

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, 29th December, 2016

G.S.R (E)- In exercise of the powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely: -

1. (1) These rules may be called the Companies (Incorporation) Fifth Amendment Rules, 2016.
(2) They shall come into force on the **1st day of January, 2017**.
2. In the Companies (Incorporation) Rules, 2014 (hereinafter referred to as the principal rules),
3. In the principal rules,
 - (a) in rule 4, in sub-rule (2), for the words and figures 'such nomination in Form No.INC-2 along with consent of such nominee obtained in Form No.INC-3' the words and figures 'such nomination in Form No.INC-32 (SPICe) along with consent of such nominee obtained in Form No.INC-3' shall be substituted.
 - (b) in rule 10, for the words and figures 'Form No.INC-7' the words and figures 'Form No.INC-7 or Form No.INC-32(SPICe)' shall be substituted.
 - (c) in rule 12, for the words and figures 'Form No.INC-2 (for One Person Company) and Form No.INC-7 (other than One Person Company)' the words and figures 'Form No.INC-7 (Part I company and company with more than seven subscribers) and Form No.INC-32 (SPICe)' shall be substituted.
 - (d) rule 36 shall be omitted.

(e) for rule 38, the following rule shall be substituted, namely:-

"38. Simplified Proforma for Incorporating Company Electronically (SPICe).-

(1) The application for incorporation of a company under this rule shall be in FORM No. INC-32 (SPICe) alongwith e-Memorandum of Association (e-MOA) in Form No. INC-33 and e-Articles of Association (e-AOA) in Form no. INC-34.

Provided that in case of incorporation of a company falling under section 8 of the Act, FORM No. INC-32 (SPICe) shall be filed along with FORM No. INC-13 (Memorandum of Association) and FORM No. INC-31 (Articles of Association) as attachments.

(2) For the purposes of sub-rule (1), the application for allotment of Director Identification Number upto three Directors, reservation of a name, incorporation of company and appointment of Directors of the proposed **for One Person Company, private company, public company and a company falling under section 8 of the Act**, shall be filed in **FORM No. INC-32 (SPICe)**, with the Registrar, within whose jurisdiction the registered office of the company is proposed to be situated along with the fee of **rupees five hundred** in addition to the registration fee as specified in the Companies (Registration of Offices and Fees) Rules, 2014:

Provided that where an applicant has applied for reservation of a name under Rule 9 and which has been approved therein, he may fill the reserved name as proposed name of the company.

(3) For the purposes of filing SPICe Form, the particulars of maximum of three directors shall be allowed to be filled in FORM No. INC-32 (SPICe), and allotment of Director Identification Number of maximum of three proposed directors shall be permitted in FORM No. INC-32 (SPICe) in case of proposed directors not having approved Director Identification Number.

(4) The promoter or applicant of the proposed company shall propose only one name in FORM No. INC-32 (SPICe).

(5) The promoter or applicant of the proposed company shall prepare Memorandum of Association (e-MoA) in FORM No. INC-33 and Articles of Association (e-AoA) in FORM No. INC-34, in accordance with rule 13.

Provided that the subscribers and witness or witnesses shall affix their digital signatures to the e-MoA and e-AoA.

(6) For incorporation using application as provided in this rule, provisions of the sub-clause (i) of sub-section (5) of section 4 of the Act, rule 9, and clause (a) of sub-rule (1) of rule 16 to the extent of affixing recent photograph shall not apply.

(7) A company using the provisions of this rule may furnish verification of its registered office under sub-section (2) of section 12 of the Act by filing FORM No. INC-32 (SPICe) in which case the company shall attach along with such FORM No. INC-32 (SPICe), any of the documents referred to in sub-rule (2) of rule 25.

(8) FORM No. INC-22 shall not be required to be filed in case the proposed company maintains its registered office at the given correspondence address.

(9) (a) Where the Registrar, on examining FORM No. INC-32 (SPICe), finds that it is necessary to call for further information or finds such application or document to be defective or incomplete in any respect, he shall give intimation to the applicant to remove the defects and re-submit the e-form within fifteen days from the date of such intimation given by the Registrar.

(b) After the resubmission of the document, if the registrar still finds that the document is defective or incomplete in any respect, he shall give one more opportunity of fifteen days to remove such defects or deficiencies.

