	
3	<p>Section 37 - Penalty for false statement</p>	<p>If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement—</p> <p>(a) which is false in any material particular, knowing it to be false;</p> <p>or</p> <p>(b) which omits any material fact knowing it to be material,</p> <p>he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five lakh rupees but which shall not be less than one lakh rupees</p>	

CHAPTER 2: EASE OF LIVING RELATED CHANGES

1. INTRODUCTION OF NEW CONCEPTS INTO THE ACT

- 1.1 **SMALL LLP:** - To promote the ease of doing business in the Country particularly for micro and small enterprises, a need is being felt for creation of a class of LLP called as “**Small LLP**” in line with the concept of Small Companies. The Committee deliberated on the rationale of the idea, its feasibility and recommended insertion of clause (ta) in **Section 2 (1)** of the LLP Act, which shall define Small LLP.

The rationale behind introduction of the concept of a Small LLP is to create a class of LLP which is subject to lesser compliances, lesser fee or additional fee etc, so as to reduce the cost of compliance and further to subject such class of LLP to lesser penalties in the event of default as has been done in the case of Companies under Companies Act, 2013. In **Rule 24 (8)** of the Limited Liability Partnership Rules, 2009, a ceiling of turnover or contribution has been prescribed for audit of accounts of LLPs. Drawing a reference from the said rule, “Small LLP” can be defined on the basis of criteria of turnover or contribution with a flexibility to alter such criteria if so required, in future.

Recommended Definition of Small LLP: - The proposed **Section 2 (1) (ta)** of the LLP Act, 2008 may define a Small LLP as follows: “Small LLP is a Limited Liability Partnership, **contribution** of which does not exceed **twenty five lakh rupees** or **such higher amount** as may be prescribed; and a **turnover** of which, as per the Statement of Account and Solvency for the **immediately preceding financial year**, does not exceed **forty lakh rupees** or **such higher amount** as may be prescribed”.

In order to reduce the cost of compliances, the proposed amendment to Section 69 of the LLP Act, may provide that a different fee or additional fee may be prescribed for different classes of LLP. Reduced fee/additional fee would not only reduce the cost of compliances for extant LLPs but shall incentivize the micro and small enterprises to corporatize their business vehicles. In addition to reduction in fee, the Committee also recommended that in line with

the provisions of Section 446B⁵, as provided in Companies (Amendment) Bill, 2020 now Companies (Amendment) Act, 2020, lesser penalties may be provided for Small LLPs. Provisions for the reduced penalties may be provided in the provisions of a new Section 77A, proposed to be inserted in the Act.

1.2 NON-CONVERTIBLE DEBENTURES (NCDs): -

Under Section 2 (e) of the LLP Act, a “business” is defined to include every trade, profession, service and occupation. Section 3 of the LLP Act defines an LLP as “*a body corporate formed and incorporated under the LLP Act and is a legal entity separate from that of its partners.*” While an LLP can contract debt for the purposes of conducting its business, the LLP Act and the Limited Liability Partnership Rules, 2009 (“LLP Rules”) do not permit LLPs to raise capital by way of issuance of debt securities.

Thus, alternative investment funds (“AIFs”) can invest in LLPs only by way of capital contribution, which is in the nature of a pure equity interest. Such inability of LLPs to issue non-convertible debentures, at par with companies, poses as a major impediment in business operations of LLPs, especially in sectors such as real estate and infrastructure which are capital deficient. In light of the fact that AIFs are permitted to invest only in the form of contribution and are not permitted to provide ‘pure loans’, AIFs may not be able to invest in debt of a significant number of projects which have been structured as LLPs. The sole interplay between LLPs and the debt segment in India is when such LLPs contract loans for its business operations; however, in order to make LLPs more lucrative for the debt market, it becomes important to permit LLPs to issue non-convertible debentures to facilitate raising of capital and financing operations of LLPs.

⁵ Section 446B of the Companies (Amendment) Bill, 2020 now Companies (Amendment) Act, 2020— ‘Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be.

Explanation.—For the purposes of this section, — (a) “Producer Company” means a company as defined in clause (l) of section 378A; (b) “start-up company” means a private company incorporated under this Act or under the Companies Act, 1956 and recognised as start-up in accordance with the notification issued by the Central Government in the Department for Promotion of Industry and Internal Trade.’

The Committee observed that there are precedents in some other jurisdictions such as the United Kingdom and Singapore where LLPs are permitted to issue Debentures by creating a charge on their assets. The committee further observed that permitting LLPs to issue NCDs will make LLPs a much sought-after alternative to Companies for operating businesses. The Committee also observed that in the real estate and infrastructure sector, Special Purpose Vehicles (SPV) are invariably structured as LLPs to avail the benefits of ease of administration and single structure for LLP. Such LLP SPV structures enter into lease agreements with entities engaged in the real estate and infrastructure space to develop land and infrastructure, and thereby may attract vibrant investment opportunities from AIFs.

The Committee also observed that permitting LLPs to raise debt securities in the form of NCDs is in furtherance of the policy of the government to deepen the debt market. This measure is expected to aid the further capitalization of LLPs, such issuances being an alternative to equity participation. It holds the potential for diversification of LLP structures into a wide variety of business sectors wherein inherent flexibility of LLPs and its hybrid nature between Companies and partnership firms may cater to a wide array of professional services, manufacturing, project development and other allied sectors.

The Committee recommended the insertion of enabling provisions for permitting LLPs to issue non-convertible debentures to entities regulated by Securities and Exchange Board of India or Reserve Bank of India. In order to ensure that adequate protection to investors is there, the Committee also recommended that LLPs may not be permitted to allot/issue NCDs to individuals (retail investors) so as to pre-empt fraudulent mis-use of such instruments and instead be restricted only to bodies corporate or trusts.

The Committee after deliberations suggested the following formulations which are similar to the provisions under Section 71 of the Companies Act, 2013. In the Act, after Section 33, a new section – 33A may be inserted as under: -

(1) A limited liability partnership may issue secured non-convertible debentures to bodies corporate or trusts regulated by Securities and Exchange Board of India or Reserve Bank of India.

(2) No limited liability Partnership shall issue non-convertible debentures unless the provisions for the same are provided in the limited liability partnership agreement and the said agreement has been registered by the Registrar.

(3) Every limited liability partnership which issues secured non-convertible debentures under this section shall keep and maintain a register of debenture holders in such form and in such manner as may be prescribed.

(4) Non-convertible debentures may be issued by a limited liability partnership subject to such terms and conditions as may be prescribed.

(5) Where debentures are issued by a limited liability partnership, such limited liability partnership shall create a debenture redemption reserve account out of profits of the limited liability partnership in such manner or for such quantum as may be prescribed and the amount credited to such account shall not be utilized by the limited liability partnership except for the redemption of debentures.

(6) No limited liability partnership shall make an offer or invitation to bodies corporate or trusts as mentioned in sub-section (1) exceeding two hundred in a financial year for subscription of its non-convertible debentures.

