

# Technical Guide on Easy Incorporation of Companies through SPICE+



**Corporate Laws & Corporate Governance Committee**  
**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
**New Delhi**

# Technical Guide for Easy Incorporation of Companies Through SPICe+



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## Foreword

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Since the enactment of the Companies Act, 2013, several reforms have been brought out by the Ministry of Corporate Affairs, Government of India in line with the overall objective of reducing cost of compliances and Ease of Doing Business in India. Sustained business reforms over the past several years have helped India improved its ranking to move to 63<sup>rd</sup> position as per World Bank's Ease of Doing Business Report 2020 against the 142<sup>nd</sup> rank in the year 2014 and 77 in the year 2019. This shows that the current regulatory environment is more conducive to the start-ups and businesses. One such noteworthy reform is towards incorporation of a company for which the process has been greatly simplified with significant reduction in time to incorporate a company in the country.

Going forward as a part of Ease of Doing Business (EODB) initiatives in India, the Government has brought in the advanced integrated form SPICE+ (eForm-32) which is an integrated web form offering 10 services by 3 Central Government Ministries & Departments (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government (Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India.

Keeping in view the importance of this initiative of the Government, the Institute of Chartered Accountants of India (ICAI) through its Corporate Laws & Corporate Governance Committee (CL&CGC) has released this *Technical Guide on Incorporation of Companies through SPICE+* to provide detailed guidance on the procedural aspects of this integrated form for the benefit of all the members and other stakeholders. This Technical Guide has been designed and developed in an easy to understand language and is quite comprehensive which elaborates detailed process to incorporate a company.

I commend the efforts of CA. Chandrashekhar V. Chitale, Chairman, CA. Durgesh Kumar Kabra, Vice-Chairman and other members of the Corporate Laws & Corporate Governance Committee for bringing out this Technical Guide for the benefit of the members and other stakeholders.

I am sure that the members and other interested readers would find the publication immensely useful.

CA. Atul Kumar Gupta  
President, ICAI

Date: 30<sup>th</sup> June, 2020



## Foreword

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As we all know that for starting a business, the first major step is Incorporation of a company and the Ministry of Corporate Affairs, Government of India with a view to meet its objective of Ease of Doing business in India has simplified the process of incorporation of companies over the years since the Companies Act, 2013 has been enacted. Earlier, for incorporating a company, a long drawn process was required to be undertaken alongwith filing of several forms which was made less cumbersome in the year 2015.

To streamline the procedures and making it more simpler and faster, the Government of India has introduced the Form SPICE+ for incorporation of a company where multiple forms have been combined together in one single form along with a co-ordinated effort of three Ministries so as to ease the elongated process of company incorporation. All companies formed under Companies Act, 2013 could apply through SPICE+. The level of reforms envisages that Regulatory best practices are also showing the proximity to the best regulatory performance on Doing Business indicator.

I compliment this excellent “Technical Guide on Incorporation of companies through SPICE+” being released by the Corporate Laws & Corporate Governance Committee to guide the professionals and other stakeholders on step by step procedure of incorporation of various kinds of companies - Public and Private companies, One Person Companies, Section 8 Companies and Producer Companies.

I am confident that this publication on will help our members to embrace procedural aspects of incorporating a company.

CA. Nihar Niranjan Jambusaria  
Vice President, ICAI

Date: 30<sup>th</sup> June, 2020



## Preface

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The Ministry of Corporate Affairs (MCA) has supported the Central Governments' Ease of Doing Business initiatives. The MCA has simplified the process of Incorporation of companies since its enactment in the year, 2013.

Prior to the year 2015, the process of incorporation of companies required to fill up several documents and copy of Memorandum and Articles of Association along with requisite declarations by directors and professionals. This was simplified and fast track procedure for company registration, from 01/05/2015 the MCA introduced Form INC-29 – Integrated Incorporation Form. Form INC-29 merged process of getting Director Identification Number (DIN), Name Approval and Incorporation application into a single process. This considerably reduced time for starting a company.

A shot in arm has been provided from January, 2017, the MCA has taken a significant step ahead in combining multiple forms for incorporation, in one single form. This is an initiative for simplifying company incorporation. This system of SPICe facilitated electronic filing of Memorandum and Article of Association, at the time of incorporation.

The MCA made improvements in the SPICe initiative by rolling out a new further simple application to expedite incorporating a company in India. This new web form is called 'Simplified Proforma for Incorporating Company Electronically Plus' - SPICe+. Multiple services have been provided from three ministries and departments. Spice+ would offer 10 services from 2 Central Government Ministries, a Department from the Ministry of Finance and Maharashtra State Government. The process dispenses many procedures and thus there is saving in time and cost for incorporating a company in India. This is already operative from February 2020.

Following importance accorded to EODB by the MCA, it was decided to afford handy guidance to chartered accountants and other stakeholders for incorporation of company. The Corporate Laws & Corporate Governance Committee by bring out publication "Technical Guide for incorporation of companies through SPICe+". Requisite procedural formalities along with relevant legal inputs have been furnished in this technical guide.

This publication has been designed to appraise complete process for incorporation of the companies. This will guide practicing-chartered accountants, enabling them incorporate company without external consultation. Other readers can also be benefited by the Guide.



We would like to acknowledge support from the President of ICAI, CA. Atul Kumar Gupta and Vice President, CA. Nihar Niranjana Jambusaria for bringing out this publication. Members and Special Invitees of the Corporate Laws & Corporate Governance Committee have checked draft and offered valuable inputs and deserve our appreciation.

