



*Rawani & Co.*  
*Chartered Accountants*

# WESTERN INDIA REGIONAL COUNCIL

## COMPLIANCES UNDER COMPANIES ACT, 2013 & E- FILING REQUIREMENTS

# Over 50% firms in region violating Companies Act

## Registrar of Companies to issue 14,000 show-cause notices

VIJAY C ROY

CHANDIGARH NEWS SERVICE

CHANDIGARH, OCTOBER 18

Perturbed over high percentage of non-compliance of the Companies Act in the region, the Registrar of Companies (ROC) will issue show-cause notices on around 14,000 companies, around 51% of be active companies based in Punjab, Chandigarh and Himachal Pradesh, for violating company laws. The defaulting companies have not submitted their balance sheets and annual returns since 2014-15.

This is for the first time at such a large number of notices will be issued. Out of the total, around 12,000 notices will be served on companies based in Punjab and Chandigarh. In Himachal Pradesh, 1,994 notices have already been served to the defaulting companies. The total number of active companies in region is around 27,000. On the notice, the RoC has

### Non-compliance of guidelines

- Around 14,000 companies based in Punjab, Chandigarh and Himachal Pradesh have not submitted their balance sheets and annual returns since 2014-15
- Out of the total, around 12,000 notices will be served on companies based in Punjab and Chandigarh
- In Himachal Pradesh, 1,994 notices have already been served on the defaulting companies
- As per provisions of Section 92, if a company fails to file its annual return, the company shall be punishable with a fine not less than Rs 50,000 and up to Rs 5 lakh
- Further, senior officers of the company shall be punishable with imprisonment up to six months or fine not less than Rs 50,000 and up to Rs 5 lakh

asked the defaulting companies to reply within 15 days and explain why a penal action could not be initiated against them as contemplated under Section 92/137 read with Section 403 of the Companies Act, 2013 for non-filing of financial statements. In case they fail to do so, the RoC will launch prosecution against the defaulting company in local courts.

Talking to The Tribune,

Registrar of Companies Raj Singh said, "The purpose of the Companies Act is to bring transparency in the working of the company, as once the document is filed they are in public domain. In Himachal Pradesh, out of 1,994 companies which have been served notices, around 1,200 companies have not filed the balance sheet and annual returns for even 2013-14 fiscal. These companies were

found guilty of the contravention of the provisions of the Section 92/96, 137 of the Companies Act, 2013."

According to the provisions of Section 92, if a company fails to file its annual return, the company shall be punishable with a fine not less than Rs 50,000 and up to Rs 5 lakh. Further, senior officials of the company shall be punishable with imprisonment up to six months or with a fine not less than Rs 50,000 and up to Rs 5 lakh.

Similarly, according to Section 137, if a company fails to file the copy of the financial statements, then the company shall be punishable with a fine of Rs 1,000 for every day during which the failure continues but not more than Rs 10 lakh. There is also a provision of imprisonment for senior company officials for a term which may extend to six months or a fine not less than Rs 1 lakh and up to Rs 5 lakh or both.

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# AIM of the Government

- The corporate sector is required
  - to exhibit responsible self-regulation and
  - corporate governance on their part, which necessitates the services of independent, competent and responsible governance professionals.
- Regulators too are increasingly relying on professionals in achieving better governance and Independent professionals are seen as an extended arm of the government.
- The annual return in terms of section 92 of the Companies Act, 2013 in form MGT 7 will be applicable for financial years commencing on or after 1st April, 2014.

# Changes in the Act

## Incorporation related matters;

- Articles of Association;
- Registered Office Shifting
- Allotment of Shares;
- Entrenchment provisions

## Management and Administration;

- AGM and Annual Returns;
- E-voting;
- Minutes, Proxies and Quorums;
- Maintenance of Records and Registers;
- Secretarial Standards

# Changes in the Act

## Board Meetings, Powers;

- Audit Committee;
- Board Meetings;
- Disclosures;
- Loans & Investments;
- Other Committees;
- Registers;
- Related Party Transactions;
- Vigil Mechanism

## Changes in the Act

# Managerial Personnel

- Appointments of Directors, MD, Manager, KMP;
- Remunerations;
- Secretarial Report

# New portal of MCA

## DSC Services

Acquire DSC

Associate DSC

Update DSC

## DIN Services

Enquire DIN Status

Verify DIN PAN Details of Director

## Master Data

View Company or LLP Master Data


View Index of Charges


View Signatory Details

View Companies/Directors under Prosecution

Companies/LLP's Registered in Last 30 days **NEW**

View Director Master Data

View Director/Designated Partner's Details 

Advanced Search 

## LLP Services

Check LLP Name

Find LLPIN


Incorporation

Annual e-Filing for LLP

Change LLP Information

Close LLP

## LLP Services for Business User

Enter/Update Partner Details 


Enter Form 3 Or Form 3&4 Details For LLP Filing

Verify Partners Details for Filing Annual Return 

## e-Filing

LLP Forms Download

Company Forms Download

Upload eForms 

Download Submitted Form for resubmission 

Check Annual Filing Status

## Company Services

Check Company Name

Find CIN

Incorporation

Compliance Filing

Approval Services

Change Company Information

Charge Management

Informational Services

Close Company

## Complaints

Create Service Related Complaint

Track Service Related Complaint Status

Create Investor/Serious Complaint **NEW**

Track Investor/Serious Complaint Status


Feedback / Suggestions

Employee Grievance **NEW**

## Document Related Services

Get Certified Copies

View Public Documents

Request for Scanned Documents 


## Fee and Payment Services

Enquire Fees

Pay Later 

Link NEFT Payment 

Pay Miscellaneous Fee 

Pay Stamp Duty 

Track Payment Status

## Investor Services

Track SRN / Transaction Status 

Address for sending physical copy of G.A.R. 33

Public Search of Trademark 

# SERVICES FOR COMMON PUBLIC

- Tracking of Payment Status;
- CIN Number of the Company;
- Checking of Name Availability of Company and LLP;
- Index of Charges;
- Master Data;
- Transaction Status at PFO filed documents;
- Filing of Complaints;
- Verification of DIN and PAN details of the Director;
- Fees for filing various documents;
- Public Search of Trade Marks linked to MCA webportal.



# Requirements of New Portal

## Why should you register with MCA?

Register today and avail more services

- Upload E-Forms
- Make Payments
- Annual E-Filing

**Register Now!**

## Browser / System Requirements

- Computer with Windows 2000 or later installed
- JRE (Java Runtime Environment) -JDK1.6u30 and above
- Internet connection to access the MCA website
- Internet Explorer Version 9 or above / Firefox Versions 24 or above/ Chrome Version 33 or above
- You could observe issues with Adobe Reader DC version released recently. So we advise you to use Adobe acrobat 11 or above version for eform upload
- Scanner for scanning `registerContent`
- Printer for printing bank challan or service fee payment receipt
- Pop-ups from MCA21 Portal must be enabled in your browser

To download JDK1.6u30 and above, click [Here](#)

# Requirements of New Portal

**User Login**

External Agency/Bank/Nodal Officials/Business Users

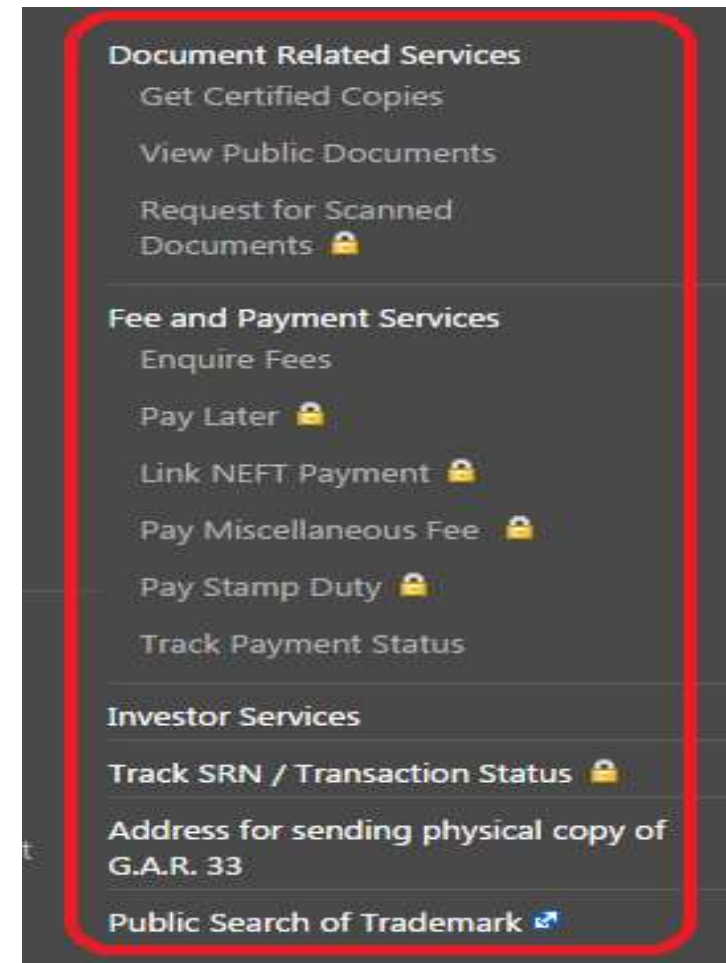
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[Forgot Password ?](#)