(7) A limited liability partnership shall pay interest and redeem debentures in accordance with terms and conditions of their issue.

(8) A Limited Liability partnership which issues secured non-convertible debentures, shall file with the Registrar, such information, document, as may be prescribed.

(9) Where a limited liability partnership fails to redeem the debentures on date of their maturity or fails to pay interest on debentures when it is due, the Tribunal may, without prejudice to other ordinary rights of debenture holders, on application of any or all of the debenture holders, after hearing the parties concerned, direct, by order, the limited liability

partnership to redeem the debentures forthwith on payment of principal and interest due thereon.

(10) If any default is made in complying with provisions of this section, every partner shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees or with both.

2. PROPOSED AMENDMENT IN SECTION 69 OF THE LLP ACT, 2008 (PAYMENT OF ADDITIONAL FEE)

Section 69 of the LLP Act, 2008 deals with the provisions for additional fee on delayed filings of documents/returns of the LLPs. The Government has received numerous representations from various stakeholders on the hardship caused due to the onerous financial burden imposed on LLP due to the said provision for what are typical procedural/technical defaults. Upon consideration of such representations received to relax the additional fee provided under said section, the Committee thought fit to recommend the amendment of Section 69 of the LLP Act, 2008. A reduced additional fee would incentivize smooth filing of records and returns of LLPs and operation of business in LLP structure. High fee/additional fee invariably leads to long term non-compliances in filing of documents, returns etc. as required under the law. Resultantly, registry also does not get updated. An updated registry is a sine qua non for regulations and policy making. The committee recommended that the modified Section 69 of the LLP Act may provide that fee or additional fee shall be as prescribed in the rules. A different fee or additional fee may also be prescribed for different classes of LLPs. Accordingly, the fee/ additional fee shall be prescribed in the rules as they are done under the Companies Act, 2013. The prescriptions of the fee/additional fee in the rules gives sufficient flexibility to the Central Government to respond to unforeseen emergent situations as seen by the outbreak of the COVID-19 PANDEMIC which has caused unprecedented hardships and liquidity crisis to business entrepreneurs.

Thus, the Committee recommended to substitute section 69 as follows:

S. No.	Section under the LLP Act, 2008	Existing Provision	Modified Provision
1	Section 69	<p>Any document or return required to be filed or registered under this Act with the Registrar, if, is not filed or registered in time provided therein, may be filed or registered after that time upto a period of three hundred days from the date within which it should have been filed, on payment of additional fee of one hundred rupees for every day of such delay in addition to any fee as is payable for filing of such document or return:</p> <p>Provided that such document or return may, without prejudice to any other action or liability under this Act, also be filed after such period of three hundred days on payment of fee and additional fee specified in this section.</p>	<p>Any document or return required to be filed or registered under this Act with Registrar, if, is not filed or registered in time provided therein , may be filed or registered after that time , on payment of such additional fee as may be prescribed in addition to any fee as is payable for filing of such document or return:</p> <p>Provided that such document or return shall be filed after the due date of filing , without prejudice to any other action or liability under this Act.</p> <p>Provided further that a different fee or additional fee may be prescribed for different classes of limited liability partnerships or for different documents or returns required to be filed under this Act or Rules made under this Act.</p>

CHAPTER 3: MISCELLANEOUS PROVISIONS

1. REFERENCE TO THE COMPANIES ACT, 1956 PROPOSED TO BE SUBSTITUTED WITH THE COMPANIES ACT, 2013 IN THE LLP ACT, 2008

1.1 The Limited Liability Partnership Act, 2008 was enacted by the Parliament of India on 12th December, 2008 and notified on 9th January, 2009. At the time of enactment and notification of the LLP Act, the Companies Act 1956 was in force and as such references to the provisions of the said Act were made in the LLP Act, 2008. The Companies Act, 1956 has since been repealed with effect from 30th January, 2019. Since, the Companies Act, 1956 has been replaced and repealed by the Companies Act, 2013, the Committee thought it fit and appropriate to substitute all references to the “Companies Act, 1956” with the “Companies Act, 2013”, in the LLP Act, 2008.

1.2 Accordingly following provisions of the LLP Act, 2008 may be modified: -

Sl. No.	Section under the LLP Act, 2008	Existing Provision in the LLP Act, 2008 with reference to the Companies Act, 1956	Modified Provision in the LLP Act, 2008 with reference to the Companies Act, 2013
1	Section 2 Definitions Section 2 (1) (c)	"Appellate Tribunal" means the National Company Law Appellate Tribunal constituted under sub-section (1) of section 10FR of the Companies Act, 1956 (1 of 1956)	"Appellate Tribunal" means the National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 (18 of 2013).

Section 2 (1) (d)	<p>"body corporate" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956) and includes—</p> <ul style="list-style-type: none"> (i) a limited liability partnership registered under this Act; (ii) a limited liability partnership incorporated outside India; and (iii) a company incorporated outside India, <p>but does not include—</p> <ul style="list-style-type: none"> (i) a corporation sole; (ii) a co-operative society registered under any law for the time being in force; and (iii) any other body corporate (not being a company as defined in section 3 of the Companies Act, 1956 (1 of 1956) or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf; 	<p>"body corporate" means a company as defined in section 2 (20) of the Companies Act, 2013 (18 of 2013) and includes—</p> <ul style="list-style-type: none"> (i) a limited liability partnership registered under this Act; (ii) a limited liability partnership incorporated outside India; and (iii) a company incorporated outside India, but does not include— <ul style="list-style-type: none"> (i) a corporation sole; (ii) a co-operative society registered under any law for the time being in force; and (iii) any other body corporate (not being a company as defined in 2 (20) of the Companies Act (18 of 2013) or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf;
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	Section 2 (1) (e)	“Business” includes every trade, profession, service and occupation;	“Business” includes every trade, profession, service and occupation; “Provided that the Central Government by Notification may include or exclude any activity from the definition of Business”.
	Section 2 (1) (s)	"Registrar" means a Registrar, or an Additional, a Joint, a Deputy or an Assistant Registrar, having the duty of registering companies under the Companies Act, 1956 (1 of 1956);	“Registrar” means a Registrar, an Additional Registrar, a Joint Registrar , a Deputy Registrar, or an Assistant Registrar , having the duty of registering limited liability partnerships and discharging various functions under this Act;
	Section 2 (1) (u)	"Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 10FB of the Companies Act, 1956 (1 of 1956).	“Tribunal” means the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013).
	Section 2 (2)	Words and expressions used and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) shall have the meanings respectively assigned to them in that Act.	Words and expressions used and not defined in this Act but defined in the Companies Act, 2013 (18 of 2013) shall have the meanings respectively assigned to them in that Act.