We profoundly thank CA. Avinash Rawani, CA. Kusai Goawala, CA. Mehul Shah CA. Priti Savala AND CA. Ruta Chitale, to the Study Group members. They have prepared the initial and subsequent drafts of the Guide. Committee Secretary to the Committee CA. Sarika Singhal and team members Ms Seema Jangid and CA. Deepa Agarwal supported the initiative and have earned appreciation.

It is believed that efforts taken by the Corporate Laws & Corporate Governance Committee will enable the users to in the incorporating company in a seamless manner.

CA. Chandrashekhar Vasant Chitale  
Chairman,  
Corporate Laws & Corporate  
Governance Committee, ICAI

CA. Durgesh Kumar Kabra  
Vice-Chairman,  
Corporate Laws & Corporate  
Governance Committee, ICAI

Date: 25<sup>th</sup> June, 2020

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# Chapter 1

## Introduction

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### Hand Book Philosophy

This is a quick guide for chartered accountants facilitating incorporation of a company. All procedural formalities along with necessary inputs of law are provided. For elaborate understanding, it is advised to read provisions of law. Reference of section/rule is provided for ready reference.

Public limited company is incorporated for running large business undertakings, and producer company is constituted for benefit of farmers. These companies call for deeper understanding of law and for the sake of brevity, procedures for incorporating these categories of companies have been dispensed with. Hence focus is on incorporation of Company.

Client has taken decision to incorporate a C O M P A N Y. He approaches a chartered accountant to do the needed. This booklet will be his Alexa or Siri for reaching the goal post to accomplishing 'company incorporation'.

### Company Incorporation

The Ministry of Corporate Affairs, Government of India with a view to meet its objective of Ease of Doing Business (EODB) in India, has simplified process for incorporation of companies under the Companies Act, 2013.

As a part of PM's initiative of EODB, the Ministry of Corporate Affairs (MCA) has brought in advanced integrated form SPICe+ (eForm-32) which facilitates the users ease in company incorporation. The eForm-32 has other added benefits wherein the DINs gets allotted to those proposed Directors who do not hold DIN and PAN, TAN, PF and ESIC registration can also be obtained along with incorporation as a single procedure. Facility is available for simultaneous allotment of GST number and opening of Bank account.

SPICe+ is an integrated Web form offering 10 services by 3 Central Government Ministries & Departments. (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government (Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India. SPICe+ is part of various

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initiatives and commitment of Government of India towards EODB which has made incorporation of companies very easy and simple.

Using SPICe+ Form, the following types of companies can be incorporated in India:

- Part I Company
- Producer Company (only if 2 agricultural corporations are promoters, if there are minimum 10 promoters as applicable for individuals, then normal incorporation process has to be followed).
- Section 8 Company (was not available in INC-29)
- New Company – Public or Private or OPC

The substantive procedure governing the incorporation of a company is prescribed under Chapter II (section 3 to 22) of the Companies Act, 2013.

Before one go to the formation of company, one need to know about the company and its types.

### **1.1 What is a company**

'Company' is an artificial juridical entity, separate from its members. It has perpetual succession. Under the Companies Act, 2013,"company" means a company incorporated under this Act or under any previous company law.

### **1.2 Types of Company**

There are various types of companies like private, public, One Person Company, Section 8, Company, Small company, Nidhi company, Dormant company, Government company and Producer company etc.

The companies may be classified into various classes on the following basis:

1. On the basis of liability
2. On the basis of members
3. On the basis of Control
4. On the basis of access to capital
5. Other Companies

### 1.3 Formation of a Company

A company may be formed for any lawful purpose by having minimum number of persons as under:

- (a) seven persons to form a public company; - Section 3(1)(a)
- (b) two persons, to form a private company; - Section 3(1)(b) or
- (c) one person, to form a One Person Company (OPC) i.e. a private company, - Section 3(1)(c).

by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration.

A company formed as above may be either—

- (a) a company limited by shares; or
- (b) a company limited by guarantee; or
- (c) an unlimited company.

## Chapter 2

# Highlights of Chapter II-Incorporation of Company and Matters Incidental Thereeto

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Procedure governing the incorporation of a company is prescribed under section 3 to 22 in Chapter II of the Companies Act, 2013.

Highlights of Chapter II are given below:

3-22	<p><b>INCORPORATION OF COMPANY AND MATTERS INCIDENTAL THERETO</b></p> <ul style="list-style-type: none"><li>⌘ One Person Company (OPC) can be formed as private limited company (Section 3). Certain Privileges provided to OPCs:<ul style="list-style-type: none"><li>✓ The financial statement may not include the cash flow statement [Proviso to Section 2(40)] Section</li><li>✓ The annual return to be signed by the company secretary, or where there is no company secretary, by the director of the company.</li><li>✓ No requirement of holding an AGM [Section 96(1)]</li><li>✓ Inapplicability of the provisions of Section 98 and Sections 100 to 111 (both inclusive) [Section 122(1)]</li><li>✓ Minimum number of directors: [Section 149(1)]</li><li>✓ Board Meetings- Minimum 1 in each half of a calendar year and the Gap between the two meetings shall not be less than 90 days. Not applicable where there is only one Director. [Section 173 (5)]</li><li>✓ Quorum for Board Meetings not applicable where there is only 1 director in OPC. (Section 174)</li><li>✓ Date on which any business is transacted and resolution is signed, such date shall be deemed to be the date of the meeting of the Board of Directors for all the purposes under this Act. [Section 122(4)]</li></ul></li></ul>
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Highlights of Chapter II-Incorporation of Company and Matters...