Enter Characters shown below :



# Services to Secured Users Only





WHAT'S NEW

Notices & Circulars

View Notices & Circulars

MY COMPANIES

Company/LLP Name	CIN / LLPIN / FCRN
.....	.....
1VER LEAF CONCEPT HOMES LLP	.....
VENTURE FINANCIAL SYSTEMS LLP	.....
S..... SOLI.....IONS LLP	AAB-3981
SHIZZARA WOMENS WEAR LLP	AAB-8355
PROBYON POWER CONSULTANTS LLP	AAB-8817
PYRAMID CERTIFICATIONS LLP	AAC-7434
AROHI TECHNOLOGIES LLP	AAC-7737
SHAJAY TRADEEXPORT LLP	AAD-1644
SUPERCASST FORGINGS LLP	AAD-1865

Showing 1 to 10 of 240 entries

« < 1 > »

SUBSCRIBED REPORTS

Report Name	
Companies/LLP's Registered in Last 30 Days	Download

CERTIFIED COPIES

Company Name	Request Status
No data available	

- DSC Services ▾
- DIN Services ▾
- Master Data ▾
- LLP Services ▾
- LLP Services For Business User ▾
- e-Filing ▾
- Company Services ▾
- Complaints ▾
- Document Related Services ▾
- Fee and Payment Services ▾
- Investor Services
- Track SRN/Transaction Status 
- Address for sending physical copy of G.A.R. 33
- Public Search of Trademark 

### Track Payment Status

SRN \*

Submit

Clear All

# DO'S AND DON'T'S FOR EFILING

- DIN is mandatory for e-filing of documents. All Companies to update DIN details of the Director;
- Digital Signature is mandatory. The same to be registered;
- Check Master Data before filing any documents;
- Don't wait for the last days to upload the documents;
- Don't fill up the forms in hurry.
- No option of filing revised forms;
- Don't forget to pay the filing fees before the expiry date of the challan. Non payment of fees liable for cancellation of transaction

# STEPS FOR E-FILING

- Select Category to download e-Form for respective services;
- Help Menu available with all forms for filing;
- Fill the downloaded form. Mandatory details are marked in red asterik (\*);
- Attach the required documents duly scanned or converted into PDF;
- Use various inbuilt utilities like “PREFILL” and complete the form by clicking on “CHECK” and “PRE-SCRUTINY” options;
- Save the form, Upload the Form and pay the Fees.

# OTHER REQUIREMENTS OF FILING

- Document to be scanned in PDF;
- Size of the File not to exceed **LIMIT** along with attachments. Option to file “Additional Attachment Sheet” in Form AOC-4;
- **Registered** Digital Signature mandatory for filing;
- Annual Filing Fees to be paid;
- Levy of Additional Fee after the filing in due date;
- Payments to be made online;
- Pre-Scrutiny of Forms necessary;
- Duplicate Filing or Revised Filing not permitted;



# SURRENDERING OF DUPLICATE DIN

- If any individual or director of a company, contravenes any of the provisions of Section 153, such individual or director of the company shall be punishable with imprisonment for a term which may extend to Six month or
  - with fine which may extend to Rs. 50,000/- and
  - Where the contravention is a continuing one, with a further fine which may extend to Rs. 500/- for every day after the first during which the contravention continues.

(As per **Section 159** of Companies Act, 2013)

# SURRENDERING OF DUPLICATE DIN

- Holder of duplicate DIN shall make an application for surrender with Regional Director, Noida in Form No. DIR-5;
- Declaration on affidavit duly notarized that he has never been appointed as director in any company and the said DIN has never been used for filing of any document with any authority;
- The form DIR-S is physical form so form DIR-5 will be attached in form RD-1 and filed Regional Director.;
- Other Attachments
  - Self Attested Copy of PAN Card and Self Attested Copy of Passport.

**(GIVING FALSE STATEMENT OR EVIDENCE IS PUNISHABLE  
UNDER SECTION 448 AND 449)**

# Important Services available online, A BOON FOR AUDITORS

- Viewing and Downloading of Public Documents;
- Obtaining Certified copies of the Documents required;
- Viewing Signatories of the Company;
- Viewing the Prosecution and default status of the Directors;
- Lodging Complaints online on the Company and its Directors;
- Tracking the status of the complaints filed;
- Checking the Names Available for Incorporation of Company/LLP and Trade Mark verification online;

# Important Services available online, A BOON FOR AUDITORS

- Finding CIN of the Company;
- Viewing of Master Data and Index of Charges;
- Enquiring Fees for the Filing of documents online;
- Verification of the status of payments made online for payments submitted through other modes of payments;
- Track the status of the documents filed online;
- Submission of replies to the query raised by the MCA officers online;
- Request for scanning of documents not available online;

# COMMON ERRORS IN E-FILING

- Payment of Fees not done before the expiry date;
- Duplicate Payments;
- Verification of Status after e-filing;
- Inspection of Public Documents;
- Use of outdated version of Form;
- Modify or Sign numerous times increases the size of forms;
- Uploading e-Form in case of Resubmission or Mistaking resubmission of forms as rejected;
- Incorrect particulars in the e-Form;
- Using older versions of Adobe and Java.

# Transaction status of your SRN 'Required Resubmission'

- Resubmit the Form by rectifying defects;
- Ensure that the same is submitted before 'DUE DATE'
- Failure to Resubmit before due date, form will be rejected and new form to be filed afresh with Additional Fee

# Transaction status of your SRN "Waiting For User Clarification"

- E-File Form 67/GLN-2 for defects
- Ensure that the same is submitted before 'DUE DATE'
- Failure to Resubmit before due date, form will be rejected and new form to be filed afresh with Additional Fee

# Transaction status of your SRN 'Defective ' or 'Invalid and NTBR'

- File Fresh Form with payment of Fresh Fee and Additional Fees.
- SRN Status- Pending for Approval under Regulation 17(6)- Wait for the requisite Approval.



# NO PERMISSION FOR FILING

- System does not permit use of Digital Signature in case of certain Directors;
  - Defaulting in filing of Annual Filings of other companies;
  - Automatic removal of defaulting status on completions of filing of other companies;
  - Message will be displayed on filing;

# PRECERTIFICATION OF FORMS

- INC-21, INC-22, INC-28, PAS-3, SH-7, CHG-1, CHG-4, CHG-9, MGT- 14, DIR-6, DIR-12, MR-1, MR-2, MSC-1, MSC-3, MSC-4, GNL-3, ADT-1, NDH-1, NDH-2, NDH-3;
- Applicable to all Companies other than OPC and Small Companies- **Form AOC-4 & Form MGT-7 also covered;**
- To be certified by CA, CS or ICWA member holding COP- **Form MGT-7 to be certified only by PCS;**  
**(Notification dated 28/04/2014)**

# PRECERTIFICATION OF FORMS

- GNL-1 - optional pre-certification by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice;
- DPT-3 - certification by Auditors of the company;
- MGT-10-certification by a Company Secretary in whole-time practice;
- AOC-4- certification by a Chartered Accountant in whole-time practice;
- E-form DIR-3 shall be filed along with attestation of photograph, identity proof and proof of residence of the applicant by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice.