Provided that the total period for re-submission of documents shall not exceed thirty days.

(10) The Certificate of Incorporation of company shall be issued by the Registrar in Form No. INC-11."

4. In the principal rules , -

(a) Form No.INC-2 shall be omitted;

(b) for Form No.INC-7 the following form shall be substituted, namely:-

FORM NO. INC-7

[Pursuant to Section 7(1) of the Companies Act, 2013 and pursuant to Rule 10, 12, 14, and 15 of the Companies (Incorporation) Rules, 2014]



Application for Incorporation of Company (Part I company and company with more than seven subscribers)

Form language ☐ English ☐ Hindi

Refer the instruction kit for filing the form.

1. *Service Request Number (SRN) of Form INC-1

Pre-Fill

2. (a) Name of the company

(b) Type of Company is

(c) Class of Company

(d) Category

(e) Sub category

(f) Section 8 license number

*(g) Company is ☐ Having share capital ☐ Not having share capital

3. (a) Name of the state/Union territory in which the company is to be registered

(b) Name of the office of the Registrar of Companies in which the company is to be registered

(c) *Whether the address for correspondence will be the address of Registered office of the Company

☐ Yes ☐ No

(d) Address for correspondence till the registered office of the company is established

*Line I	
Line II	
*City	
*State/Union Territory	
*District	
*Pin code	
ISO Country code	
Country	
*Phone (With STD/ISD code)	-
Fax	
*email ID of the company	

4. I. *Capital structure of the company

(a) Authorized capital of the company (in Rs.)

(i) No. of classes of equity shares Total number of equity shares
 Total amount of equity shares (in Rs.)

Number of equity shares	Nominal amount per equity share	Total amount of equity shares

(ii) No. of classes of preference shares Total number of preference shares
 Total amount of preference shares (in Rs.)

Number of preference shares	Nominal amount per preference share	Total amount of preference shares

(b) Subscribed capital of the company (in Rs.)

(i) No. of classes of equity shares Total number of equity shares
 Total amount of equity shares (in Rs.)

Number of equity shares	Nominal amount per equity share	Total amount of equity shares

(i) No. of classes of preference shares Total number of preference shares
 Total amount of preference shares (in Rs.)

Number of preference shares	Nominal amount per preference share	Total amount of preference shares

II. *Details of number of members

- (a) Enter the maximum number of members
 (b) Maximum number of members excluding proposed employees
 (c) Number of members
 (d) Number of members excluding proposed employee(s)

5. *Main division of industrial activity of the company

Description of the main division

6. * (a) Whether the proposed company shall be conducting any activities which require approval from any sectoral regulator (Like RBI in case of NBFI and Banking activities) to commence such activities ☐ Yes ☐ No

(b) If yes, please enter the name of such Regulatory authority and proposed activity

7. *Enter the number of promoters (first subscribers to the Memorandum of Association (MOA))

Particulars of Promoters (first subscribers to the MOA)

*Category		
* Director Identification number(DIN) or Income -tax permanent account number (Income- tax PAN) or passport number or corporate identity number(CIN) Or foreign company registration number(FCRN) or any other registration number		
*First Name		
Middle Name		
*Surname		
Family Name		
☐ Father's Name ☐ Mother's Name ☐ Spouse's name		
*Nationality		*Date of Birth
*Gender ☐ Male ☐ Female ☐ Transgender		
*Place of Birth (District & State)		
*Occupation type		
*Area of Occupation		
*Educational qualification		
*Name of the entity		
Income tax permanent Account Number (PAN)		
Permanent Address/Registered address/Principal place of business		
*Line I		
Line II		
*City		
*State /Union Territory		*Pin code
*ISO Country code		
Country		
*Phone (With STD/ISD code)		-
Mobile		Fax
*email id		
*Whether present address is same as the permanent address ☐ Yes ☐ No		
Present Address		

*Line I
Line II
*City

*State/Union Territory *Pin code

*ISO Country code

Country

*Phone(With STD/ISD code)

Mobile

Fax

*Duration of stay at present address Years Months

If Duration of stay at present address is less than one year then address of previous residence

*Proof of identity

*Residential Proof

If already a director or promoter of a company(s), specify details of such company(s) (In case director or promoter in more than three companies, attach separate sheet as an optional attachment)

Director	Promoter	CIN
☐	☐	
Name of the company		
Director	Promoter	CIN
☐	☐	
Name of the company		
Director	Promoter	CIN
☐	☐	
Name of the company		

Pre-fill all

* Number of shares subscribed * Total amount of shares subscribed (in Rs.)