2	Section 7(6) - Designated partners	Section 7(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 266A to 266G (both inclusive) of the Companies Act, 1956 (1 of 1956) shall apply <i>mutatis mutandis</i> for the said purpose.	Section 7(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 153 to 159(both inclusive) of the Companies Act, 2013 (18 of 2013) shall apply <i>mutatis mutandis</i> for the said purpose.
3	Section 58 - Registration and effect of conversion	Section 58 (1) - The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, shall, subject to the provisions of this Act and the rules made thereunder, register the documents submitted under such Schedule and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified	Section 58 (1) - The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, shall, subject to the provisions of this Act and the rules made thereunder, register the documents submitted under such Schedule and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified

		<p>in the certificate, registered under this Act:</p> <p>Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provisions of the Indian Partnership Act, 1932 (9 of 1932) or the Companies Act, 1956 (1 of 1956) as the case may be, about the conversion and of the particulars of the limited liability partnership in such form and manner as may be prescribed.</p>	<p>in the certificate, registered under this Act:</p> <p>Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provisions of the Indian Partnership Act, 1932 (9 of 1932) or the Companies Act, 2013 (18 of 2013) as the case may be, about the conversion and of the particulars of the limited liability partnership in such form and manner as may be prescribed.</p>
4	Section 59 - Foreign limited liability partnerships	<p>The Central Government may make rules for provisions in relation to establishment of place of business by foreign limited liability partnerships within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies</p>	<p>The Central Government may make rules for provisions in relation to establishment of place of business by foreign limited liability partnerships within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies</p>

		Act, 1956 (1 of 1956) or such regulatory mechanism with such composition as may be prescribed.	Act, 2013 (18 of 2013) or such regulatory mechanism with such composition as may be prescribed.
5	Section 67(1) - Application of the provisions of the Companies Act	Section 67 (1) - The Central Government may, by notification* in the Official Gazette, direct that any of the provisions of the Companies Act, 1956 (1 of 1956) specified in the notification— (a) shall apply to any limited liability partnership; or (b) shall apply to any limited liability partnership with such exception, modification and adaptation, as may be specified, in the notification.	(1) - The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 2013 (18 of 2013) specified in the notification— (a) shall apply to any limited liability partnership; or (b) shall apply to any limited liability partnership with such exception, modification and adaptation, as may be specified, in the notification.

2. CONCOMITANT & CONSEQUENTIAL AMENDMENTS

2.1 INTRODUCTION OF NEW SECTION “68A” – REGISTRATION OFFICES:-

The Committee observed that a notification appointing adjudicating officers under the section 77A of the Act (proposed to be inserted) is required to specify territorial jurisdiction of such adjudicating officers. In the existing Act, there is no enabling provision for establishing new offices at such places as the Central Government thinks fit, specifying in such a notification the jurisdiction of the Registrar or Adjudicating officer. The Committee therefore, recommended the insertion of a provision for establishing Registration offices on lines of provisions under Section 396 of the Companies Act, 2013. Accordingly, Section 68A may be inserted in the Act as under:

Section “68A. (1) for the purpose of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under rules made thereunder and for the purpose of registration of limited liability partnerships under this Act, the Central Government shall, by notification, establish such number of offices at such places as it thinks fit, specifying their jurisdiction.

(2) The Central Government may appoint such Registrars, Additional, Joint, Deputy and Assistant Registrars as it considers necessary for the registration of limited liability partnerships and discharge of various functions under this Act, and the powers and duties that may be exercisable by such officers shall be such as may be prescribed.

(3) The terms and conditions of service , including the salaries payable to persons appointed under sub-section (1) , shall be such as may be prescribed.

(4) The Central Government may direct a seal or seals to be prepared for the authentication of documents required for, or connected with, the registration of limited liability partnerships.”

2.2 INTRODUCTION OF NEW SECTION “77A” - ADJUDICATION OF PENALTIES:-

As a number of offences are proposed to be decriminalized in the LLP Act, 2008 and the same would be brought under In-house Adjudication Mechanism (IAM), it is imperative that provisions for the adjudication of penalties and appointment of adjudication officers are provided under the Act. Accordingly, the Committee recommended the insertion of Section 77A in the Act for adjudication of penalties, on the same lines as Section 454 of Companies Act, 2013:

Section 77A:- (1) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

(3) The adjudicating officer may, by an order-

(a) impose the penalty on the limited liability partnership, its partners or designated partners, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act;

Provided that in case default relates to non-compliance of sub-section (3) of section 34 or sub-section (2) of section 35 and such default has been rectified either prior to or within thirty days of the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and proceedings under this section in respect of such default shall be deemed to be concluded.

Provided further that notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a small limited liability partnership or a start-up limited liability partnership or by its partners or designated partners or any other person in respect of such limited liability partnership, then such limited liability partnership, its partners or designated partners or any other person shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of one lakh rupees for limited liability partnership and fifty thousand rupees for every partner or designated partner or any other person, as the case may be.

Explanation. - For the purpose of second proviso of sub-section 3-

“start-up limited liability partnership” means a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 and recognised as such in accordance with notification number G.S.R. 127 (E), dated the 19th February, 2019 issued by the Department for Promotion of Industry and Internal Trade.”

(b) direct such, limited liability partnership or its partners or designated partners, or any other person, as the case may be, to rectify the default, wherever he considers fit.

(4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such limited liability partnership, its partners or designated partners who is in default or any other person.

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal under sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

Provided that Regional Director may, for the reasons to be recorded in writing , extend the period of filing an appeal, under this sub-section, by not more than thirty days.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8) (i) Where limited liability partnership fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be, within a period of ninety days from the date of the receipt of the copy of the order, the limited liability partnership shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees.

(ii) Where a partner or designated partner of a limited liability partnership or any other person who is in default fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

2.3 INTRODUCTION OF NEW DEFINITIONS UNDER SECTION 2 OF THE LLP ACT, 2008:-

The Committee recommended insertion of the following new definitions in the LLP Act, 2008:-

In Section 2(1), after sub-clause (i), the following sub-clause is proposed to be inserted, namely: -

- “(ia) “**Debenture**” means non-convertible debenture issued by a limited liability partnership evidencing a debt constituting a charge on the assets of the limited liability partnership;”

In Section 2(1), after sub-clause (r), the following sub-clause is proposed to be inserted, namely: -

- “(ra) “**Regional Director**” means a person appointed by the Central Government as a Regional Director for the purpose of this Act or Companies Act, 2013”;

2.4 COMPOSITION OF OFFENCES:-

The Committee observed that the existing provision for compounding of offences under Section 39 does not delineate principles for compounding of offences; manner and procedure thereof and effect of compounding on pending prosecutions in the trial courts. The Committee recommended modification of Section 39 to bring in principles of compounding and procedures for the same as they are inherent in Section 441 of the Companies Act, 2013. Accordingly, Section 39 is proposed to be modified as under:

Section 39 (1) The Regional Director or any other officer authorized by the Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine prescribed for the offence.