Form of Company	Private Company	Public	One Person Company (to be treated as a private company)
Minimum Number of members	Two	Seven	One
Minimum number of directors	Two	Three	One
Minimum paid up share capital	Minimum criteria to keep Rs 100,000 as Authorised Capital, the requirement of minimum paid-up capital is removed by the Companies Act 2013	Minimum criteria to keep Rs 500,000 as Authorised Capital, the requirement of minimum paid-up capital is removed by the Companies Act 2013	Minimum criteria to keep Rs 100,000 as Authorised Capital, the requirement of minimum paid-up capital is removed by the Companies Act 2013
<p>⚡ If at any time the number of members of a company is reduced, in the case of a public company, below seven, in the case of a private company, below two, and the company carries on business for more than six months while the number of members is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with less than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefore. (Section 3A).</p>			



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	<ul style="list-style-type: none"><li>⌘ The Memorandum of Association shall only state the mandatory objects. The Company cannot provide for other object clause (Section 4).</li><li>⌘ Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of twenty days from the date of approval or such other period as may be prescribed.  In case of application of reservation of name or for change of its name by an existing company, the Registrar may reserve the name for a period of sixty days from the date of approval. [Section 4(5)(i)]</li><li>⌘ After reservation of name for proposed company, if it is found that the name was applied for furnishing wrong or incorrect information then<ol style="list-style-type: none"><li>a) Company not incorporated- Reserved name shall be cancelled then penalty not exceeding INR 100000 shall be levied.</li><li>b) Company incorporated- name to be changed by web service RUN or to make a petition for winding up or Registrar may take action for strike off. [Section 4(4) and 4(5)].</li></ol></li><li>⌘ Articles of Association may contain provisions with respect to entrenchment whereby the specified provisions of the article can be altered only if the more restrictive conditions or procedures as compared to those applicable in case of special resolution have been met with. (Section 5)</li><li>⌘ A declaration, in the prescribed form, required to be filed with the Registrar at the time of registration of a company that all the requirements of the Act in respect of registration and matters precedent or incidental thereto have been complied with, will be required to be signed by both - a person named in the articles as a director, manager or secretary of the company as well as by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of the company. (Section 7)</li></ul>
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## Highlights of Chapter II-Incorporation of Company and Matters...

	<ul style="list-style-type: none"><li>⌘ From the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name. (Section 9)</li><li>⌘ <b>Commencement of Business</b><ul style="list-style-type: none"><li>✓ A company incorporated after the commencement of the Companies (Amendment) Act, 2019 and having a share capital shall not commence any business or exercise any borrowing powers unless—<ul style="list-style-type: none"><li>(a) a declaration is filed by a director within a period of one hundred and eighty days of the date of incorporation of the company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and</li><li>(b) the company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.</li></ul></li><li>✓ If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.</li><li>✓ Where no declaration has been filed with the Registrar under clause (a) of sub-section (1) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to</li></ul></li></ul>
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	<p>believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (2), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII. (Section 10A).</p> <p>⇒ <b>Registered office of company.</b></p> <p>A company shall, within 30 days from its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it. [Section 12(1)]</p> <p>⇒ The company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed. [Section 12(2)]</p> <p>⇒ Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within thirty days of the change, who shall record the same. [Section 12(4)].</p> <p>⇒ If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII. [Section 12(9)]</p> <p>⇒ <b>Alteration of Articles</b></p> <p>Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution, alter its articles including alterations having the effect of conversion of—</p> <p>(a) a private company into a public company; or</p>
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## Highlights of Chapter II-Incorporation of Company and Matters...

	<p>(b) a public company into a private company:</p> <p>Where a company being a private company alters its articles in such a manner that they no longer include the restrictions and limitations which are required to be included in the articles of a private company under this Act, the company shall, as from the date of such alteration, cease to be a private company.</p> <p>Any alteration having the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of the Central Government on an application made in such form and manner as may be prescribed.</p> <p>Any application pending before the Tribunal, as on the date of commencement of the Companies (Amendment) Act, 2019 shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement. (Section 14)</p> <p>⌘ If a company has any raised Money from public through prospectus and if there is any unutilized amount out of the money so raised, it shall not change its objects unless a special resolution is passed and other requirements of advertisement and exit opportunity to dissenting shareholders is complied with. (Section 13)</p> <p>⌘ Authentication of documents, proceedings and contracts</p> <p>Save as otherwise provided in this Act,—</p> <ul style="list-style-type: none"><li>✓ a document or proceeding requiring authentication by a company; or</li><li>✓ contracts made by or on behalf of a company, may be signed by any key managerial personnel or an officer or employee of the company duly authorized by the Board in this behalf. (Section 21)</li></ul>
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## Chapter 3

# Requirements of Memorandum and Articles of Association

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### Requirements of Memorandum of Association, Articles of Association and Requirements in case of Foreign Subscriber

#### 3.1 Requirements of Memorandum of Association (MOA)

The requirements for the memorandum of association for incorporating a company are as under:

- **Name:** The name of the company with the last word "Limited" in the case of a public limited company, or the last words "Private Limited" in the case of a private limited company:

It shall not apply to a company registered under section 8. i.e. company with no profit motive. These companies are incorporated for social and charitable purpose.