* Particulars of authorised person

a) Name of the authorised person

b) ☐ Father's Name ☐ Mother's Name ☐ Spouse's name

c) Gender ☐ Male ☐ Female ☐ Transgender

d) Nationality f) Date of Birth

f) Phone (With STD/ISD code) -

g) email ID

8. (a) *Whether the Articles are entrenched or not ☐ Yes ☐ No

(If yes, entrenched Articles should be annexed thereto)

(b) Number of Articles to which provisions of entrenchment shall be applicable

Details of Articles to which provisions of entrenchment shall be applicable

Sr. No.	Article Number	Content

9. Particulars of payment of stamp duty

(a) State or Union territory in respect of which stamp duty is paid or to be paid

Pre-Fill

(b) * Whether stamp duty is to be paid electronically through MCA21 system

☐ Yes ☐ No ☐ Not applicable

(i) Details of stamp duty to be paid

Type of document/ Particulars	Form INC-7	Memorandum of association	Articles of association
Amount of stamp duty to be paid (in Rs.)			

(ii) Provide details of stamp duty already paid

Type of document/ Particulars	Form INC-7	Memorandum of association	Articles of association	Others
Total amount of stamp duty paid (in Rs.)				
Mode of payment of stamp duty				
Name of vendor or Treasury or Authority or any other competent agency authorised to collect stamp duty or to sell stamp papers or to emboss the documents or to dispense stamp vouchers on behalf of the Government				
Serial number of embossing or stamps or stamp paper or treasury challan number				
Registration number of vendor				
Date of purchase of stamps or stamp paper or payment of stamp duty (DD/MM/YYYY)				
Place of purchase of stamps or stamp paper or payment of stamp duty				

- 13) Copy of certificate of incorporation of the foreign body corporate and registered office address
14) Copy of resolution/consent by all the partners or board resolution authorizing to subscribe to MOA
15) Optional attachment, if any

Attach

Attach

Attach

Declaration

I *

a person named in the articles as a director declare that all the requirements of the Companies Act, 2013 and the rules made thereunder in respect to the registration of the company and matters precedent or incidental thereto have been complied with. I am authorized by other promoters subscribing to the Memorandum of Association and Articles of Association and the first directors to give this declaration and to sign and submit this Form. It is further declared and verified that:

1. Whatever is stated in this form and in the attachments thereto is true, correct and complete and no information material to the subject matter of this form has been suppressed or concealed and is as per the original records maintained by the promoters subscribing to the Memorandum of Association and Articles of Association.
2. All the required attachments have been completely and legibly attached to this form;
3. a/an having Membership number and/or certificate of practice number has been engaged to give declaration under section 7(1) (b) and such declaration is attached.

DSC BOX

*To be digitally signed by

Designation

*Director Identification Number

Note: Attention is drawn to provisions of section 7(5) and 7(6) which, *inter-alia*, provides that furnishing of any false or incorrect particulars of any information or suppression of any material information shall attract punishment for fraud under Section 447. Attention is also drawn to provisions of section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

Modify

Check Form

Prescrutiny

Submit

For office use only:

After filing details

eForm Service request number (SRN)

eForm filing date

(DD/MM/YYYY)

This e-Form is hereby registered

Digital signature of the authorising officer

Confirm submission

Date of signing

(DD/MM/YYYY)

(c) in Form No.INC-11, for the words and figures 'rule 8 the Companies (Incorporation) Rules, 2014', the words and figures 'rule18 of the Companies (Incorporation) Rules, 2014' shall be substituted

(d) For Form No.INC-27, the following form shall be substituted, namely:-

FORM NO. INC-27

[Pursuant to section 14 and 18 of the Companies Act, 2013 and Rule 33, Rule 37 and Rule 39 of the Companies (Incorporation) Rules, 2014]



Conversion of public company into private company or private company into public company and Conversion of Unlimited Liability Company into a Company Limited by shares or guarantee or conversion of guarantee company into a company limited by shares

Form language ☐ English ☐ Hindi

Refer the instruction kit for filing the form.