(2) The sum specified in sub-section (1) shall not be lower than minimum amount of fine prescribed for the offence and shall not, in any case, exceed the maximum amount of fine which may be imposed for the offence, so compounded.

(3) Nothing in sub-section (1) shall apply to an offence committed by a limited liability partnership or its partner or designated partner within a period of three years from the date on which similar offence committed by it or him was compounded under this section,-

Explanation. - for the purpose of this section any second or subsequent offence committed after the expiry of the period of three years from the date on which the offence was previously compounded , shall be deemed to be the first offence.

(4) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Regional Director or any other officer authorised by the Central Government, as the case may be.

(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, intimation thereof shall be given to the Registrar within seven days from the date on which the offence is so compounded.

(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence.

(d) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which prosecution is pending and on such notice of the compounding of the offence being given, the offender in relation to whom the offence is so compounded shall be discharged.

(5) The Regional Director while dealing with the proposal for compounding of an offence for a default in compliance with any provisions of this Act which requires a limited liability partnership or its partner or designated partner to file or register with or deliver or send to , the Registrar any return , account or other document , may direct, by an order if it thinks fit to do so , any partner, designated partner or other employee of the limited liability partnership to file or register with , or on payment of fee or additional fee as required to be paid under this Act , such return, account or other document within such time as may be specified in the order.

(6) If any partner or designated partner or any employee of the limited liability partnership, who fails to comply with any order made by the Central Government under sub-section (5), the maximum amount of fine for the offence, which was under consideration of Central Government for compounding under this section, shall be twice the amount provided in the corresponding section in which punishment for such offence is provided.”

2.5 SECTIONS TO BE OMITTED FROM THE LLP ACT, 2008

The Committee recommended the omission of the following section of the Act in order to avoid duplication by way of concurrent jurisdiction of Central Government and ROC

Section 18 (Application to Registrar to change name in certain circumstances): – Powers to change the name on the similar grounds have already been provided in Section 17 of the LLP Act.

3. OTHER AMENDMENTS

3.1 Modification in sub-clause (e) of clause (1) of Section 2 of the Act –

The Committee has examined the definition of “Business” in Section 2 (1) (e) of the LLP Act, 2008 and has taken note of the fact that the LLP Act, 2008 does not prohibit any activity including conducting Non-Banking Financial Activities. However, RBI has raised serious concerns on incorporation of LLPs with NBFIs objects or conversion of Companies with NBFIs objects into LLPs in absence of specific regulation and capital prescriptions governing the same. RBI is a regulator of Non-Banking Finance Companies and MCA has no jurisdiction to regulate NBF activities of LLPs. Accordingly, the Committee recommended for the insertion of an enabling provision to include or exclude any activity from the definition of Business in Section 2 (1) (e) of the Act.

In view of the aforesaid recommendations of the Committee, Section 2 (1) (e) of the Act may be modified as under:

In sub-clause (e) of clause (1) of Section 2 of the LLP Act, 2008, the following proviso shall be inserted:-

“Provided that the Central Government by Notification may include or exclude any activity from the definition of Business”.

3.2 Section 34A and Section 34AA of the Act:

Prescription of Accounting Standards and standards for auditing for a class or classes of LLPs- The Committee examined the requirements for prescribing accounting standards, which are meant for Small Companies/MSMEs to certain classes of LLPs particularly which are engaged in manufacturing activities. After the due deliberations, the Committee recommended that an enabling provision may be inserted in the Act to empower the Central Government to prescribe Accounting Standards and standards for auditing to certain classes of LLPs. Accordingly, the Committee recommended insertion of Section 34A and 34 AA after Section 34 in Chapter VII of the LLP Act, 2008. The proposed Section may be as under:-

Central Government to prescribe accounting standards and Standards for auditing:-

After Section 34 in the Principle Act, the following Sections shall be inserted, namely:-

“Section 34A - The Central Government may prescribe to a class or classes of limited liability partnership the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under Section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority constituted under Section 132 of the Companies Act, 2013 (18 of 2013)”.

“Section 34AA- The Central Government may prescribe to a class or classes of limited liability partnership the standards of auditing or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under Section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority constituted under Section 132 of the Companies Act, 2013 (18 of 2013)”.

ANNEXURE 1 - ORDER OF CONSTITUTION OF THE COMMITTEE

F. No. 2/1/2018-CL-V
Government of India
Ministry of Corporate Affairs
'A' Wing, 5th Floor, Shastri Bhawan,
New Delhi-110001

Dated: 18th September, 2019

ORDER

Subject: Constitution of the Company Law Committee

A Committee to review the offences under the Companies Act, 2013 was constituted vide order No. 2/1/2018-CL-V dated 13.07.2018. The report of the Committee was submitted to the Hon'ble Corporate Affairs Minister on 27.08.2018. The report, *inter alia*, made recommendations for re-categorizing of certain offences into 'civil wrongs', de-dogging the NCLT and also touched upon certain essential elements of corporate governance. On the basis of recommendations made by such Committee and passage of the Companies (Amendment) Act, 2019, relevant changes have been made to the Companies Act, 2013.

2. In line with the Government's objective of promoting Ease of Living in the country by providing Ease of Doing Business to law abiding corporates, fostering improved corporate compliance for stakeholders at large and also to address emerging issues having impact on the working of corporates in the country, it has been decided to constitute a Company Law Committee for examining and making recommendations to the Government on various provisions and issues pertaining to implementation of the Companies Act, 2013 and the Limited Liability Partnership Act, 2008.

3. Accordingly, the Government hereby constitutes the Company Law Committee consisting of the following members:-

S. No.	Name of Person/ Institution	- Position
1.	Secretary, MCA	- Chairman
2.	Shri T. K. Viswanathan, Ex- Secretary General, Lok Sabha	- Member
3.	Shri Uday Kotak, MD, Kotak Mahindra Bank	- Member
4.	Shri Shardul S Shroff, Executive Chairman, Shardul Amarchand Mangaldas & Co.	- Member
5.	Shri Amarjit Chopra, Senior Partner, GSA Associates, New Delhi	- Member

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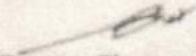
6.	Shri Rajib Sekhar Sahoo, Principal Partner, SRB & Associates, Chartered Accountants, Bhubaneswar	- Member
7.	Shri Ajay Bahl, Founder and Managing Partner, AZB & Partners, Advocates & Solicitors	- Member
8.	Shri G. Ramaswamy, Partner, G. Ramaswamy & Co. Chartered Accountants, Coimbatore	- Member
9.	Shri Sidharth Birla, Chairman, Xpro India Limited	- Member
10.	Ms. Preeti Malhotra, Group President, Corporate Affairs & Governance, Smart Group	- Member
11.	Joint Secretary (Policy)	- Member Secretary