# NOMENCLATURE OF FORMS

<b>S. No.</b>	<b>New form no.</b>	<b>Purpose of form</b>	<b>Old form</b>
1	GNL.1	Form for filing an application with Registrar of Companies	61
2	GNL.2	Form for submission of documents with Registrar of Companies	62
3	CG.1	Form for filing application or documents with Central Government	65
4	GNL.3	Particulars of person(s) or director(s) or changed or specified for the purpose of section 2(60)	1AA
5	MGT.6	Form of return to be filed with the Registrar	22B
6	RD.1	Form for filing application to Regional Director	24A
7	RD.2	Form for filing petitions to Central Government (Regional Director)	24AAA

# Financial Statements

- ❑ Balance Sheet;
- ❑ Profit and Loss Account/Income & Expenditure Account;
- ❑ Cash Flow Statement (OPC, Dormant excluded);
- ❑ Statement of changes in Equity; and
- ❑ Any explanatory note annexed to or forming part of, any document referred above;
- ❑ Extract of Annual Return in Form No. MGT-9 which shall form part of Board's Report.

# Books of Account & Papers

- Sums of money received and expended and matters relating to receipts and expenditure;
- All sales and purchases of goods and services;
- Assets and Liabilities;
- Cost records as applicable to classes of Company specified u/s 148;
- deeds, vouchers, writings, documents, minutes and registers maintained
  - **In paper or in electronic form**

# Financial Statements

<b>Companies Act, 1956</b>	<b>Companies Act, 2013</b>
No such provisions	Books of accounts may be kept in electronic form.
<b><u>Consolidation of Accounts</u></b> Consolidation is not mandated under the <a href="#">Companies Act, 1956</a> for any company. Listing agreement requires consolidation for listed companies having subsidiaries. (Clause 32 of Listing agreement and AS 21)	<b><u>Consolidation of Accounts</u></b> A company having subsidiary or associate company, shall prepare a consolidated financial statement, in addition to its financial statements and shall lay the same for approval in AGM.
<b><u>Contents</u></b> <ul style="list-style-type: none"><li>• Balance Sheet, Statement of Profit &amp; Loss</li><li>• Cash flow Statement (applicable only to listed companies and companies having Turnover in excess of 50 crores or borrowings in excess of 10 crores) AS 3 and listing agreement</li></ul>	<b><u>Contents</u></b> <ul style="list-style-type: none"><li>• Balance Sheet</li><li>• Statement of Profit &amp; Loss</li><li>• Cash Flow Statement (Except for OPC, Small Company and Small Company)</li><li>• Statement of Changes in Equity</li><li>• Notes to accounts</li></ul>

# Financial Statements, Boards Report

## Voluntary revision of financial statements or Board's report

The Board may revise the financials statements or Directors Report for any of the 3 previous financial years, if the same didn't comply with the statutory requirements. However, prior approval from Tribunal is required

Additional information (beyond what we now cover) will have to be provided in Directors Report:

- Inter-corporate loans and investment
- details of related party contracts
- Risk Management
- Extract of Annual Return



# Power to Authenticate

## Companies Act, 1956

By two directors including Managing Director , if there is one and Company Secretary , if there is one

### Authentication of financial statements of the company

By two directors including Managing Director , if there is one and Company Secretary , if there is one

([Section 215](#))



## Companies Act, 2013

Any document or proceeding requiring authentication by a company or contracts made by or on behalf of a company may be signed by any KMP or an officer of Company, duly authorised by Board.



### Authentication of financial statements of the company

- Chairperson, if he is authorized by board or 2 Directors out of which one shall be Managing Director
- The CEO, if he is a Director of the company, The CFO and the CS of the company, wherever they are appointed. ([Section 134](#))

# Comparative Analysis – Accounts

Particulars	Companies Act 2013	Companies Act, 1956	Impact/ Analysis
<p>BOA, etc. to be kept by Company</p> <p style="text-align: center;"></p> <ul style="list-style-type: none"> <li>✓ Preparation and maintenance of BOA and other relevant books and papers at its Registered office</li> <li>✓ BOA may be kept at any other place in India</li> <li>✓ The BOA shall be open for inspection at the registered office during business hours</li> </ul>	<p><b>Sec. 128-</b></p> <ul style="list-style-type: none"> <li>✓ Now, The Company may keep its BOA or other relevant papers in electronic form</li> <li>✓ The CG may direct that the BOA may be kept for a longer period in case of a company under inspection</li> <li>✓ On contravention, the MD, WTD etc. or any other charged by the Board , shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not less than Rs. 50,000 but which may extend to Rs. 5 lakh or with both</li> </ul>	<p><b>Sec. 209 and 214 (1)-</b></p> <ul style="list-style-type: none"> <li>✓ The BOA may be kept at any other place as the BOD decide and the company shall within 7 days, file with the ROC, a notice in writing giving full address</li> <li>✓ Preservation period of BOA is 8 years</li> </ul>	<ul style="list-style-type: none"> <li>✓ BOA can be maintained in electronic form also.</li> <li>✓ The summarized returns of transactions effected at the branch office have to be sent to the registered office or other office as permitted periodically instead of 3 months period.</li> <li>✓ Defaulting officers were liable for punishment/penalty only for wilful default which stipulation no longer finds place under the New Act</li> </ul>
<p>Financial statements (FS)</p> <p style="text-align: center;"></p> <ul style="list-style-type: none"> <li>✓ FS shall give a true and fair view</li> <li>✓ FY of the company</li> <li>✓ Statement of its subsidiary(ies)</li> </ul>	<p><b>Sec. 129-</b></p> <ul style="list-style-type: none"> <li>✓ The FS shall give a true and fair view of the state of affairs of the company as may be provided in schedule III</li> <li>✓ BOD shall lay FS for the FY at every AGM</li> <li>✓ The company shall also prepare a CFS</li> <li>✓ Financial year can only be from April-March , existing companies has to align within 2 years of the commencement of the act</li> </ul>	<p><b>Sec. 210, 211 and 212-</b></p> <ul style="list-style-type: none"> <li>✓ The FS shall give a true and fair view of the state of affairs of the company as may be provided in schedule VI</li> <li>✓ The FY may be less or more than a calendar year, but shall not exceed 15 months.</li> <li>✓ Statement of subsidiary is prepared in the prescribed format</li> </ul>	<ul style="list-style-type: none"> <li>✓ To include Cash Flow Statement and statement of changes in equity</li> <li>✓ Financials of Subsidiary companies as per Sec 212 has been dispensed with.</li> <li>✓ A consolidated statement can be prepared</li> </ul>

# Comparative Analysis – Accounts

Particulars	Companies Act 2013	Companies Act, 1956	Impact/ Analysis
Financial statement , Board’s Report etc  Disclosures under Financial statements and Board’s report	<b>Sec. 134-</b>  Additional disclosure like- <ul style="list-style-type: none"> <li>• extract of annual return,</li> <li>• number of meetings,</li> <li>• detail of loan,</li> <li>• related party transaction detail etc.</li> </ul>	No such provision	Additional disclosures needs to be given of the compliances made during the year
Authority on Accounting and Auditing Standard  ✓ Authority to advise the CG on formulation and laying down of Accounting policies and AS  ✓ Constitution of the Advisory committee (AC)  ✓ Recommendation given to CG  ✓ Role and term of office of AC	✓ National Financial Reporting Authority (Role of auditing and accounting standard) to make recommendation to Central Government	<b>Sec. 210A</b>  ✓ National Advisory Committee on Accounting Standards	Change in the Authority committee from national Advisory committee (NAC) to national Financial reporting Authority (NFRA)
Role of Central Government	CG to prescribe accounting standards as recommended by ICAI in consultation with NFRA	No such provision	
Filing of Balance Sheet & Profit & Loss	Filing of Balance Sheet and P/L separately has been withdrawn	No such provision	