In case of One Person Company the name should contain 'OPC':

Availability of name should be checked with MCA and should not be prohibited. It should not infringe upon any trademark or copyrights or similar to any existing Company. Please refer name availability at this [http:// www.mca.gov.in/mcafoportal/ showCheckCompanyName.do](http://www.mca.gov.in/mcafoportal/showCheckCompanyName.do). The guidelines for the desirable names are given at [http://www.mca.gov.in/Ministry/pdf/AmendmentRules\\_08052019.pdf](http://www.mca.gov.in/Ministry/pdf/AmendmentRules_08052019.pdf)

- **Registered Office:** The State in which the registered office of the company is to be situated; and in the jurisdiction of the Registrar in the respective State, if applicable;
- **Objects:** The objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof. It is advisable that the objects should cover specific as well as general areas of legal business activities.

## Requirements of Memorandum and Articles of Association

- **Capital:** The liability of members of the company, whether limited or unlimited, and also state,—
  - ✓ in the case of a company limited by shares, that liability of its members is limited to the amount unpaid, if any, on the shares held by them; and
  - ✓ in the case of a company limited by guarantee, the amount up to which each member undertakes to contribute:-
    - to the assets of the company in the event of its being wound-up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, as the case may be; and
    - to the costs, charges and expenses of winding-up and for adjustment of the rights of the contributories among themselves;
- In the case of a company having a share capital,—
  - ✓ the amount of share capital with which the company is to be registered and the division thereof into shares of a fixed amount and the number of shares which the subscribers to the memorandum agree to subscribe which shall not be less than one share; and
  - ✓ the number of shares each subscriber to the memorandum intends to take, indicated opposite his name;

The requirement of minimum paid up capital is dispensed with. However, a Company limited by shares should disclose some share capital even if it is 2 and 7 shares of Rs.1 each, in case of a private company and public company respectively.

Company functions on a corporate democracy where, each share, generally, one vote and a person or a group having majority in number of shares can assume control over the company.

The Stamp Duty and registration charges depends on the Amount of Share Capital and in case of Incorporation through SPICe+, no registration charges (fees) are payable upto Capital of Rs.15,00,000/-.

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The Stamp Duty is payable on the Nominal Capital as per the Stamp Duty Act of the respective State in which the Company is incorporated.

The Stamp Duty amount is prefilled in the SPICE+ form based on the State selected and has to be paid online.

- **Nominee:** In the case of One Person Company, the name of the person who in the event of death of the subscriber shall become the member of the company.
- The memorandum of a company shall be in respective forms specified in Tables A, B, C, D and E in Schedule I as may be applicable to such company.

Table	Particulars
Table A	Memorandum Of Association of a Company Limited By Shares
Table B	Memorandum Of Association of a Company Limited By Guarantee and Not Having Share Capital
Table C	Memorandum Of Association of a Company Limited By Guarantee and Having Share Capital
Table D	Memorandum Of Association of an Unlimited Company and Not Having Share Capital
Table E	Memorandum Of Association of an Unlimited Company and Having Share Capital

- Any provision in the memorandum or articles, in the case of a company limited by guarantee and not having a share capital, purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member, shall be void. Even in the case of the Companies registered under Section 8 (Not for profit – Charitable Objects), the above will apply.
- Regulations of MOA should not be inconsistent with any provisions of the Companies Act 2013 (the Act). If anything contained in MOA is in contravention of the Act, the provisions of the Act shall prevail.

### **3.2 Requirements of Articles of Association (AOA)**

As per Section 5 of the Companies Act, the requirements of Articles of Association for incorporating a company are as follows:

### Requirements of Memorandum and Articles of Association

- The articles of a company shall contain the regulations for management of the company.
- The articles of a company shall be in respective forms specified in Tables F, G, H, I and J in Schedule I as may be applicable to such company. Depending upon the category of the Company as specified one has to follow the following types of the Table. However, one has a choice to modify the same keeping in mind the provisions of the Companies Act 2013.

Table	Particulars
Table F	Articles Of Association of a Company Limited By Shares
Table G	Articles Of Association of a Company Limited By Guarantee and Having Share Capital
Table H	Articles Of Association of A Company Limited By Guarantee and Not Having Share Capital
Table I	Articles Of Association of an Unlimited Company and Having Share Capital
Table J	Articles Of Association of an Unlimited Company and Not Having Share Capital

- The articles of a company shall contain the regulations for management of the company.
- A company may adopt all or any of the regulations contained in the model articles applicable to such company.
- The articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of a special resolution, are met or complied with.
- The provisions for entrenchment referred above shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.



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- Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner in Form SPICE+.
  - ✓ In case of any company, which is registered after the commencement of this Act, in so far as the registered articles of such company do not exclude or modify the regulations contained in the model articles applicable to such company, those regulations shall, so far as applicable, be the regulations of that company in the same manner and to the extent as if they were contained in the duly registered articles of the company.
  - ✓ A company may adopt all or any of the regulations contained in the model articles applicable to such company.

