

MCA prescribes norms for determining requisite number of members to file class action suit

The MCA has notified the National Company Law Tribunal (Second Amendment) Rules, 2019 ('NCLT rules') vide notification no. G.S.R. 351(E) dated May 08, 2019 whereby procedure to determine requisite number of members to file a class action suit has been provided. The Amendment is effective from May 08, 2019. The amendment to the NCLT Rules with regard to requisite number of members in case of class action are discussed hereunder:

In case of Company having share capital: Under the revised norms, in case of Co. having share capital, at least 5 % of total members of Co. or 100 members whichever is less is the requisite number of members to file class action suit.

In case of un-listed Company: In case of an unlisted-Co., member(s) having shareholding of not less than 5% are required to file class action suit.

In case of listed Company: In case of a listed company, member(s) holding not less than 2% of shareholding shall be the requisite number to file class action suit.

In case of depositors: The requisite number of depositor(s) to file application u/s 245 shall be atleast 5% of total number of depositor of the company or 100 depositors of the Company whichever is less or if a depositor(s) to whom company owes 5% of total deposits of the Company

The concept of Class action suit u/s 245 was introduced in the Companies Act, 2013 which comes to the rescue of poor investors, especially the small and retail investors. A class action law suit is a set of claims filed on behalf of certain group of people who have been injured or negatively affected by the actions or negligence of a particular company and its management. The National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT), *inter-alia*, entertain class action law suits.

(Source: Taxmann.com)