# Comparative Analysis – Accounts

Particulars	Companies Act 2013	Companies Act, 1956	Impact/ Analysis
Re-opening or re-casting books of accounts	<p>Sec. 130-</p> <p>If an order is passed by the court or tribunal to the effect the relevant earlier accounts were prepared in fraudulent manner, re-opening of accounts can be done.</p>	No such provision	Re-open or re-cast of accounts will be possible subject to the prescribed conditions
Voluntary revision of financial statement or Board Report	<p>Sec. 131-</p> <p>✓ If the Board feels that the financials or the Report do not comply with the applicable provisions of section 129 or 134, they may revise the aforesaid in respect of any of the three preceding financial years after obtaining approval of the Tribunal.</p> <p>✓ Cannot be revised for more than once in one financial year.</p>	No such provision	Facility to revise the financials after taking an approval of the tribunal
Filing with ROC	In case financials not adopted at AGM or AGM got adjourned, then un-adopted financial statement shall be filed to ROC within 30 days	No such provision	This will facilitate the companies to file the financials on time

# Comparative Analysis – Audit and Auditors

Particulars	Companies Act 2013	Companies Act, 1956	Impact/ Analysis
Auditors Appointment and re-appointment	<ul style="list-style-type: none"> <li>✓ At the first annual general meeting (AGM), an individual or a firm shall be appointed as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth AGM. After the expiry of term, there has to be a gap of 5 yrs for reappointment after every cessation</li> <li>✓ Appointment of first auditors for 5 years is subject to ratification in each AGM</li> <li>✓ Further in case of an Audit firm, no other firm which has a common partner to the other audit firm can be appointed as Statutory Auditors.</li> <li>✓ Members can approve rotation of audit partners and also appointment of joint auditors</li> </ul>	Board recommended the re-appointment of retiring auditors and retiring auditors could be re-appointed at the AGM	Change in the process and term of appointment and re-appointment of statutory auditors
Limited Liability Partnership (LLP) can act as an Auditor	The previous auditors shall continue as auditors till the adoption of next financials.	Authority transferred to CG	
Intimation to Registrar of Companies (ROC) and Duty of auditor's when they resign	<ul style="list-style-type: none"> <li>✓ Within 15 days of appointment in AGM</li> <li>✓ Onus on Company</li> <li>✓ Retiring auditor to file a statement with the ROC as well as the Company, within 30 days of resignation, indicating reasons and other facts that may be relevant with regard to his resignation</li> </ul>	<ul style="list-style-type: none"> <li>✓ Within 30 days of intimation</li> <li>✓ Onus on the auditors</li> <li>✓ No such provisions</li> </ul>	
Tribunal may direct company to change its Auditors	Section 140(5)- Provides that the Tribunal may, by order, direct the company to change its auditors on being satisfied that the auditors has acted in a fraudulent manner or abetted or colluded in any Fraud	Section 224(7) provided for removal of auditors before the expiry of their term, only with the prior approval of the Central Government	

# Comparative Analysis – Audits and Auditors

Particulars	Companies Act 2013	Companies Act, 1956	Impact/ Analysis
Rotation of Auditors	<p>Listed and other prescribed companies not to appoint or re-appoint</p> <ul style="list-style-type: none"> <li>• an individual auditor for more than one term of five years and</li> <li>• an audit firm for more than two terms of five consecutive years.</li> </ul> <p>Members of a company may resolve to rotate the audit partner every year.</p> <p>Provisions relating to voluntary rotation of auditing partner (in case of an audit firm) modified to provide that members may rotate the partner 'at such interval as may be resolved by members' instead of 'every year' proposed in the clause earlier.</p> <p>The limit of maximum number of companies, in which a person may be appointed as auditor is twenty.</p>	No such provision exists	
Auditors not to rendered certain services	<p><b>Section 144</b></p> <p>Auditor cannot render additional services to company, its holding company, subsidiary company of</p> <ul style="list-style-type: none"> <li>▪ Accounting and book keeping service; Internal audit;</li> <li>▪ Design and implementation of any financial information system;</li> <li>▪ Actuarial services;</li> <li>▪ Investment advisory services;</li> <li>▪ Investment banking services;</li> <li>▪ Rendering of outsourced financial services;</li> <li>▪ Management services; and</li> <li>▪ Any other kind of consultancy services.</li> </ul> <p>Provisions relating to restrictions on non-audit services modified to provide that such restrictions shall not apply to associate companies and further to provide for transitional period for complying with such provisions.</p>	No such provision exists	

# Comparative Analysis – Audits and Auditors

Particulars	Companies Act 2013	Companies Act, 1956	Impact/ Analysis
Auditing standards	Mandatory	No such provision exists	
Time bound filling up of Casual vacancy in the office of Auditors	Section 139(8)- Casual vacancy to be filled up by the Board within 30 days. If due to resignation, then by the Company in its meeting within 3 months from the date of recommendation of the Board and such auditor to hold office only upto the date of the next AGM	Section 224(6) - Casual vacancy to be filled up by the Board. If due to resignation, then by the members in their meeting	
Fraud by Auditors	Partner or partners of the audit firm and the firm shall be jointly and severally responsible for the liability, whether civil or criminal	No such provision	
Auditors' attendance at AGM proposed to be made obligatory	Section 146- provides that auditor shall, unless otherwise exempted by the Company, attend any general meeting, either by himself or through his Authorized representative who is qualified to be an auditor	Section 231- Provides for all notices of and other communication relating to general meeting of a company to be forwarded to the Auditor. The Auditor was thus entitled to but not obliged to attend any general meeting	Now mandatory to attend the GM
Internal Audit	Prescribed companies to have an Internal Auditor to conduct IA, who can be a CA or ICWA or such other professional as may be decided by the Board.	No such Provision	
Cost Audit	No approval of CG is required for appointment of Cost Auditor	CG Approval for appointment of Cost Auditor	Instead of company pertaining to any class of companies engaged in production, processing, manufacturing or mining activities,  The CG can only direct cost audit to be conducted in such class of companies engaged in the production of such goods or providing such services , which have the prescribed networth or turnover and who has been directed to include the particulars relating to the utilization of material or labour or to other items of cost as may be prescribed in their BOA

# Law(s) Governing the eForm

- Every company needs to file its financial statements and mandatory attachments, via e-Form AOC4 within the prescribed time limit as per section 137.
- In case financial statements are not adopted in AGM then un-adopted financial statements shall be filed within 30 days of date of AGM (due date of AGM if AGM not held or extended due date if any).
- Once financial statements are adopted then company shall file the adopted financial statements via e-form AOC-4 within 30 days of the AGM (actual or adjourned whichever is applicable).
- In case company needs to revise the financial statement or Board's report under provisions of section 130 or section 131 then revised financial statements shall be filed via e-Form AOC-4.



# ANNUAL FILINGS FROM 1.4.2014

## FORM AOC-4

- BS of Companies
- PL of Companies
- Director's Report and Auditors Report Mandatory

## Form MGT-7

- Annual Return of Companies having Capital;
- To be certified by PCS (exemption to small companies, OPC)
- Attachment Form MGT-8 for certain classes of companies.

# ADDITIONAL REQUIREMENTS IN MGT-7 (ANNUAL RETURN)

- Details of Principal Business Activities;
- Particulars of Holding, Subsidiary, Joint Venture & Associate Companies;
- Break up of Indebtedness to be given;
- Details of Turnover & Net worth;
- Break up of Shareholdings in the required format;
- Details of Board and Committee meetings including the details of their attendance, remuneration given etc;
- Information relating to certifications and filing of forms with MCA Portal during the year;

# ADDITIONAL REQUIREMENTS IN MGT-7

- Penalty & Punishment to Directors;
- Details of Compounding of Offences;
- Certification that
  - The Return states the facts, as they stood on the date of the closure of the financial year aforesaid correctly and adequately.
  - Unless otherwise expressly stated to the contrary elsewhere in this Return, the Company has complied with all the provisions of the Act during the financial year.

# ANNUAL RETURN OF COMPANY

- Company having Capital or with No Capital
  - Companies with paid up capital of Rs. 10 Crores or more or Turnover of Rs. 50 Crores or more
    - Form MGT-8 mandatory from Practising Company Secretary stating that all the provisions of the Companies Act, 2013 have been complied with and the Annual Return discloses the facts fully and correctly;
    - List of Shareholders as at the end of the financial year
  - Other Companies
    - List of Shareholders as at the end of the financial year
- Time limit for filing is 60 days from the date of holding AGM and if the AGM is not held the statement specifying the reasons for not holding AGM

# Penalty for Non Filing of Annual Returns

- Section 92(5) of the Companies Act, 2013
  - Within 180 days as per the normal fees plus the additional fees
  - Can be relaxed upto 270 days with the Approval;
- Section 403 of the Companies Act, 2013
  - Fine Not less than Rs. 50,000 extendible upto Rs. 5,00,000/-
  - Imprisonment for a term which may extend to 6 months or with a fine.