Regulations of AOA should not be inconsistent with any provisions of the Companies Act. If anything contained in AOA is in contravention of the Act, the provisions of the Act shall prevail. Any specific understanding between the shareholders as per Shareholders Agreement or any Joint Venture Agreement (hereinafter referred to as "Agreement") is required to be incorporated in the Articles, the said Agreement can be a part of AOA to enable it to be enforceable

### **3.3 Foreign Subscriber**

Where subscriber is a foreign national residing outside India-

- In a country in any part of the Commonwealth, his signatures and address on the memorandum and articles of association and proof of identity shall be notarized by a Notary (Public) in that part of the Commonwealth
- In a country which is a party to the Hague Apostille Convention, 1961, his signatures and address on the memorandum and articles and proof of identity shall be notarized before the Notary (Public) of the country of his origin and be duly apostilled in accordance with the said Hague Convention
- In a country outside the Commonwealth and which is not a party to the Hague Apostille Convention, 1961, his signatures and address on the memorandum and articles and proof of identity, shall be notarized before the Notary (Public) of such country and the certificate of the

### Requirements of Memorandum and Articles of Association

Notary (Public) shall be authenticated by a Diplomatic or Consular Officer empowered in this behalf under section 3 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (40 of 1948) or, where there is no such officer by any of the officials mentioned in section 6 of the Commissioners of Oaths Act, 1889 (52 and 53 Vic.C.10), or in any Act amending the same;

- Visited in India and intended to incorporate a company, in such case the incorporation shall be allowed if, he/she is having a valid Business Visa.
- In case of Person is of Indian Origin or Overseas Citizen of India, requirement of business Visa shall not be applicable.
- In case of a Director who is resident outside India, can attend meetings of the through Video Conferencing by complying with the rules stated in Chapter VII. The Companies (Management and Administration) Rules, 2014 or any amendment or enactment for the time being in force.

## Chapter 4

# Incorporation of a Company through SPICe+

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### Procedure for filing SPICe+

According to the amendment in Companies (Incorporation) Rules, 2014, under section 9, “an application for reservation of name shall be made through the web service available at [www.mca.gov.in](http://www.mca.gov.in) by using web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32), and for change of name by using web service RUN (Reserve Unique Name) along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, which may either be approved or rejected, as the case may be, by the Registrar, with effect from the 23<sup>rd</sup> February, 2020.”

An application for registration of a company shall be filed, with the Registrar within whose jurisdiction the registered office of the company is proposed to be situated, in SPICe+ (Simplified Proforma for Incorporating company Electronically Plus: INC-32) along with the fee as provided under the Companies (Registration offices and fees) Rules, 2014.

**FEMA/SEBI compliance:** Where pursuing of any of the objects of a company requires registration or approval from sectoral regulators such as the Reserve Bank of India, the Securities and Exchange Board, registration or approval, as the case may be, from such regulator shall be obtained by the proposed company before pursuing such objects and a declaration in this behalf shall be submitted at the stage of incorporation of the company.

### 4.1 What is Spice Plus?

SPICe+ is an integrated Web form offering 10 services by 3 Central Government Ministries & Departments. (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government (Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India. SPICe+ is part of various initiatives and commitment of Government of India towards Ease of Doing Business (EODB).

## Incorporation of a Company through SPICe+

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SPICe+ Web form is a post-login service and existing registered applicants would need to login into their account using their credentials. New applicants are required to create a login account first before using the service.

### 4.2 Features of Spice Plus

SPICe+ helps to incorporate a company with a single application for the following activities:

#### PART A –

##### (i) Name Reservation (New Companies only)-

- ✓ Name(s) of a company can be reserved in Part A of SPICe+.
- ✓ If SPICe+ is used for name approval, only one choice of name is allowed. Hence, if name is not available the application will be rejected and will have to reapply with fees.
- ✓ In case of doubt on availability of name, one must use Form 1 (RUN) to first obtain Name approval and then proceed for Incorporation using SPICe+ from Part B onwards. Please refer Steps given below for the process.
- ✓ Stakeholders are requested to also check the Trademark search to ensure that the proposed name is not in violation of provisions of Section 4(2) of the Companies Act, 2013, failing which it is liable to be rejected.
- ✓ Applicant has to enter the name he wants to reserve, for incorporation of a new company or for changing the name of an existing company. Applicants are requested to ensure that the proposed name selected does not contain any word which is prohibited under Section 4(2) & (3) of the Companies Act, 2013 read with Rule 8 of the Companies (Incorporation) Rules, 2014.
- ✓ Applicants are also requested to read and understand Rule 8 of the Companies (Incorporation) Rules, 2014 in respect of any proposed name before applying for the same.
- ✓ For Name Search: <http://www.mca.gov.in/mcafoportal/showCheckCompanyName.do>
- ✓ For Trade Mark Search: <http://www.ipindia.nic.in/index.htm>

## Technical Guide for Easy Incorporation of Companies Through SPICE+

- (ii) New fields introduced through SPICE+
- ✓ Type of company (Any type of company)
  - ✓ Class of company
  - ✓ Category of company
  - ✓ Sub-Category of company
  - ✓ Main division of industrial activity of the company
  - ✓ Description of the main division.

### **PART B –**

- (i) Part B of SPICE+ offers following services viz.
- ✓ Incorporation
  - ✓ DIN allotment (Application for DIN (In this format, even if the Directors do not have DIN, this format can be used and the DIN can be obtained simultaneously))
  - ✓ Mandatory issue of PAN
  - ✓ Mandatory issue of TAN
  - ✓ Mandatory issue of EPFO registration
  - ✓ Mandatory issue of ESIC registration
  - ✓ Mandatory issue of Profession Tax registration(Maharashtra)
  - ✓ Mandatory Opening of Bank Account for the Company and
  - ✓ Allotment of GSTIN (if so applied for).

