

**Bill No. 281 of 2022**

THE COMPANIES (AMENDMENT) BILL, 2022

By

SHRI GAURAV GOGOI, M.P.

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BILL

*further to amend the Companies Act, 2013.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 2022.

Short title and  
commencement.

5 (2) Save as otherwise provided for in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of Section 2.	<p>2. In section 2 of the Companies Act, 2013 (hereinafter referred to as the principal Act,—</p> <p>(i) for sub-section (52), the following sub-section shall be substituted, namely:—</p> <p style="padding-left: 40px;">“(52) “listed Company” means a company or an entity which has listed, on a recognized stock exchange(s), the designated securities issued by it or designated securities issued under schemes managed by it, in accordance with the listing agreement entered into between the entity and the recognized stock exchange(s); and</p> <p>(ii) after sub-section (56), the following sub-section shall be inserted, namely:—</p> <p style="padding-left: 40px;">“56A. “National Business Responsibility Standard Board” means National Business Responsibility Standard Board constituted under section 138A.”.</p>	18 of 2013. 5
Amendment of Section 134.	<p>3. In section 134 of the principal Act, in sub-section (3), after clause (m), the following clause be inserted, namely:—</p> <p style="padding-left: 40px;">“(ma) the reporting framework as outlined in the Form V, under Rule 14 of Environment Protection Rules, 1986, under the Environment (Protection) Act, 1986 or as prescribed by the National Business Responsibility Standard Board.”.</p>	10
Amendment of Section 137.	<p>4. In section 137 of the principal Act, in sub-section (1),</p> <p style="padding-left: 40px;">“for the words “all the documents”, the words ‘all the documents’ including Form V, as specified, under Rule 14 of Environment Protection Rules, 1986 under the Environment Protection Act, 1986 or as prescribed by the National Business Responsibility Standard Board while filing annual financial statement with the Registrar, shall be substituted.</p>	15 20
Insertion of new Chapter IIA.	<p>5. After Chapter IX of the principal Act, the following CHAPTER and sections thereunder shall be inserted, namely:—</p> <p style="text-align: center;">“CHAPTER IXA</p> <p style="text-align: center;">NATIONAL BUSINESS RESPONSIBILITY STANDARD BOARD</p>	
Establishment of National Business Responsibility Standard Board.	<p>138A. (1) The Central Government shall, by notification in the Official Gazette, establish a National level apex body in this Chapter called in the National Business Responsibility Standard Board, hereinafter referred to as the National Board, for carrying out the purposes of the act.</p> <p>(2) The head office of the National Board shall be at the New Delhi and the Board may, with the previous approval of the Central Government, establish offices at other places in the country.</p> <p>(3) The National Board shall consists of,</p> <p style="padding-left: 40px;">(a) one full-time Chairperson, who shall be an eminent person having a minimum of fifteen years of work experience and expertise in the matter related to the environmental pollution, climate change and sustainable development;</p> <p style="padding-left: 40px;">(b) one officer in the rank of Joint Secretary to the Government of India to be appointed by the Central Government as a full-time Member-Secretary of the Board;</p>	25 30 35

(c) following *ex officio* members to be appointed by the Central Government, in such manner as may be prescribed—

5 (i) one officer not below the rank of Joint Secretary to the Government of India each from the Union Ministries of Corporate Affairs, Finance (Department of Economic Affairs), Commerce and Industry (Department of Promotion of Industry and Trade), Environment, Forest and Climate Change, Health and Family Welfare, Science and Technology, Power, Road Transport and Highways, Petroleum and Natural Gas and Agriculture and Farmers' Welfare;

10 (ii) one member from National Institution for Transforming India (NITI Aayog) not below the rank of Joint Secretary or advisor;

(iii) one member from the Central Pollution Control Board;

(vi) one member from the Indian Space Research Organization;

(v) one member from Invest India;

(vi) one member from the Securities and Exchange Board of India; and

15 (vii) one member from the Reserve Bank of India.

to be appointed by the Central Government in such manner as may be prescribed; and

(d) Following non-official members to be appointed from amongst specialists/ stakeholders –

20 (i) one member from Indian Banks' Association;

(ii) three members from Industry Associations;

(iii) two members from academia;

(iv) two members from Civil Society;

25 (v) such other members to be appointed by the Central Government in such manner as may be prescribed.

138B. (1) The Board shall,

Functions of the Board.

30 (a) carry out their functions in accordance with the following criteria and conditions, in so far as the functions contained herein are in compliance with the framework of rules and regulations made under this Act, including the rules thereof pertaining to the functions of a company registrar and other entities mentioned therein;

(b) advise the Central Government on matters relating to the environmental concerns and steps required to improve the quality of the environment to abate all forms of environmental pollution;

35 (c) update periodically the reporting framework for companies in consultation with stakeholders and ensure its compliance;

(d) engage in consultation with stakeholders at regular intervals to update, revise and incorporate the reporting framework;

(e) continuously oversee the reporting of companies;

(f) publish annual report and maintain a year-round public visibility of the data;

(g) develop and deploy comprehensive and relevant standards, indicators, and disclosure formats for various classes of industries conforming to best practices and globally accepted standards in consultation with stakeholders; 5

(h) monitor compliance, issue notice, and take action in case of non-compliance;

(i) undertake capacity building initiatives and continuous research and development work for achieving reporting standards and global practices and commitments; 10

(j) promote adoption of the reporting frameworks by companies through appropriate subsidies and incentives; and

(k) any other matter which the National Board may deem expedient for fulfilling the objective of reducing environmental pollution.

