Charges under the Companies Act, 2013: Insights from Mehta & Mehta Webinar

The registration, modification, and satisfaction of charges under **Sections 77–87 of the Companies Act, 2013** form a critical pillar of corporate governance. In a recent webinar hosted by Mehta & Mehta, panellists shared technical clarifications, case studies, and practical experiences, highlighting how lapses in charge management can create serious legal, financial, and reputational risks.

1. Why Charge Registration Matters

- A charge records a lender's legal claim over a company's asset, providing public notice through the MCA portal.
- Registration ensures creditor priority in liquidation and protects the lender's security.
- MCA's shift from V2 to V3 now allows cross-verification of charge data with financial statements, making omissions easier for regulators to detect.

2. Timelines and Compliance Triggers

- **Creation/Modification**: File CHG-1/CHG-9 within 30 days; extendable by another 30 days with late fees, and a further 60 days with heavy *ad valorem* duty.
- **Beyond 120 days**: Charge is void against creditors and liquidators.
- **Satisfaction**: File CHG-4 within 30 days of repayment; up to 300 days with additional fees; beyond this requires CHG-8 with Regional Director condonation.

3. Common Practical Roadblocks

- **Banker Indifference**: Lenders insist on prompt charge creation but often neglect satisfaction filings after repayment.
- **Legacy Charges**: Old unresolved charges surface during IPOs, M&A, or due diligence, stalling transactions.
- **Consortium Lending**: All banks must issue NOCs before satisfaction can be filed; delay from one party blocks the process.
- **Lost Records**: Without old loan account details, banks may refuse to confirm satisfaction, even if the debt was cleared years earlier.

4. Section 83 – ROC's Suo Motu Power

- ROC can remove a charge if there is evidence of repayment but the lender is uncooperative.
- This involves issuing a 30-day notice to the lender; if no objection is received, the ROC may record satisfaction.
- Companies must still provide strong documentary proof to trigger this process.

5. Special Scenarios and Grey Areas

- **Holding–Subsidiary Cross-Charges**: Filing obligations depend on whether the security provider is also the borrower.
- **Overseas Property**: Requires compliance with both local property laws and MCA procedures.
- **Enhancements**: Adding security or increasing limits may require a modification rather than a new charge.
- **Floating-to-Fixed Crystallisation**: Occurs in liquidation or cessation of business, altering creditor rights.

6. Penalties and Financial Statement Disclosures

- Section 86 penalties: ₹5 lakh for the company and ₹50,000 per officer in default.
- Since April 2021, companies must disclose unfiled charges in financial statements, along with reasons placing non-compliance on public record.

7. Best Practice Safeguards

- Treat charge satisfaction as part of loan closure procedures.
- Maintain a CHG-7 register and preserve records permanently; keep instruments for at least eight years post-satisfaction.
- Collect NOCs before processing director resignations linked to secured borrowings.
- Educate both internal teams and lenders on timelines, forms, and risks.
- Use Section 83 strategically for old or disputed charges.

8. Case Studies and Lessons

- A ₹22 crore charge created in 2012 without disbursal remained on MCA records for years, blocking corporate restructuring.
- A client paid ₹5 lakh in *ad valorem* fees to secure a bank’s interest before the 120-day period lapsed.
- One company discovered a 15-year-old open charge during merger proceedings, requiring months of bank follow-up and ROC intervention to clear.

Conclusion

Charges are more than a statutory formality they are a safeguard for lenders and a signal of corporate integrity. Neglecting them can erode security, stall major deals, and invite penalties. The key is to integrate charge management into the company’s governance processes, ensuring that every creation, modification, and satisfaction is handled on time, with proper documentation and strategic foresight.

To stay informed or access the webinar recording, visit the YouTube channel:
"Decoding Corporate Laws with Mehta & Mehta"