

Corporate Services Alert 4 of 2020

Clarification for NEPC on submission of AFS to CIPA



Non-Exempt Private Companies (NEPC) do not need to submit their Audited Financial Statements (AFS) to Companies and Intellectual Property Authority (CIPA). However, on a case-by-case basis, the Registrar may request such companies to furnish their AFS and have them registered for any particular course and interest as deemed fit by the Registrar under the provisions of Section 4 of the Companies (Amendment) Act, 2018.

This means NEPC do not need to submit their AFS as per Section 209 of the Companies Act, however they are obliged to prepare and have them audited as per Sections 205 – 208 (which provide for the content and form of AFS for both public companies and NEPC). The spirit and the intent of the law makes it clear for **all** companies (public and NEPC) to comply with the requirements of preparation of AFS as per Section 205, and including punitive measures for the Board and Directors of companies (including NEPC) where Section 205 is not fulfilled or complied with. Any company obliged by Section 205 may apply to the Register to extend the period for completion of AFS.

From reading the entire section relating to AFS, one may realise that the Registrar (CIPA) must not only be concerned with AFS for public companies as listed under Section 209, but must equally be concerned with AFS prepared in respect of NEPC. The Registrar has a duty to enforce not only the lodgements of AFS but also their preparation, within the prescribed periods and under requirements allowed by the Companies Act.

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In case you missed it here's the link to Corporate Services Alert 3 of 2020: Company re-registration deadline extension
<https://bit.ly/GT-BW-CIPAdedlineextension>