Applicants may either choose to submit Part-A for reserving a name first and thereafter submit Part B for incorporation & other services or file Part A and B together at one go for incorporating a new company and availing the bouquet of services as above.

### **(ii) Mandatory use of eMoA (INC-33) and eAoA (INC-34)**

It is mandatory to use eMoA (INC-33) and eAoA (INC-34) in case the number of subscribers are up to 7 and in the following scenarios:

- individual subscribers are Indian nationals

## Incorporation of a Company through SPICe+

- individual subscribers who are foreign nationals in case they valid DIN and DSC and also submit a proof of a valid business visa
- non-individual subscribers based in India.

Physical copies of MoA/AoA is required to be signed and attached in case non-individual first subscribers are based outside India or individual foreign subscribers do not possess a valid business visa or any other scenario as mentioned in FAQ Q.28 in detail.

**(iii) Specific scenarios in which the pdf attachments or electronic versions of MoA/AoA can be used with SPICe+**

The table below clarifies the specific scenarios in which the pdf attachments or electronic versions of MoA/AoA can be used with SPICe+ (INC-32):

S. No.	Scenario	Forms Filed
1.	Non-Individual first subscriber based outside India	SPICe+ (INC-32) with apostillised MOA and AOA as attachments
2.	Non-Individual first subscriber based in India	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
3.	Indian National being Subscriber other than director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
4.	Indian National being Subscriber-cum-Director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
5.	Foreign National being Subscriber other than director having valid DIN	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34) alongwith Valid Business Visa to be submitted.  In case Business Visa is not available, apostillised MOA and AOA shall be attached and in such cases, eMOA (INC33) and eAOA (INC-34) are NOT acceptable.
6.	Foreign National being Subscriber-cum-Director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)

## Technical Guide for Easy Incorporation of Companies Through SPICe+

	having valid DIN	alongwith valid Business Visa to be submitted. In case Business Visa is not available, apostillised MOA and AOA shall be attached and in such cases, eMOA (INC33) and eAOA (INC-34) are NOT acceptable.
7.	Foreign National being Subscriber-cum-Director not having valid DIN	SPICe+ (INC-32) with apostillised MOA and apostillised AOA as attachments.

In all the above mentioned cases, the maximum number of subscribers allowed shall be 7 for filing of SPICe+ form. Wherever the number of subscribers exceed 7, SPICe+ form shall be filed with MoA and AoA as attachments.

Stakeholders may kindly note that in case SPICe (INC-32) has been filed with linked filing of eMOA (INC33) and eAOA (INC-34) without attaching business visa as required under Rule 13 (5) (d) of the Companies (Incorporation) Rules, 2014, the form is liable to be rejected (Marked as Invalid and Not to be taken on record) without putting for resubmission.

### 4.3 Procedure for filing of SPICe+

Steps to be followed for incorporation of company are given below:

S. No	Steps to be followed for incorporation of company
1.	If login id not available on MCA Portal - Create the same
2.	Login to MCA Portal
3.	For Name approval – There are two options
3a.	If one is not sure of name availability and requires choices Apply for Name approval in Form RUN ((Reserve Unique Names)
3b.	In case, the applicant is confident of the name availability, he/she can directly go to SPICe+ as it is an Omnibus One Window application. In case, the applicant has opted for name approval under 3a above, the applicant will continue with the process of incorporation from Part – B of SPICe+ from.

### Incorporation of a Company through SPICe+

	In case Part A and B are separately filed, two options will be available for Name availability in Part A. However, if Part A and B are filed together only one name is required to be proposed.
4.	Click on MCA Service-> SPICe+
5.	SPICe+ has two parts: <b>PART A &amp; PART B</b>
	<b>SPICe+ PART A</b>
6.	Click on New Application: SPICe+ Part A gets enabled for Name Reservation
7.	Applicant may choose to submit PART A first & thereafter submit Part B OR file PART A & PART B together at one go.
8.	Once Part A is complete, applicant can click on : <ul style="list-style-type: none"> <li>- Submit for Name Reservation; or</li> <li>- Proceed for Incorporation; or</li> <li>- Cancel</li> </ul>
	<b>SPICe+ PART B</b>
9.	<ul style="list-style-type: none"> <li>- Incorporation</li> <li>- DIN allotment (Application for DIN (In this format, even if the Directors do not have DIN, this format can be used and the DIN can be obtained simultaneously))</li> <li>- Mandatory issue of PAN</li> <li>- Mandatory issue of TAN</li> <li>- Mandatory issue of EPFO registration</li> <li>- Mandatory issue of ESIC registration</li> <li>- Mandatory issue of Profession Tax registration(Maharashtra)</li> <li>- Mandatory Opening of Bank Account for the Company and</li> <li>- Allotment of GSTIN (if so applied for)</li> </ul>
10.	In case the Company is not covered under ESIC, EPFO registration, it can apply to the respective departments for cancellation explaining the reasons for the same.
11.	Enter the basic details related to the Proposed Company Incorporation such as: <ul style="list-style-type: none"> <li>- Company's Registered or Correspondence Address</li> <li>- Details of Subscribers and Directors</li> </ul>