1. *Application for ☐ Conversion of private company into public company
☐ Conversion of public company into private company
☐ Conversion of Unlimited Liability Company into Company Limited by shares or guarantee
☐ Conversion of company limited by guarantee into a company limited by shares
2. *(a) Corporate identity number (CIN) of company Pre-fill
(b) Global Location Number
3. (a) Name of the Company
(b) Address of registered office

(c) email Id of the company
4. *Reason(s) for conversion
5. *Particulars of filing Form MGT-14 with Registrar of Companies (ROC)
(a) SRN of Form MGT-14
(b) Date of passing the special resolution (DD/MM/YYYY)
(c) Date of filing Form MGT-14 (DD/MM/YYYY)
6. *Particulars of the order of Tribunal
(a) Date of passing the order (DD/MM/YYYY)
(b) Date of receiving the order (DD/MM/YYYY)
7. (a) *Name of the company at the time of incorporation (to be displayed in the certificate)

(b) *Category of the company after conversion

8. (a) Details of members present at the meeting where the decision of conversion was taken and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

(b) Details of the members who voted in favour of the proposal and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

(c) Details of the members who voted against the proposal and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

(d) Details of members who abstained from voting and number of shares held by them

(i) *Number of members

(ii) Number of shares held by them

Attachments

1. *Minutes of the members' meeting;
2. *Copy of Altered Memorandum, Articles of Association;
3. Order for condonation of delay if any;
4. *Copy of special resolution;
5. *Copy of Newspaper publication;
6. Order of Tribunal;
7. *Declaration of all Directors as per Rule 37(3)(e);
8. *Declaration of all Directors as per Rule 37(3)(g);
9. *Complete list of creditors and debenture holders;
10. Declaration of Solvency;
11. Declaration regarding no complaints as per Rule 37(4);
12. *A Copy of Statutory Auditors Certificate;
13. Optional attachment(s) (if any)

List of attachments

[Remove attachment](#)

Declaration

To the best of my knowledge and belief, the information given in this application and its attachments are correct and complete. The company has obtained all the mandatory approvals from the concerned authorities, departments and substantial creditors. I have been authorized by the board of directors' resolution number * dated *

(DD/MM/YYYY) to sign and submit this application.

To be digitally signed by

DSC BOX

*Designation

*Director identification number of the director; or

DIN or PAN of the manager or CEO or CFO; or

Membership number of Company secretary

Declaration and Certification by Professional

I
, member of
having office at *

who is engaged in the conversion of the company, declare that I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that;

- (i) The company is eligible for conversion and does not attract any disqualification as specified under rule 8 of the Companies (Incorporation) Rules, 2014, and
- (ii) All the requirements of Companies Act, 2013 and the rules made thereunder relating to conversion of the company from unlimited liability to limited liability and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order;
- (iii) I have opened all the attachments to this form and have verified these to be as per requirements, complete and legible;
- (iv) It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage.

* ☐ Chartered accountant (in whole-time practice) or ☐ Cost accountant (in whole-time practice) or
☐ Company secretary (in whole-time practice)

* Whether associate or fellow ☐ Associate ☐ Fellow

* Membership number

* Certificate of practice number

Note: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively.

For office use only :

eForm Service request number (SRN) eForm filing date (DD/MM/YYYY)

This e-Form is hereby registered

Digital signature of the authorising officer

Date of signing (DD/MM/YYYY)

(e) FORM no.INC-29 shall be omitted.

[F. No. 1/13/2013 CL-V]


29/02/2018

AMARDEEP SINGH BHATIA, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary Part II, Section 3, Sub-section (i) *vide* number G.S.R. 250(E) dated 31st March, 2014 and subsequently amended *vide* the following notifications:-

Serial Number	Notification Number	Notification Date
1.	G.S.R. 349 (E)	01-05-2015
2.	G.S.R. 442 (E)	29-05-2015
3.	G.S.R. 99 (E)	22-01-2016
4.	G.S.R.336(E)	23-03-2016
5.	G.S.R.743(E)	27-07-2016
6.	G.R.R.936(E)	01-10-2016