Incorrect certification of Annual Return

Fine on the guidelines of the Section 403 of the Act to the certifying person

## Documents to be obtained/ verified for conducting Annual Return Certification

- Memorandum and Articles of Association.
- Forms & receipts filed with the Registrar of Companies.
- Register of Members.
- Share Transfer Register.
- Register of Directors & Directors shareholding.
- Disclosure Forms from Directors for the period prior to Annual Return Certification.
- Register of Charges.
- Minutes of the Board, AGM, Share Transfer, Remuneration, Audit Committees.
- Copy of Latest Balance Sheet along with the Notice of AGM.

## Documents to be obtained/ verified for conducting Annual Return Certification

- Shareholder List in Compact Disc(CD) in PDF Format, details of Share Transfers taken place between previous AGM Date and Current AGM Date, Controls of the Data as on the Date of Annual General Meeting of the Company or the latest Beneficial Positions downloaded from the records of the Depository participants by Registrar Transfer Agent(RTA) of the Company on record / book closure date prior to AGM.
- Certificate from RTA stating the number of shareholders as on the close of the financial year.
- Indebted ness Certificate signed by Company Secretary/ CFO of the Company.
- Listing and Trading Approval(s) from Stock Exchanges, Credit Confirmation from Depositories namely NSDL and CDSL respectively/ confirmation from both depositories in respect of allotment of equity shares of the Company during the period between the previous AGM date and current AGM date.

## Documents to be obtained/ verified for conducting Annual Return Certification

- Intimation to Stock Exchanges, Confirmation from National Securities Depository Limited (NSDL) and Central Depository Services (India) Limited (CDSL) for change of the name of the company, change in the face value of equity shares, change in ISIN of the Company and the Scrip Code/ Symbol of the Company, etc.
- Change of name of the company, change in the face value of the company, new ISIN No of the Company in respect of the allotment or as a result of any change in capital structure due to any corporate action taken by the Company during the period between previous AGM Date and Current AGM Date.
- Board Resolution for any type of corporate actions taken by the Company.
- Corporate Action Forms filed by the Company with Depositories.
- Equity Shareholding pattern and its break up as on AGM Date.
- Any orders received by the company from the High court or from any other regulatory body.
- Register of Investments of the company.



# Annual Return by Other Companies

- Every foreign company shall prepare and file, within a period of sixty days from the last day of its financial year, to the Registrar annual return in Form **FC.4** along with such fee as provided in the **Companies (Registration Offices and Fees) Rules, 2014** containing the particulars as they stood on the close of the financial year.

# Important Points to be considered while Annual Filings

1. Please use updated version of Adobe reader.
2. If there is any error/ problem raise ticket to MCA and after that send mail with reporting error in form & mentioning ticket no also.
3. Working Mobile no also do in MGT7 if no landline but whatever no you are mentioning should be working.
4. If there is any problem for business activity code mail to MCA for code.
5. CIN/FCRN of associate/ holding/subsidiary is voluntary
6. Net worth & Turnover as per financial.
7. For the point whether company compliace with all the law here your role should be like secretarial auditor check all register, records, minutes and if minutes not prepared please be prepare and sign by director. First of prepare list of all non compliance. Don't hesitate to put No on point no.11 Give report on it as attachment on MGT7.

# Important Points to be considered while Annual Filings

8. Law applicable to this for is companies act 1956 & 2013
9. Definition of KMP, Promoter, Managerial Remuneration will be according to companies act 2013.
10. If there is more than 10 transfer attach CD but you have to fill at least 10 transfer in form.
11. For AOC 4- put figure from Balance sheet as it mentioned in balance sheet.
12. Information related party transaction in AOC 2 would be same as in AOC 4. Your own document should not be contradict.
13. SRN of GNL 2 will be valid SRN for point no 10 but don't use Z9999
14. You can put up to 24 meetings details. More than that u can put separate attachment.
15. There is no prescribed format for list of shareholder & Debenture holder.
16. Please follow guidance notes issued by ICSI.

# Additional Information Particulars of Form AOC-4

- Details of Directors with their Particulars DIN and signing of financials in tabular format;
- Details of Subsidiary Companies;
- Information about Auditors with Membership No and FRN of the signing partner;
- Merged into Single form for Balance Sheet and Profit and Loss Account. Schedule III of the Companies Act, 2013 needs to be followed;
- CSR information, related party transactions information to be given with details of compliance;
- Authority of signing only to PCS/PCA (small companies exempted)

# Additional Information Particulars of Form AOC-4

- Auditors remarks with clarification by the management against the qualification to be given. Tabular format details introduced;
- CARO, 2016 compliances to be given if CARO is applicable.
- Information about Secretarial Audit to be given;
- To be signed and certified by the Director with certification from the Practising Professional

# Which Financial Statements to be filed

S. No.		Field Name	Instructions
4	b (i)	Nature of financial statements	<p>Select an option from the following available choices:</p> <ul style="list-style-type: none"> <li>• Provisional un-adopted financial statements</li> <li>• Adopted financial statements</li> <li>• Revised financial statements u/s 130</li> <li>• Revised financial statements u/s 131</li> </ul> <p>Select Adopted financial statements in case type of company is One Person Company (OPC) and filing is being done for the first time for entered financial year.</p> <p>For more details, please refer to the provision of section 137 of the Companies Act, 2013.</p> <p>Based on the option selected, relevant fields will only be displayed and required to be entered further.</p>

# Revision of AOC-4

4	b (ii)	Nature of revision	<p>In case of filing the revised financial statement and/or boards' report, select the appropriate option from the drop down values provided, like:</p> <ul style="list-style-type: none"><li>• Financial statement</li><li>• Directors Report</li><li>• Both</li></ul> <p>Based on the option selected, relevant fields will only be displayed and required to be entered further.</p>
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# Revision of AOC-4

4	b (iv)	Whether adopted in adjourned AGM	Select 'Yes' or 'No' if financial statements are adopted in adjourned AGM and not in actual AGM.  In case of OPC, please select 'Not applicable' option.
4	b (v)	Date of adjourned AGM in which financial statements were adopted	Enter the date of adjourned AGM in case financial statements are adopted in the same.
4	b (vi)	SRN of form INC-28	In case of revised filing, enter the SRN of INC-28 filed for submission of order of the competent authority as specified under section 130 or 131 (as applicable).
4	b (vii)	SRN of form AOC-4	If case of revised filing, enter the SRN of form AOC-4 filed latest for the same financial year as entered in this form.
4	b (viii)	Date of order of competent authority	In case of revised filing, enter the date of order of the competent authority specified under section 130 or 131 (as applicable).



# Secretarial Audit Applicable to Whom

- As per section 204 of the Companies Act, 2013 read with Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, following companies are required to obtain ‘**Secretarial Audit Report**’ form independent practicing company secretary;
  - Every listed company
  - Every public company having a paid-up share capital of **Fifty Crore** rupees or more;
  - Every public company having a turnover of **Two Hundred Fifty Crore** rupees or more.
- “Turnover” means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year. [Section 2(91)]
- **Secretarial Audit is also mandatory to a private company which is a subsidiary of a public company, and which falls under the prescribed class of companies**

# Certain Important Aspects in respect of Annual Filings

- Relaxation of Additional Fees and Extension of last date filings for Annual Compliances till 29.10.2016 (Circular No. F.No. MCA21/68/2016 E- Governance Cell dated 29.7.2016);
- Additional Fees now levied based on number of days
- Signed, Scanned copies of the documents to be attached along with the forms as earlier 'S/d' converted Excel and Word Files into PDF not permitted;
- Incorrect filings can lead to fines and penalties under Section 448 of the Companies Act, 2013.

# XBR ANNUAL FILINGS

- Companies listed in Stock Exchanges in India and their Indian Subsidiaries;
- Companies having paid up capital of Rs5 Crores or more;
- Companies having turnover of Rs. 100 Crores or more;
- All Companies who were required to file statement in XBRL for FY 2010-11 onwards;
- Exemptions granted to Banking, Power, NBFC and Insurance Companies till further notice.
- MCA Circular No. 16/2012 dated 6.7.2012 to be referred.