## Technical Guide for Easy Incorporation of Companies Through SPICe+

	<ul style="list-style-type: none"><li>- Capital Structure of the Company</li><li>- Information for Application of PAN and TAN.</li></ul>
12.	Upload all the mandatory and optional attachments in the web form
13.	Click on Check boxes to confirm all the declarations and click on pre-scrutiny button.
14.	Once pre-scrutiny gets successful, click on Submit button.
15.	On Successful submission applicant will get the Confirmation message
16.	Download the pdf of SPICe+ Part B for affixing the DSC.
17.	File AGILE-Pro Web Forms as these forms are mandatory to submit at the time of Incorporation of company
18.	INC-9 PDF Generation (generated/auto populated based on the information filled in Part B SPICe+, applicant can download and affix the DSC for uploading)
19.	<b>Steps To Upload SPICe+</b> <ul style="list-style-type: none"><li>- After Affixing DSC in SPICe+ Part B and all the linked forms as applicable, applicant can click on upload e-form option and upload SPICe+ Part B along with all the linked forms.</li><li>- On Successful uploading, SRN (Service Request Number) is generated for applicant to make payment</li><li>- On Successful Payment SRN status will be displayed as Processing.</li></ul>

### 4.4 Detailed explanation of steps to be taken for Incorporation

Detailed explanation of each of the above steps is explained below with the help of actual forms and guidance on filling up the same.

#### 4.4.1 STEP 1 - SPICe+ Login

- (a) Login to MCA portal.
- (b) Click on MCA services ->SPICe+

## Incorporation of a Company through SPICe+

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### 4.4.2 STEP 2 - SPICe+ Dashboard

- (a) Click on new application in case fresh application needs to be submitted.
- (b) On click of existing application, applicant can view application numbers along with proposed/approved name.

### 4.4.3 STEP 3 - SPICe+ Part A

- (a) On click of new application, SPICe+ Part A gets enabled which contains fields relating to name reservation.
- (b) Applicant fills the details of Type, class, category, sub-category and proposed name of the company and click on auto check button.
- (c) Auto check performs first level automatic scrutiny of the proposed name against the name rules.
- (d) Once Part A is complete, applicant can click on
  - Submit for Name Reservation [or]
  - Proceed for Incorporation [or]
  - Cancel
- (e) If opted for 'Proceed for incorporation, Part B of the web form gets enabled which will have different sections.

#### I. Part A :

S. No	Name	Particular	Comments
1.	A	Type of Company	Sec. 8 Company/Producer Company/Nidhi Company/New Company (others)/ Part 1 Sec. 8 Company/ Part 1 LLP to Company/Part 1 Firm to Company/Part 1 Others.
		LLPIN	Enter only when an existing LLP wishes to convert itself into a company
	B	Class of Company	Public/Private/One Person Company

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	C	Category of Company	Company limited by shares/ Company limited by guarantee/ Unlimited company
	D	Sub-category of Company	Union government company/ State government company/ Non-government company/ Subsidiary of foreign company/ Guarantee and association company
2.		Main division of industrial activity of the company	Enter the main division code for the industrial activity.
		Description of the main division	
3.		Particulars of the proposed or approved name	Applicant has two options to propose TWO names only in case where Part A is separately filed.  If Part A and B are filed together only one name is to be proposed.

Enter basic details of issuance of Permanent Account Number (PAN) and Tax Deduction Account Number (TAN).

**II. Part B:**

S. No	Name	Particular	Comments				
4.	-	Whether Articles of Association is entrenched Yes/No	Select whether the article(s) is/are entrenched compared to the standard template of Articles of Association notified under Schedule I to the Companies Act, 2013				
	:	Number of Articles to which provisions of entrenchment shall be applicable	Also specify their number along with details of entrenchment				
		Details of such articles	<table border="1"> <thead> <tr> <th>Sr. No.</th> <th>Sub-category of Company</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> </tbody> </table>	Sr. No.	Sub-category of Company		
Sr. No.	Sub-category of Company						

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			Article Number	Short description on entrenchment of the clause
5.		*Company is	Having share capital / Not Having share capital	
6.		*Capital structure of the company	In case of a company having share capital, enter the details of capital structure of the company	
		Total authorized share capital (in Rs.)		
		Authorised Share Capital	Equity	Preference
		Number of shares		
		Nominal amount per share (in Rs.)		
		Total amount (in Rs)		
		Total subscribed share capital (in Rs.)		
		Subscribed Share Capital	Equity	Preference
		Number of shares		
		Nominal amount per share (in Rs.)		
		Total amount (in Rs)		
		*Details of number of members	Enter the details of number of members in case of a company is not having share capital.	
	a.	Enter the maximum	Maximum number of members	

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		number of members	excluding proposed employee(s) should not be greater than 200 in case of a private company.
	b.	Maximum number of members excluding proposed employees	As above
	c.	Number of members	Minimum No. of members excluding proposed employee(s) should be greater than or equal to two in case of Private company and seven in case of public company
	d.	Number of members excluding proposed employee(s)	As above
7.	a.	*Correspondence address	*Line I, *City, *State /Union Territory, *Pin code, *ISO Country code, *Phone (With STD/ISD code), *email id
	b.	*Whether the address for correspondence is the address of registered office of the company Yes/No	If Correspondence address and Registered Office is same state "Yes"
	c.	*Name of the office of the Registrar of Companies in which the proposed company is to be registered	It is auto populated based on Registered Office located in state. However, if more than one ROC is state, then to select appropriate ROC.