4. The terms of reference of the Committee would be as follows:-
- i. Analyze the nature of the offences (compoundable and non-compoundable) and submit its recommendation as to whether any of the offences could be re-categorized as 'civil wrongs' along with measures to optimize the compliance requirements under the Companies Act, 2013 and concomitant measures to provide further Ease of Doing Business;
 - ii. Examine the feasibility of introducing settlement mechanism, deferred prosecution agreement, etc., within the fold of the Companies Act, 2013;
 - iii. Study the existing framework under the Limited Liability Partnership Act, 2008 and suggest measures to plug the gaps, if any, while at the same time enhancing the Ease of Doing Business;
 - iv. Propose measures to further de-clog and improve the functioning of the NCLT;
 - v. Suggest measures for removing any bottlenecks in the overall functioning of the statutory bodies like SFIO, IEPFA, NFRA, etc. under the Act ;
 - vi. Identify specific provisions under the Companies Act, 2013 and the Limited Liability Partnership Act, 2008 which are required to be amended to bring about greater Ease of Living for the corporate stakeholders, including but not restricted to review of Forms under the two Acts;
 - vii. Any other relevant recommendation as it may deem necessary.
5. The Chairperson of the Committee may also invite or co-opt any other practitioners, experts (subject specific) who have knowledge or experience in the field of corporate law and representatives from other Ministries or regulators. The Committee may also consult other stakeholders as part of its deliberations. M/s Vidhi Centre for Legal Policy, which is a not-for-profit organization, shall provide legal research assistance to the Committee.
6. The non-official members of the Committee shall be eligible for travelling, conveyance and other allowances as per extant government instructions, as may be decided by Chairperson of the Committee.

7. The Committee shall submit its recommendations in phases and subject-wise to the Government from time to time as may be decided by the Chairperson of the Committee.

8. The Committee shall initially have a tenure of one year from the date of its first meeting.

9. This issues with the approval of Competent Authority.


(Pranay Chaturvedi)
Deputy Director
011-23071190

To
All members
Copy to- PS to CAM
PS to MoS, CA
PPS to Secretary, MCA

ANNEXURE 2 - SUMMARY OF RECOMMENDATIONS

SL. NO.	PROVISION UNDER THE LLP ACT, 2008	NATURE OF RECOMMENDATIONS AND PROPOSED AMENDMENTS
1	<p>Section 2</p> <p>Definitions</p>	<p>Nature of Recommendations-</p> <ul style="list-style-type: none"> • To substitute all the references of the Companies Act, 1956 with the Companies Act, 2013 in the LLP Act, 2008 and to amend the existing provisions under this Section. • To insert new definitions and alterations or modifications in the Section. <p>Proposed modified provisions-</p> <p>Section 2 (1) (c) - “Appellate Tribunal” means the National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 (18 of 2013).</p> <p>Section 2 (1) (d) - “body corporate” means a company as defined in section 2 (20) of the Companies Act, 2013 (18 of 2013) and includes—</p> <p>(i) a limited liability partnership registered under this Act;</p> <p>(ii) a limited liability partnership incorporated outside India; and</p> <p>(iii) a company incorporated outside India, but does not include—</p> <p>(i) a corporation sole;</p> <p>(ii) a co-operative society registered under any law for the time being in force; and</p> <p>(iii) any other body corporate (not being a company as defined in 2 (20) of the Companies Act (18 of 2013) or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf;</p>

Section 2 (1) (e) - “**business**” – In this section, following proviso shall be inserted-

“Provided that the Central Government by Notification may include or exclude any activity from the definition of Business”.

Section 2 (1) (s) - “**Registrar**” means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar, or an Assistant Registrar, having the duty of registering limited liability partnerships and discharging various functions under this Act;

Section 2 (1) (u) - “**Tribunal**” means the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013).

Section 2 (2) - Words and expressions used and not defined in this Act but defined in the Companies Act, 2013 (18 of 2013) shall have the meanings respectively assigned to them in that Act.

Section 2 (1) (ia) - “**Debenture**” means non-convertible debenture of a limited liability partnership evidencing a debt constituting a charge on the assets of the limited liability partnership;”

Section 2 (1) (ra) - “**Regional Director**” means a person appointed by the Central Government as a Regional Director for the purpose of this Act or Companies Act, 2013”;

Section 2 (1) (ta) - “**Small LLP**” means a limited liability partnership, -

(i) contribution of which does not exceed twenty five lakh rupees or such higher amount as may be prescribed; and

		(ii) turnover of which, as per the Statement of Account and Solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount as may be prescribed
2	Section 7 - Designated partners	<p>Nature of Recommendation- To substitute reference of the Companies Act, 1956 with the Companies Act, 2013 in the LLP Act, 2008. Alignment with Section 149 (3) of the Companies Act, 2013.</p> <p>Proposed amendment-</p> <p>Section 7 (1) - Every limited liability partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India: Provided that in case of a limited liability partnership in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such limited liability partnership or nominees of such bodies corporate shall act as designated partners.</p> <p>Explanation. —For the purposes of this section, the term "resident in India" means a person who has stayed in India for a period of not less than one hundred and twenty days during the immediately preceding one year.</p> <p>(2) Subject to the provisions of sub-section (1),—</p> <p>(i) if the incorporation document—</p> <p>(a) specifies who are to be designated partners, such persons shall be designated partners on incorporation; or (b) states that each of the partners from time to time of limited liability partnership is to be designated partner, every such partner shall be a designated partner;</p> <p>(ii) any partner may become a designated partner by and in accordance with the limited liability partnership agreement and a</p>

		<p>partner may cease to be a designated partner in accordance with limited liability partnership agreement.</p> <p>(3) An individual shall not become a designated partner in any limited liability partnership unless he has given his prior consent to act as such to the limited liability partnership in such form and manner as may be prescribed.</p> <p>(4) Every limited liability partnership shall file with the registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within thirty days of his appointment.</p> <p>(5) An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed.</p> <p>(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 153 to 159 (both inclusive) of the Companies Act, 2013 (18 of 2013) shall apply <i>mutatis mutandis</i> for the said purpose.</p> <p>Explanation to sub-section (1) of Section 7 - For the purposes of this section, the term "resident in India" means a person who has stayed in India for a period of not less than one hundred and twenty days during the financial year.</p>
3	<p>Section 10 - Punishment for contravention of sections 7, 8 and 9</p>	<p>Nature of Recommendation- To remove the reference of Section 8 from Section 10 as it does not create a separate or an independent offence and to amend the penal provisions provided for the contravention of Section 7 and Section 9 to decriminalize Section 10 of the Act.</p>