# Guide to File AOC-4 (Financial Statement)

- Every company needs to file its financial statements,
  - including consolidated financial statement and mandatory attachments, via e-Form AOC-4 within the prescribed time limit as per section 137.
  - In case financial statements are not adopted in AGM then un-adopted financial statements shall be filed within 30 days of date of AGM (due date of AGM if AGM not held or extended due date if any).
  - Once financial statements are adopted then company shall file the adopted financial statements via e-form AOC-4 within 30 days of the AGM (actual or adjourned whichever is applicable).

**In case company needs to revise the financial statement or Board's report under provisions of section 130 or section 131 then revised financial statements shall be filed via e-Form AOC-4.**

# No AGM held then What?

- Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and **reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting** should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.
- If a company fails to file the copy of the financial statements under sub-section (1) or subsection (2), as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the Managing Director and the Chief Financial Officer of the company, if any, and, in the absence of the managing Director and the Chief Financial Officer, any other Director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such Director, all the Directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both

# Comparitive Chart for Easeness

<u>S.No.</u>	<u>Particulars</u>	<u>For F.Y beginning before 01.04.2014</u>	<u>For F.Y Beginning form 01.04.2014</u>
<u>1</u>	Balance Sheet & Profit & Loss Account and Board Report	Form - 23 AC & 23 ACA	Form - AOC4
<u>2</u>	Annual Return	Form 20 B / 21 A	Form MGT - 7
<u>3</u>	Compliance Certificate / Secretarial Audit Report	Form 66	Form M.R. - 3
<u>4</u>	Report on AGM	---	Form MGT - 15

# Filing Fees Chart & Additional Fees

**Table of fees to be paid to the Registrar**

For submitting, filing, registering or recording any document by this Act required or authorised to be submitted, filed, registered or recorded	Rs.
(I) In respect of a company having a share capital :	
(a) in respect of a company having a nominal share capital of up to Rs. 1,00,000.	200
(b) in respect of a company having a nominal share capital of Rs. 1,00,000 or more but less than Rs.5,00,000.	300
(c) in respect of a company having a nominal share capital of Rs. 5,00,000 or more but less than Rs. 25,00,000	400
(d) in respect of a company having a nominal share capital of Rs.25,00,000 or more but less than Rs. 1 crore or more.	500
(e) in respect of a company having a nominal share capital of Rs. 1 crore or more.	600
<b>(II) In respect of a company not having a share capital</b>	200

**Table of additional fees applicable for delays in filing**

Sl. No.	Period of delays	Form including charge documents
01	up to 15 days (sections 93, 139 and 157)	one time of normal filing fee
02	More than 15 days and up to 30 days (sections 93, 139 and 157) and up to 30 days in remaining forms.	2 times of normal filing fees
03	More than 30 days and up to 60 days	4 times of normal filing fees
04	More than 60 days and up to 90 days	6 times of normal filing fees
05	More than 90 days and up to 180 days	10 times of normal filing fees
06	More than 180 days and up to 270 days	12 times of normal filing fees
07	In case of delay beyond 270 days	second proviso to sub-section (I) of section 403 of the Act may be referred

# Inspection of Annual Return

Any member, debenture holder, other security holder or beneficial owner can inspect Annual Return without any payment of fees at such reasonable time, which should not be less than two hours during the business hours on any working day. Any other person can inspect Annual Return on payment of such fee as may be specified in the articles of association of the company but not exceeding fifty rupees for each inspection.

If any such member, debenture holder, security holder or beneficial owner or any other person requires a copy of Annual Return, it should be made available on payment of such fee as may be specified in the articles of association of the company but not exceeding ten rupees for each page. Such copy of return shall be supplied within seven days of deposit of such fee.

**Penalty:** If company refuses any inspection or the making of any extract or copy of annual return, the company and every officer of the company who is in default shall be liable, for each such default, to a penalty of Rs. 1,000 for every day subject to maximum of Rs. 1,00,000 during which the refusal or default continues.

The determination of penalty will be decided by the Adjudicating Officer under section 454 of the Act.

The Central Government may also, by order, direct an immediate inspection of the document, or direct that the extract required shall forthwith be allowed to be taken by the person requiring it.

## Preservation of Annual Return

Copies of all annual returns prepared under section 92 and copies of all certificates and documents required to be annexed thereto shall be preserved for a period of eight years from the date of filing with the Registrar. [Rule 15(3) of the Companies (Management and Administration) Rules, 2014]



# ANNUAL RETURN OF COMPANY

- *Whether non-filing of annual return is a compoundable*
  - Offence in respect of default in filing annual return is compoundable with the permission of the Special court, in accordance with the procedure laid down in the Code of Criminal Procedure, 1973 for compounding of offences.
- *Filing annual return in absence of annual general meeting*
  - Where no Annual General Meeting is held in a particular year, the annual return has to be filed within 60 days from the last day on which the meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403. [Section 92(4)] Consequently, the company cannot excuse itself from the obligation on the plea of the Annual General Meeting not having been held.

# ANNUAL RETURN OF COMPANY

- Section 403 provides that the return may be filed with in a time period of 270 days from the date by which it should have been filed on payment of fee and additional fee.
- Thus management cannot escape from the responsibility of filing the return, if, the Annual General Meeting is not held.
- The responsibility cannot be abandoned even if the company is inoperative.
- This section casts an important obligation on the part of management to file the returns and can be relinquished only when the company is wound up or its name struck-off from the Register maintained by the Registrar of Companies.

# What ICSI Guidance Note says

## Compounding of offences (Section 441)

<b>Compliance of Section under Companies Act, 2013</b>	<b>Section 92-Filing of Annual Returns</b>
<b>Particular section under which offence is punishable</b>	Section 92(5)
<b>Who is punishable (Compounding application to be made by)</b>	Company and Every officer in default
<b>Period (or)/(and)Amount of fine</b>	(1) Company- fine of not less than Rs. 50,000, which may extend to Rs. 5,00,000  (2) Every officer in default- 6 months imprisonment OR fine of not less than Rs. 50,000 which may extend to Rs. 5,00,000, OR with both.

Provisions and procedure for compounding of offences, which are punishable under Companies Act, 2013 are stipulated under Section 441.

Only those offences which are punishable with either penalty or with penalty or imprisonment are compoundable under Section 441. Therefore, offence which is specifically punishable only with imprisonment or with imprisonment and fine is non-compoundable. The default under section 92 is compoundable offence.

## Form DIR-3

Application for allotment of Director Identification Number

**List of documents which needs to be attached with e-Form DIR-3 in PDF format.**

1. Proof of identity of applicant
2. Proof of residence of applicant
3. Copy of verification by the applicant as per Form No. DIR-4 (Affidavit format);
4. Digital Signature of the Applicant Mandatory.

# Appointment of Director

## DIR-12

Particulars of appointment of Directors and the key managerial personnel and the

[Pursuant to sections 7(1)(c), 168 & 170 (2) of The changes among them Companies Act, 2013 and rule 17 of the companies (Incorporation) Rules 2014.]

**List of documents which needs to be attached with e-Form DIR-3 in PDF format.**

1. Form DIR-2 Consent Letter
2. FORM DIR 8
3. INTEREST IN OTHER ENTITIES

# Situation of Registered Office

Form No INC-22 to be filed

Notarized copy of lease/rent agreement in the name of the company along with a copy of rent paid receipt not older than one month;

Authorization from the owner or authorized occupant of the premises along with proof of ownership or occupancy authorization, to use the premises by the company as its registered office; and

Document of connection of any utility service like telephone, gas, electricity, etc. depicting the address of the premises in the name of the owner/document as the case may be which is not older than 2 months

# Shifting Of Registered Office

FORM INC-22

Time Limit reduced to 15 days for information of shifting of registered office;

Special Resolution required for shifting of RO from local limits;

Approval of RD required for Shifting of RO from one state to the other.