(2) Notwithstanding anything contained in sub-section (1), the National Board may also require companies or classes of companies as defined in clause (20) and (21) of section 2 to furnish any such information pertaining to factors involving responsible business practices or as laid by the Board, within such time as may be specified in the order: 15

Provided that if any company fails to comply with an order made under clause (k) of sub-section (1) or knowingly furnishes information which is incorrect or incomplete in any aspect intricately concerning sustainability, carbon emissions and environment, the Company shall be liable to the penalties in accordance with the quantum contained in under sub-section (4) of section 405. 20

Meetings of the Board.

138C.(1) The National Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed. 25

(2) The Chairperson of the National Board shall preside at the meetings of the Board:

Provided that if for any reason the Chairperson is unable to attend any meeting of the National Board, any member of the Board chosen by the members present at the meeting shall preside at the meeting. 30

(3) The Member-Secretary shall be the chief coordinating officer and the convener of the Board and shall assist the National Board in the discharge of its functions under this Act.

(4) The Member-Secretary shall also discharge any other function as may be prescribed.

Conditions of service of Chairperson and representatives.

138D. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, Member Secretary *ex-officio* and other member shall be such as may be prescribed. 35

138E. The Central Government may remove any member from the Board who, in its opinion, has –

Removal of Members.

(i) been adjudged as an insolvent; or

(ii) been convicted of an offence which involves moral turpitude; or

5 (iii) become physically or mentally incapable of acting as a member; or

(iv) abused his position as to render his continuance in office detrimental to the public interest; or

(v) acquired such financial or other interest as is likely to affect prejudicially his functions as a member:

10 Provided that no such Member shall be so removed unless he has been given a reasonable opportunity of being heard.

**138F. (1) The National Board may appoint such officers and other staff as it considers necessary for the efficient discharge of its functions under this Act.**

**Appointment of officers and staff.**

15 **(2) The salary and allowances payable to and other terms and conditions of service of such officers and other staff of the Board shall be such as may be prescribed.”.**

## STATEMENT OF OBJECTS AND REASONS

The global phenomenon of climate change has assumed alarming proportions now, and its severity as a threat to mankind has rapidly escalated owing to the vast quantum of emissions released cumulatively over time as a result of anthropogenic activities. Repercussions of climate-related impacts cannot be ignored anymore. The world has come together to address this amplifying crisis ensued by rapid emissions. The fundamental right to life enshrined in Article 21 of the Constitution of India also mandates the continuous pursuance of a clean, healthy, and pollution-free environment. It is a known fact that Industrialization has been a great contributor to lifting millions out of poverty and increasing social prosperity. At the same time, rapid industrialization has also led to an increase in emissions, and across the world, Industries are among the largest emitters of GreenHouse Gases (GHG). Lately, at the global level, Environment, Social, and Governance (ESG) frameworks have become a prudent approach to holistically counter the threat of climate change from companies' viewpoint. In India, The Securities and Exchange Board of India (SEBI) has been issuing periodic guidance in that regard and the reporting on such indicators will only be made mandatory through Business Responsibility and Sustainability Report ('BRSR') from Financial Year 2022-23 for the top 1000 listed companies by market capitalization. This fragmented approach puts the onus only on select entities beyond a certain threshold while excluding the majority of companies from the ambit of ESG reporting. Further, every Industry is already reporting to State Pollution Control Boards (SPCBs) on the indicators outlined in the Form V, under Rule 14 of the Environment Protection Rules, 1986. Therefore, amending the Company Act with insertion of a section for mandatory reporting as per the already existing reporting framework, provisioned under the Environment Protection Act (EPA), can serve the purpose of pollution abatement to a greater extent. Instead of *de novo* arrangements, the proposed bill, at *ceteris paribus*, provisions of reporting of Form V to the Company registrar instead of SPCBs and creation of an apex body to devise, monitor and ensure compliance. This could be a first step towards accurately quantify and report emissions and, going forward, keep formulating appropriate responses as the need may be.

Further, to ensure Indian industry remains competitive globally, it has to pass muster with provisions like Carbon Border Adjustment Mechanism (CBAM) proposed under the Green Deal by Euro-Zone. Therefore, it is important to empower the domestic entities operating at a smaller scale to efficiently deal with such international obligations.

Hence this Bill.

NEW DELHI;  
November 21, 2022

GAURAV GOGOI

## FINANCIAL MEMORANDUM

Clause 5 of the Bill *vide* proposed section 138A provides for constitution of the National Business Responsibility Standard Board as an apex body to devise appropriate reporting frameworks, build capacity of Companies and monitor and check environmental pollution created by them. Also the proposed section 138F of this Bill also mandates the appointment of officers and staff for ensuring the smooth functioning of the Board.

The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten crore per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

ANNEXURE

EXTRACTS FROM THE COMPANIES ACT, 2013

(ACT No. 18 OF 2013)

\* \* \* \* \*

Definitions.

2. In this Act, unless the context otherwise requires,—

(52) —listed company means a company which has any of its securities listed on any recognised stock exchange;

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(56) —memorandum means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act;

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Financial statement, Board's report, etc.

134. (1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the Company Secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon.

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(m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;

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Copy of financial statement to be filed with Registrar.

137. (1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403:

Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall



take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose:

Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403:

Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year:

Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

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*(Shri Gaurav Gogoi, M.P.)*