		<p>Proposed amendments-</p> <p>Modified sub-section 1 of Section 10 - If the limited liability partnership contravenes the provisions of sub-section (1) of section 7, the limited liability partnership and its every partner shall be liable for penalty of ten thousand rupees and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every partner</p> <p>Sub-section (2) of Section 10 - If the limited liability partnership fails to comply with the provision of sub-section (4) of section 7, the limited liability partnership and every designated partner shall be liable for a penalty of five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees per day after the first during which such failure continues, subject to a maximum of fifty thousand rupees for the limited liability partnership and twenty five thousand rupees for every designated partner.</p> <p>Sub-section (3) of Section 10 - if the limited liability partnership contravenes the provisions of sub-section (5) of section 7 or section 9, the limited liability partnership and its every partner shall be liable for a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one hundred rupees for each day after the first during which such contravention continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every partner.</p>
4	<p>Section 13 - Registered office of limited liability partnership and change therein</p>	<p>Nature of Recommendation- To align the penal provision of the Section 13 with the provisions of the Companies Act, 2013 as the similar contraventions under the provisions of Section 12 of the Companies Act, 2013 are subject to civil liability.</p> <p>Proposed amendment-</p> <p>Modified penal provisions of sub-section (4) of Section 13 –</p> <p>If any default is made in complying with the requirements of this section, the limited liability partnership and its every partner shall be liable to a penalty of five hundred rupees for every day during which the default</p>

		continues but not exceeding fifty thousand rupees for the limited liability partnership and for every partner.”
5	Section 17 - Change of name of limited liability partnership	<p>Nature of Recommendation- To align the provisions for rectification of names with that of provision of Section 16 of the CA, 2013</p> <p>Proposed amendment-</p> <p>Modified sub-section (1) of Section 17 -Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a limited liability partnership on its first registration or on its registration by a new name , is registered by a name which,-</p> <p>(a) In the opinion of the Central Government, is identical with or too nearly resembles to that of any other limited liability partnership or a company, it may direct the limited liability partnership to change its name, the limited liability partnership shall change its name or new name, as the case may be, within a period of three months from the issue of such direction;</p> <p>(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999, made to the Central Government within three years of incorporation or registration or change of name of the limited liability partnership under this Act, in the opinion of the Central Government , is identical with or too nearly resembles to an existing trade mark, it may direct the limited liability partnership to change its name or new name , as the case may be , within a period of three months from the issue of such direction.</p> <p>Sub-section (2) of Section 17 - Where a limited liability partnership changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to Registrar along with the Order of Central Government, who shall carry out necessary changes in the certificate of incorporation and within thirty days of such change in the certificate of incorporation, the limited liability partnership shall change its name in the limited liability partnership agreement.</p> <p>Sub-section (3) of Section 17 - if the limited liability partnership is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the limited liability partnership in such manner as may be prescribed and the Registrar shall enter the new name in the register of limited liability partnership in place of the old name and issue a fresh certificate of incorporation with new name , which the limited liability partnership shall use thereafter:</p>

		Provided nothing in this sub-section shall prevent a limited liability partnership from subsequently changing its name in accordance with section 16 of this Act.
6	Section 18 - Application to Registrar to change name in certain circumstances	<p>Nature of Recommendation - To avoid the duplication as similar grounds for change in name have already been provided under Section 17 of the Act.</p> <p>Proposed amendment- Section is Omitted</p>
7	Section 20 - Penalty for improper use of words "limited liability partnership" or "LLP"	<p>Nature of Recommendation – The Committee observed that use of the words “limited liability partnership” or “LLP” by the business entity without being duly incorporated as an LLP amounts to deception and may also entail an element of fraud or deceit. So the Committee recommended no change in the penal provision of Section 20 of the Act.</p> <p>Proposed amendment- No change</p>
8	Section 21 - Publication of name and limited liability	<p>Nature of Recommendation – To decriminalize the penal provisions this Section.</p> <p>Proposed amendment- Modified Sub-section 2 of Section 21–</p> <p>If any default is made in complying with the requirements of this section, the limited liability partnership shall be liable to a penalty of ten thousand rupees.</p>

9	Section 25 - Registration of changes in partners	<p>Nature of Recommendation – To decriminalize the penal provisions upon contravention of this Section.</p> <p>Proposed amendment-</p> <p>Modified sub-section 4 of Section 25–</p> <p>If any default is made in complying with the requirements of sub-section (2), the limited liability partnership and every designated partner shall be liable to a penalty of ten thousand rupees.</p> <p>Modified sub-section 5 of Section 25–</p> <p>If any default is made in complying with the requirements of sub-section (1) by any partner, such partner shall be liable to a penalty of ten thousand rupees.”</p>
10	Section 33A - Issue of Non-convertible debentures	<p>Nature of Recommendation – To permit LLPs to issue secured non-convertible debentures to bodies corporate or trusts regulated by SEBI or RBI in accordance with terms and conditions as may be prescribed.</p> <p>Proposed amendment-</p> <p>Section 33A (1) - A limited liability partnership may issue secured non-convertible debentures to bodies corporate or trusts regulated by Securities and Exchange Board of India or Reserve Bank of India.</p> <p>(2) No limited liability Partnership shall issue non-convertible debentures unless the provisions for the same are provided in the limited liability partnership agreement and the said agreement has been registered by Registrar.</p> <p>(3) Every limited liability partnership which issue secured non-convertible debentures under this section shall keep and maintain</p>

register of debenture holders in such form and in such manner as may be prescribed.

(4) Non-convertible debentures may be issued by a limited liability partnership subject to such terms and conditions as may be prescribed.

(5) Where debentures are issued by a limited liability partnership, such limited liability partnership shall create a debenture redemption reserve account out of profits of the limited liability partnership in such manner or for such quantum as may be prescribed and the amount credited to such account shall not be utilized by the limited liability partnership except for the redemption of debentures.

(6) No limited liability partnership shall make an offer or invitation to bodies corporate or trusts as mentioned in sub-section (1) exceeding two hundred in a financial year for subscription of its non-convertible debentures.

(7) A limited liability partnership shall pay interest and redeem debentures in accordance with terms and conditions of their issue.

(8) A Limited Liability partnership which issues secured non-convertible debentures, shall file with the Registrar, such information, document, as may be prescribed.

(9) Where a limited liability partnership fails to redeem the debentures on date of their maturity or fails to pay interest on debentures when it is due, the Tribunal may, without prejudice to other ordinary rights of debenture holders, on application of any or all of the debenture holders, after hearing the parties concerned,