Applicable only on confirmation by issue of certificate to that effect;

Penalty of ₹1000 per day to extend up to ₹1lac

# Disqualification of directors

**DIR-8**

Information by  
Director about  
Disqualification  
u/s 164(2)

**DIR-9**

Information by  
Company to  
Registrar about  
Disqualification

Time Limit 30  
days

**DIR-10**

Application for  
Removal of  
Disqualification



## Concept of Dormant Company



- Company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar for obtaining the status of a dormant company.

# Forms to be filed for Dormant Companies

**MSC-1**

- Application for Status as Dormant

**MSC-3**

- Return of Dormant Companies

**MSC-4**

- Application for Conversion of Status into ACTIVE

# Forms to be filed

## Form No ADT-1

- Appointment of Auditors
- Time Limit 15 days from the date of meeting in which Auditor is appointed

## Form No. ADT-2

- Application to CG for removal of Auditor before expiry of term

## Form No. ADT-3

- Compliance by Auditor after resignation
- Time Limit 30 days
- Fine of Rs. 50,0000 to Rs. 5,00,000

## Form No. ADT-4

- Fraud Reporting by an Auditor to Central Government

# Reporting of Fraud by Auditor

- Notification No G.S.R. 972(E) dated 14.12.2015
  - If an auditor of a company, in the course of the performance of his duties as statutory auditor, has reason to believe that an offence of fraud, which involves or is expected to involve individually an amount of rupees one crore or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Central Government. The auditor shall report the matter to the Central Government as under:-
    - (a) the auditor shall report the matter to the Board or the Audit Committee, as the case may be, immediately but not later than two days of his knowledge of the fraud, seeking their reply or observations within forty-five days;
    - (b) on receipt of such reply or observations, the auditor shall forward his report and the reply or observations of the Board or the Audit Committee along with his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within fifteen days from the date of receipt of such reply or observations;

# Reporting of Fraud by Auditor

- Notification No G.S.R. 972(E) dated 14.12.2015 (Contd)
- in case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of forty-five days, he shall forward his report to the Central Government along with a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he has not received any reply or observations;
- the report shall be sent to the Secretary, Ministry of Corporate Affairs in a sealed cover by Registered Post with Acknowledgement Due or by Speed Post followed by an e-mail in confirmation of the same;
- the report shall be on the letter-head of the auditor containing postal address, e-mail address and contact telephone number or mobile number and be signed by the auditor with his seal and shall indicate his Membership Number; and (f) the report shall be in the form of a statement as specified in Form ADT-4.

# Reporting of Fraud by Auditor

- Notification No G.S.R. 972(E) dated 14.12.2015 (Contd)
- In case of a fraud involving lesser than the amount specified in sub-rule (1), the auditor shall report the matter to Audit Committee constituted under section 177 or to the Board immediately but not later than two days of his knowledge of the fraud and he shall report the matter specifying the following:-
  - (a) Nature of Fraud with description;
  - (b) Approximate amount involved; and
  - (c) Parties involved.
- The provision of this rule shall also apply, *mutatis mutandis* to a Cost Auditor and a Secretarial Auditor during the performance of his duties under section 148 and section 204 respectively

# Documents Maintenance (Section 88)

- Form No. MGT-1 (for Companies having share capital)
  - Registers of Members for each class of shares;
  - Register of Debenture Holders;
  - Register of any other Security Holders;
- Form No. MGT-2 (for Companies not having share capital)
  - Registers containing full details of Members;
  - Register of Debenture Holders;
  - Register of any other Security Holders;

(Existing Companies to comply with the requirements by 30<sup>th</sup> September, 2014)

# Documents Maintenance (Section 88)

- Form No. MGT-3 (for Companies having share capital and having foreign security holders or beneficial owners)
- Form No. MGT-4
  - Declaration in respect of beneficial interest in shares;
- Form No. MGT-5
  - Declaration in respect of beneficial interest in shares by registered owner;
- Form No. MGT-6
  - Declaration in respect of beneficial interest in shares by beneficial owner;



# Penalty for Contravention

- Company & Every officer of the company
  - Fine which shall not be less than **Rs.50,000/-** but which may extend to **Rs3,00,000/-** and
  - **Failure is a continuing one-** fine which may **extend to Rs.1000/- for every day**, after the first during which the failure continues

# MGT-14 form to be filed

- To be filed by all the Companies;
- Interest of Directors to be taken in Form DIR-8 and Form MBP-1;
- Declaration to be obtained under Section 164(2) and Section 184(1) of the Companies Act, 2013.
- Noting of the same to be done by the Board in the First Board Meeting held at the beginning of the year;
- Time limit is 30days from the date of passing the resolution;
- This has to be filed by all the Companies for the FY 2013-14.
- From FY 2014-15 removed vide Amendment to Rules dt. 19.3.2015.

# MGT-14 form to be filed

- To appoint Secretarial Auditor.
- To appoint or remove key managerial personnel (KMP). {KMP includes (MD, WTD, CEO, CFO & CS)}
- To make Political Contributions.
- To make calls on shareholders in respect of money unpaid on their shares.
- To authorize buy-back of securities under section 68.
- To Diversify the business of the company.
- To approve Amalgamation, Merger or Reconstruction.
- PRIVATE COMPANIES are now exempt from filing resolutions listed in Section 179(3) and Rule 8 of Chapter XII Rules. Hence private companies will no longer be required to file MGT-14 for prescribed matters taken up at its Board Meetings.

# MGT-14 form to be filed (Special Resolution)

- For a company registered under Section- 8 to convert itself into a company of any other kind or alteration of its Memorandum or Articles (Section – 8);
- Change of location of registered office in the same State outside the local limits of the city, town or village where it is situated. (Section – 12);
- Change of registered office from the jurisdiction of one Registrar to that of another Registrar in the same State (Section – 13);

# MGT-14 form to be filed (Special Resolution)

- Amendment of Articles of a private company for entrenchment of any provisions. (To be agreed to by all members in a private company) (Section – 14);
- Amendment of Articles of a public company for entrenchment of any Provisions. (Section – 14);
- Change in name of the company to be approved by special resolution. (Section – 13);
- A company, which has raised money from public through Prospectus and still has any unutilized amount out of the money so raised, shall not Change its objects for which it raised the money through prospectus unless a special resolution is passed by the company. (Section – 13(8));

# MGT-14 form to be filed (Special Resolution)

- A company shall not, at any time, vary the terms of a contract referred to in the prospectus or objects for which the prospectus was issued, except subject to the approval of, or except subject to an authority given by the company in general meeting by way of special resolution; (Section – 27);
- Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or by means of a special resolution passed at a separate meeting of the holders of the issued shares of that class. (Section – 48);

# MGT-14 form to be filed (Special Resolution)

- Private offer of securities requires approval of company by special resolution. Section – 62 (1) (c)
- Issue of Sweat Equity Shares- Section – 54
- Reduction of Share Capital - Section – 66 (1)
- Special resolution for approving scheme for the purchase of fully-paid shares for the benefit of employees- Section – 67 (3) (b )(**EXCEPT PRIVATE LIMITED COMPANY**)
- Buy Back of Shares -Section 68 (2) (b)
- Issue debentures with an option to convert such debentures into shares, either wholly or partly at the time of redemption - Section – 71 (1)

# MGT-14 form to be filed (Special Resolution)

- Keep registers at any other place in India Section – 94;
- Re-appointment of Independent Director- Section – 149(10)
- lesser number of companies in which a director of the company may act as directors Section – 165(2)
- sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings. (Exemption to Private Companies) Section – 180(a)
- To invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation (Exemption to Private Companies); Section – 180(b)



# MGT-14 form to be filed (Special Resolution)

- to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company's bankers in the Ordinary Course of Business. (Exemption to Private Companies)  
Section – 180(c)
- to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company's bankers in the Ordinary Course of Business. (Exemption to Private Companies)  
Section – 180(d)

# MGT-14 form to be filed (Special Resolution)

- For approving scheme for giving of loan to MD or WTD.
- Loan & Investment by company exceeding 60% of paid up share capital or 100% of free reserve. Section – 185
- Appointment of a person as Managerial Personnel if, the age of Person is exceeding 70 year- Section – 186
- Remuneration to Managerial personnel if, profits of company are Inadequate Schedule V
- Special Resolution for winding up of the company by Tribunal - Section – 271(1)(b)
- Conversion of private company into One Person Company- Rule 7(1), Chapter I

# MGT-14 form need not be filed

Ministry of Corporate Affairs on 18<sup>th</sup> March 2015 has further amended (Meetings of Board and its Powers) Amendment Rules, 2015. This is third amendment in these Rules. After coming into force of this amendment, companies would not need to file E-form MGT-14 for the following board resolutions.