		<p>direct, by order, the limited liability partnership to redeem the debentures forthwith on payment of principal and interest due thereon.</p> <p>(10) If any default is made in complying with provisions or order of Tribunal under this section, every partner shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than two lakh rupees but which may extend to five lakh rupees or with both.</p>
11	<p>Section 34 - Maintenance of books of account, other records and audit, etc.</p>	<p>Nature of Recommendation – To Decriminalize the non-filing of Statement of Account and Solvency.</p> <p>Proposed amendment -</p> <p>Modified sub-section (5) of Section 34 -</p> <p>(i) Any limited liability partnership which fails to comply with sub-section (3) this section, the limited liability partnership and its designated partners shall be liable to a penalty of one hundred rupees every day during which failure continues, subject to maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for every designated partner.</p> <p>(ii) Any limited liability partnership which fails to comply with sub-section (1), (2) and sub-section (4) of this section, the limited liability partnership shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>
12	<p>Section 34A – Central Government to prescribe accounting standards</p>	<p>Nature of Recommendation – Prescription of Accounting Standards for class or classes of LLPs.</p> <p>Proposed amendment – Insertion of a new Section 34A after Section 34 in Chapter VII of the Act</p> <p>Section 34A – Central Government to prescribe accounting standards:- The Central Government may prescribe the standards of accounting or any addendum thereto, as</p>

		recommended by the Institute of Chartered Accountants of India, constituted under Section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority constituted under Section 132 of the Companies Act, 2013 (18 of 2013).”
13	Section 34AA – Central Government to prescribe standards for auditing	<p>Nature of Recommendation – Prescription of Standards for auditing for a class or classes of LLPs.</p> <p>Proposed amendment – Insertion of a new Section 34AA in Chapter VII of the Act.</p> <p>“Section 34AA- The Central Government may prescribe to a class or classes of limited liability partnership the standards of auditing or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under Section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority constituted under Section 132 of the Companies Act, 2013 (18 of 2013).”</p>
14	Section 35 - Annual Return	<p>Nature of Recommendation - To decriminalize the penal provisions for failure to file Annual Return within prescribed period.</p> <p>Proposed amendment-</p> <p>Modified sub-section (2) & (3) of Section 35.</p> <p>Sub-section (2) and sub-section (3) shall be substituted by sub-section (2)-</p>

		<p>If any limited liability partnership fails to file its annual return under sub-section (1) before the expiry of the period specified therein, such limited liability partnership and its designated partners shall be liable to a penalty of one hundred rupees for every day during which failure continues, subject to a maximum of one lakh rupees for the limited liability partnership and fifty thousand rupees for designated partners.</p>
15	<p>Section 39 - Compounding Offences</p>	<p>Section 39 (1) The Regional Director or any other officer authorized by the Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine prescribed for the offence.</p> <p>(2) The sum specified in sub-section (1) shall not be lower than minimum amount of fine prescribed for the offence and shall not, in any case, exceed the maximum amount of fine which may be imposed for the offence, so compounded.</p> <p>(3) Nothing in sub-section (1) shall apply to an offence committed by a limited liability partnership or its partner or designated partner within a period of three years from the date on which similar offence committed by it or him was compounded under this section, -</p> <p>Explanation. - for the purpose of this section any second or subsequent offence committed after the expiry of the period of three years from the date on which the offence was previously compounded, shall be deemed to be the first offence.</p> <p>(4) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Regional Director or any other officer authorised by the Central Government, as the case may be.</p>

		<p>(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, intimation thereof shall be given to the Registrar within seven days from the date on which the offence is so compounded.</p> <p>(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence.</p> <p>(d) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought by the Registrar in writing, to the notice of the court in which prosecution is pending and on such notice of the compounding of the offence being given, the offender in relation to whom the offence is so compounded shall be discharged.</p> <p>(5) The Regional Director while dealing with the proposal for compounding of an offence for a default in compliance with any provisions of this Act which requires a limited liability partnership or its partner or designated partner to file or register with or deliver or send to , the Registrar any return , account or other document , may direct, by an order if it thinks fit to do so , any partner, designated partner or other employee of the limited liability partnership to file or register with , or on payment of fee or additional fee as required to be paid under this Act , such return, account or other document within such time as may be specified in the order.</p> <p>(6) If any partner or designated partner or any employee of the limited liability partnership, who fails to comply with any order made by the Central Government under sub-section (5), the maximum amount of fine for the offence, which was under consideration of Central Government for compounding under this section, shall be twice the amount provided in the corresponding section in which punishment for such offence is provided.”</p>
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16

Section 58 - Registration and effect of conversion

Nature of recommendation - To substitute the reference of the Companies Act, 1956 with the Companies Act, 2013 in the LLP Act, 2008.

Proposed amendment-

Section 58 (1) - The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, shall, subject to the provisions of this Act and the rules made thereunder, register the documents submitted under such Schedule and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provisions of the Indian Partnership Act, 1932 (9 of 1932) or the Companies Act, 2013 (18 of 2013) as the case may be, about the conversion and of the particulars of the limited liability partnership in such form and manner as may be prescribed.

(2) Upon such conversion, the partners of the firm, the shareholders of private company or unlisted public company, as the case may be, the limited liability partnership to which such firm or such company has converted, and the partners of the limited liability partnership shall be bound by the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, applicable to them.

		<p>(3) Upon such conversion, on and from the date of certificate of registration, the effects of the conversion shall be such as specified in the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be.</p> <p>(4) Notwithstanding anything contained in any other law for the time being in force, on and from the date of registration specified in the certificate of registration issued under the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be,—</p> <p>(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;</p> <p>(b) all tangible (movable or immovable) and intangible property vested in the firm or the company, as the case may be, all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, as the case may be, and the whole of the undertaking of the firm or the company, as the case may be, shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and</p> <p>(c) the firm or the company, as the case may be, shall be deemed to be dissolved and removed from the records of the Registrar of Firms or Registrar of Companies, as the case may be.</p>
17	<p>Section 59 - Foreign limited liability partnerships</p>	<p>Nature of recommendation - To substitute the reference of the Companies Act, 1956 with the Companies Act, 2013 in the LLP Act, 2008.</p> <p>Proposed amendment-</p> <p>The Central Government may make rules for provisions in relation to establishment of place of business by foreign limited liability partnerships within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies Act, 2013 (18 of</p>

		2013) or such regulatory mechanism with such composition as may be prescribed.
18	Section 60 - Compromise, or arrangement of limited liability partnerships	<p>Nature of recommendation - To decriminalize the penal provisions for non-filing of the order of Tribunal within the prescribed time.</p> <p>Proposed amendment-</p> <p>Modified sub-section (4) of Section 60-</p> <p>If default is made in complying with sub-section (3), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees, and in case of the continuing default, a further penalty of one hundred rupees for every day after the first during which such default continues subject to a maximum of one lakh for limited liability partnership and fifty thousand for every designated partners.</p>
19	Section 62 - Provisions for facilitating reconstruction or amalgamation of limited liability partnerships	<p>Nature of recommendation - To decriminalize the penal provisions for non-filing of the order of Tribunal within the prescribed time.</p> <p>Proposed amendment-</p> <p>Modified sub-section (4) of Section 62 - if default is made in complying with sub-section (3), the limited liability partnership and its every designated partner shall be liable to a penalty of ten thousand rupees, and in case of the continuing default, further penalty of one hundred rupees for every day after the first during which such default continues subject to a maximum of one lakh for limited liability partnership and fifty thousand for every designated partners.</p> <p>Insertion of <i>explanation</i> in Section 62:</p> <p><i>Explanation</i> –I thereof and after Explanation-I as so numbered, the following Explanation shall be inserted, namely: -</p> <p><i>Explanation-II.</i> -A limited liability partnership shall not be amalgamated with a company.</p>
20	Section 67 - Application of the provisions of the Companies Act	<p>Nature of recommendation - To substitute the reference of the Companies Act, 1956 with the Companies Act, 2013 in the LLP Act, 2008.</p> <p>Proposed amendment-</p>

		<p>Section 67 (1) - The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 2013 (18 of 2013) specified in the notification—</p> <p>(a) shall apply to any limited liability partnership; or</p> <p>(b) shall apply to any limited liability partnership with such exception, modification and adaptation, as may be specified, in the notification.</p> <p>(2) A copy of every notification proposed to be issued under subsection (1) shall be laid in draft 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 disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.</p>
21	<p>Section 68A Registration Offices</p>	<p>Nature of recommendation – To provide enabling provisions in the Act to establish such number of offices at such places as the Central Government thinks fit, specifying their jurisdiction.</p> <p>Proposed amendment-</p> <p>Section 68A. (1) - for the purpose of exercising such powers and discharging such functions as are conferred on the Central Government by or under this Act or under rules made thereunder and for the purpose of registration of limited liability partnerships under this Act, the Central Government shall, by notification, establish such number of offices at such places as it thinks fit, specifying their jurisdiction.</p> <p>(2) The Central Government may appoint such Registrars, Additional, Joint, Deputy and Assistant Registrar as it considers</p>

		<p>necessary for the registration of limited liability partnerships and discharge of various functions under this Act, and the powers and duties that may be exercisable by such officers shall be such as may be prescribed.</p> <p>(3) The terms and conditions of service, including the salaries payable to persons appointed under sub-section (1), shall be such as may be prescribed.</p> <p>(4) The Central Government may direct a seal or seals to be prepared for the authentication of documents required for, or connected with, the registration of limited liability partnerships.”</p>
22	<p>Section 69 - Payment of Additional Fee</p>	<p>Nature of recommendation - To reduce additional fee for smooth filing of records and returns of LLPs and operation of business in LLP structure and to provide flexibility against unforeseen emergent situations such as outbreak of COVID-19 PANDEMIC which caused unprecedented hardships and liquidity crisis to business entrepreneurs.</p> <p>Proposed amendment-</p> <p>Any document or return required to be filed or registered under this Act with Registrar, if, is not filed or registered in time provided therein, may be filed or registered after that time, on payment of such additional fee as may be prescribed in addition to any fee as is payable for filing of such document or return:</p> <p>Provided that such document or return shall be filed after the due date of filing, without prejudice to any other action or liability under this Act.</p>

		<p>Provided further that a different fee or additional fee may be prescribed for different classes of limited liability partnerships or for different documents or returns required to be filed under this Act or Rules made under this Act.</p>
23	<p>Section 73 - Penalty on non-compliance of any order passed by Tribunal</p>	<p>Nature of recommendation – Non-compliances of any order passed by the Tribunal under the Companies Act, 2013 may not be subjected to punishments or penalties. Section 425 of the Companies Act, 2013 empowers the Tribunal and the Appellate Tribunal with a power to punish for contempt under the provisions of the contempt of Court Act, 1974 (70 of 1971). And thus, non-compliances of an order of the Tribunal may be dealt under the contempt jurisdiction of the Tribunal and penal provisions for such non-compliances may be omitted from the LLP Act.</p> <p>Proposed amendment – Section 73 shall be omitted</p>
24	<p>Section 74 - General penalties</p>	<p>Nature of recommendation – To decriminalize the punishment for the defaults of the provisions of the Act for which no specific punishment has been provided.</p> <p>Proposed amendment –</p> <p>Any person guilty of default under this Act for which no punishment is expressly provided shall be liable to a penalty of five thousand rupees and in case of a continuing contravention with a further penalty of one hundred rupees for every day after the first during which the contravention continues, subject to a maximum of one lakh rupees.</p>
25	<p>Section 77A - Adjudication of Penalties</p>	<p>Nature of recommendation – To provide a mechanism for adjudication of the penalties, appointment of adjudication officers and provisions for appeal against the order of Adjudicating officers.</p> <p>Proposed amendment –</p> <p>Section 77A:- (1) The Central Government may, by an order published in the Official Gazette, appoint as many officers of the</p>

Central Government, not below the rank of Registrar, as adjudicating officers for adjudging penalty under the provisions of this Act in the manner as may be prescribed.

(2) The Central Government shall while appointing adjudicating officers, specify their jurisdiction in the order under sub-section (1).

(3) The adjudicating officer may, by an order-

(a) impose the penalty on the limited liability partnership, its partners or designated partners, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act;

Provided that in case default relates to non-compliance of sub-section (3) of section 34 or sub-section (2) of section 35 and such default has been rectified either prior to or within thirty days of the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and proceedings under this section in respect of such default shall be deemed to be concluded.

Provided further that notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a small limited liability partnership or a start-up limited liability partnership or by its partners or designated partners or any other person in respect of such limited liability partnership, then such limited liability partnership, its partners or designated partners or any other person shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of one lakh rupees for limited liability partnership and fifty thousand rupees

for every partner or designated partner or any other person, as the case may be.

Explanation. - For the purpose of second proviso of sub-section 3- "start-up limited liability partnership" means a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 and recognised as such in accordance with notification number G.S.R. 127 (E), dated the 19th February, 2019 issued by the Department for Promotion of Industry and Internal Trade."

(b) direct such, limited liability partnership or its partners or designated partners, or any other person, as the case may be, to rectify the default, wherever he considers fit.

(4) The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such limited liability partnership, its partners or designated partners who is in default or any other person.

(5) Any person aggrieved by an order made by the adjudicating officer under sub-section (3) may prefer an appeal to the Regional Director having jurisdiction in the matter.

(6) Every appeal under sub-section (5) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person and shall be in such form, manner and be accompanied by such fees as may be prescribed.

Provided that Regional Director may, for the reasons to be recorded in writing, extend the period of filing an appeal, under this sub-section, by not more than thirty days.

(7) The Regional Director may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

(8) (i) Where limited liability partnership fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be, within a period of ninety days from the date of the receipt of the copy of the order, the limited liability partnership shall be punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees.

(ii) Where a partner or designated partner of a limited liability partnership or any other person who is in default fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be within a period of ninety days from the date of the receipt of the copy of the order, such officer shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both.

LIST OF DEFINED TERMS

Company Law Committee	CLC
Companies Act, 1956	CA, 1956
Companies Act, 2013	CA, 2013
Limited Liability Partnership Act, 2008	LLP Act, 2008
In-house Adjudication Mechanism	IAM
National Company Law Tribunal	Tribunal
National Company Law Appellate Tribunal	Appellate Tribunal
Securities and Exchange Board of India	SEBI
Reserve Bank of India	RBI
Alternative Investment Funds	AIF
Registrar of Companies	ROC
Regional Director	RD