- to take note of appointment(s) or removal(s) of one level below the Key Management Personnel;
- to take note of the disclosure of director's interest and shareholding;

# MGT-14 form need not be filed

- to buy, sell investments held by the company (other than trade investments), constituting five per cent or more of the paid up share capital and free reserves of the investee company;
- to invite or accept or renew public deposits and related matters;
- to review or change the terms and conditions of public deposit;
- to approve quarterly, half yearly and annual financial statements or financial results as the case may

# General Circular No. 05/2015 dated 30.03.2015

- amounts received by private companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.
- Any renewal or acceptance of fresh deposits on or after 1st April, 2014 shall, however, be in accordance with the provisions of Companies Act, 2013 and rules made there under.
- **DOES NOT COVER DEPOSITS ACCEPTED FROM 1.4.2014**

# Consequences of Accepting Deposit

- Non compliance of deposits rules enalties to be levied
  - On Company Rs. 1 Crore to Rs. 10 Crores
  - Officer in default – Rs. 25 Lac to Rs. 2 Crores
  - Imprisonment – Max 7 years or both

**IGNORE ONLY AT YOUR PERIL**

# Documents at a glance

**Form No. SH-1**

- Share Certificate

**Form No. SH-2**

- Register of Renewed and Duplicate Share Certificates

**Form No. SH-3**

- Register of Sweat Equity Shares

**Form No. SH-4**

- Securities Transfer Form

**Form No. SH-5**

- Notice for transfer of partly paid securities

# Documents at a glance

**Form No. SH-6**

- Register of Employee Stock Options

**Form No. SH-7**

- Notice to Registrar for Alteration of Share Capital

**Form No. SH-8**

- Letter of Offer for Buy Back of Securities

**Form No. SH-9**

- Declaration of Solvency

**Form No. SH-10**

- Register of Shares or other securities bought back



# Certain Important Forms

**Form SH-11**

- Return in respect of buy-back of securities

**Form SH-12**

- Trust Deed by Debenture Holders

**Form SH-13**

- Nomination by Security Holders

**Form SH-14**

- Cancellation of Nominee

**Form SH-15**

- Certificate of compliance in respect of buy-back of securities

# Seven Punishments

## Section 447

- Punishment for fraud
- Penalty upto the fraud amount extendible upto 3 times;
- Imprisonment not less than 6 months extendible upto 10 years

## Section 448

- **Punishment for false statement. Includes Attestation & Certification**
- Penalties on the lines of Section 447

## Section 449

- **Punishment for false evidence**
- Fine upto Rs. 10 Lakhs;
- Imprisonment not less than 3 years extendible upto 7 years

# Seven Punishments

## Section 450

- **Punishment where no specific penalty or punishment is provided**
- Fine extendible upto Rs. 10000/- for first time and subsequent contravention Rs. 1000/- per day;

## Section 451

- **Punishment for Repeated Defaults**
- if a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, both shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence

## Section 452

- **Punishment for wrongful with-held of Property**
- Fine Rs 1 Lakh extendible upto Rs. 5 Lakhs;
- Imprisonment extendible upto 2 years

## Punishment for improper use of “Limited” or “Private Limited”

- Section 453
  - if any person or persons trade or carry on business under any name or title, of which the word “Limited” or the words “Private Limited” 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 with limited liability, or unless duly incorporated as a private company with limited liability, as the case may be, punishable with fine which shall not be less than Rs. 500 but may extend to Rs. 2500 for every day for which that name or title has been used.
- Thus, only companies incorporated under the Act, shall use the words “Limited” or “Private Limited” in the trade name.

# Security Settings for Internet Explorer

- CCA and TCS-CA certificates to be installed. If not installed can be downloaded from the following link.

<http://www.tcs-ca.tcs.co.in/index.jsp?link=html/chaindownload.html>

- Click on Tools>Internet Options>Security
- Click “Internet” and change the Security Settings to “Medium”;
- Click “Custom Level” Button.
- Enable the “Download Signed ActiveX controls” Option;
- Enable the “Run ActiveX controls and Plugins” Option.

# OPTIONS FOR INVESTORS

- Unclaimed Dividends, Deposits, Share Application Money and debentures transferred by the Company to IEPF can be claimed ;
- Detailed procedure given and available on the link  
<http://iepf.gov.in/IEPFWebProject/SearchInvestorAction.do?method=gotoSearchInvestor>
- FAQ's for the same available on
  - <http://iepf.gov.in/IEPF/faq.html>

# NOTICES AND CIRCULARS

The screenshot shows the MCA website interface. The browser address bar displays [mca.gov.in](http://mca.gov.in). A navigation bar at the top includes a search icon and a hamburger menu. Below the navigation bar, there is a banner with the text "Keep up-to-date with the latest on the MCA website." and an image of a motorcycle.

The main content area is divided into several sections:

- FREQUENTLY USED:** Contains four buttons: "SEARCH COMPANIES ACT, 2013" (blue), "REGISTER A NEW COMPANY" (orange), "CHANGE COMPANY INFORMATION" (green), and "COMPLIANCE / APPROVAL FILING" (red).
- NOTICES & CIRCULARS:** A section with a blue notification icon. A modal window is open over this section, titled "IMPORTANT NOTICES".
- STAKEHOLDER'S CORNER:** Contains links for "Companies/Directors Under Prosecution", "Comments Invited", "हिन्दी संवर्धन अन्वेषण/सामग्री", and "MCA Guidelines".
- NEWS:** A section with a blue notification icon, containing a list of news items.
- Service Links:** A vertical list of links on the right side of the page: "Official Liquidators", "Investor Education And Protection Fund", "Citizen Charter", "Innovative Feedback", "Parliament Questions & Assurances", "Public Grievances", "India.Gov.In", and "Employee Corner".

The modal window "IMPORTANT NOTICES" contains the following text:

- In accordance with circular 16/2014, version of INC-7 is likely to be revised on 14th June. You are requested to plan accordingly.
- State Code in the CIN of the Companies which are located in Telangana based on the address available in the database has been changed from "AP" to "TG". Complete list of such companies may be viewed at following link : ["http://mca.gov.in/Ministry/pdf/AP\\_to\\_TG.pdf"](http://mca.gov.in/Ministry/pdf/AP_to_TG.pdf)
- Form-wise date of last version change is available at following link [http://mca.gov.in/MinistryV2/Download\\_eForm\\_choose.html](http://mca.gov.in/MinistryV2/Download_eForm_choose.html). Please ensure that you have downloaded the latest version for filing.
- At the time of examining the submitted INC-7 e-forms it has been noticed that stakeholders are using old format of Memorandum and Article of Association. In this regard stakeholders are requested to follow the format prescribed under Schedule 1 of the Companies Act, 2013 to avoid resubmission or rejection of the form.
- Companies Act,2013 - Statement of Notification of Rules.

The Windows taskbar at the bottom shows the system clock as 2:09 PM on 15/06/2014.

# Feedback and Suggestions

**Register Your Suggestion**

\*Name of Person :

\*City :

\*Country : --Select-- ▼

\*Mobile Number :

\*Email Id :

Type : Suggestion

\*Category : --Select-- ▼

For MCA Offices (only if required):

- Select--
- eFiling related
- Bank and Payment
- System and Technology
- Ongoing Schemes
- Masterdata Correction
- Staff service delivery
- Stamp Duty
- Director Identification Number
- XBRL
- Refund related
- Policy Related
- Others

\*Suggestions :

**Cancel**

[mca.gov.in/DCAPortalWeb/dca/MyMCALogin.do?method=setDefaultProperty&mode=49](http://mca.gov.in/DCAPortalWeb/dca/MyMCALogin.do?method=setDefaultProperty&mode=49)





"Change" is a nature of life...but "Challenge" is the aim of life... so always challenge the changes... not change the challenges.

- Unknown

When LIFE changes itself to Harder.  
Change Yourself to Stronger.  
THE JOURNEY OF THOUSAND MILES STARTS WITH A FAITHFUL STEP



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