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8.	a.	*Number of first subscriber(s) to MOA and directors of the company	<p>Each category of subscribers (except non-individual subscribers) and directors are divided into two types, one is having DIN and another one is not having DIN.</p> <p>Total number of first subscribers (non-individual plus individual) should be:</p> <ul style="list-style-type: none"> <li>- Equal to or greater than two in case of proposed private company or Seven in case of public company or One in case of OPC, and</li> <li>- Equal to or less than two hundred in case of private company, and</li> <li>- Equal to the 'Number of members excluding proposed employee(s)' as entered in field 3(ii)(d) in case company is not having share capital.</li> <li>- Total number of first subscribers are restricted to seven considering possibility of affixing maximum DSCs in form eMOA &amp; eAOA</li> </ul>	
			Having valid DIN	Not having valid DIN
		*Number of first subscriber(s) to MOA and directors of the company		
		Total number of first subscribers (non-individual + individual)		
		Number of non-individual first subscriber(s)		

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		Number of individual first subscriber(s) cum director(s)	
		Total number of directors (director(s) who is/are not subscriber(s) + subscriber(s) cum director(s) as mentioned in above Row no. 3)	<ul style="list-style-type: none"> <li>• Total number of directors (including both 'having' and 'not having' DIN) cannot be more than 20 in number.</li> <li>• Total number of directors (including both 'having' and 'not having' DIN) should be minimum 1 in case of OPC, 2 in case of private company (other than producer company) or 3 in case of public company or 5 in case of a producer private company.</li> <li>• Also Not having DIN Directors not having DIN cannot be more than 3 in number (refer ebook-MCA).</li> </ul>
	b.	*Particulars of non-individual first subscriber(s)	
		*Category	Select Company/ Foreign company/ Company incorporated outside India/ Body Corporate/ Others
		*CIN / FCRN or any other registration number	Enter CIN and Click the Pre-Fill button
		*Name of the body corporate	Will be auto populated
		Registered office address or Principal place of business in India or Principal place of business outside India	Will be auto populated

**Incorporation of a Company through SPICe+**

		Particulars of the authorised person	<ul style="list-style-type: none"> <li>* Name,</li> <li>* Father Name,</li> <li>* Gender,</li> <li>* Date of Birth,</li> <li>* Nationality,</li> <li><input type="checkbox"/> PAN</li> <li><input type="checkbox"/> Passport number,</li> <li>Aadhaar number,</li> <li>* Place of Birth (District &amp; State),</li> <li>* Occupation type,</li> <li>* Area of Occupation,</li> <li>* Educational qualification,</li> <li>* Present Address</li> </ul>
		Details of Shares subscribed	<ul style="list-style-type: none"> <li>• Kind of shares subscribed,</li> <li>• Number of subscribed shares,</li> <li>• Amount of shares subscribed</li> </ul>
	c.	*Particulars of individual first subscriber(s) (other than subscriber cum director)	
		*Director Identification number (DIN)	Enter DIN and Click the Pre-Fill button
		Details of Individual First Subscribers other than Director	<ul style="list-style-type: none"> <li>* Name,</li> <li>* Father Name,</li> <li>* Gender,</li> <li>* Date of Birth,</li> <li>* Nationality,</li> <li>* Place of Birth,</li> <li>* Occupation type: Self Employed/ Professional/ Homemaker/ Student/ Serviceman,</li> <li>* Area of Occupation,</li> </ul>



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			<ul style="list-style-type: none"> <li>* Educational Qualification,</li> <li>□ PAN</li> <li>□ Passport number :</li> <li>Verify details,</li> <li>Aadhaar number,</li> <li>* email ID,</li> <li>Permanent Address,</li> <li>Present address,</li> <li>* Proof of identity,</li> <li>* Residential Proof</li> </ul>
		Details of Shares subscribed	<ul style="list-style-type: none"> <li>• Kind of shares subscribed,</li> <li>• Number of subscribed shares,</li> <li>• Amount of shares subscribed</li> </ul>
	d.	Details of Individual First Subscribers cum Director	
		*Director Identification number (DIN)	Enter DIN and click the Pre-Fill button
		Details of Individual First Subscribers cum Director	<ul style="list-style-type: none"> <li>* Name,</li> <li>* Gender,</li> <li>* Date of Birth,</li> <li>* Nationality,</li> <li>* Designation,</li> <li>* Category: Promoter/ Professional/ Independent/ Nominee, Whether Chairman/Executive director/Non-executive director,</li> <li>* Name of the company or institution whose nominee the appointee is,</li> <li>* email ID,</li> <li>* Proof of identity,</li> <li>* Residential Proof</li> </ul>

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		Details of Shares subscribed	<ul style="list-style-type: none"> <li>• Kind of shares subscribed,</li> <li>• Number of subscribed shares,</li> <li>• Amount of shares subscribed</li> </ul>
		Number of entities in which director have interest (Need not to mention if such entity is having CIN/FCRN/LLPIN)	<ul style="list-style-type: none"> <li>* Registration number,</li> <li>* Name,</li> <li>* Address,</li> <li>Nature of interest,</li> <li>* Designation, Percentage of Shareholding, Amount</li> </ul>
	e.	*Particulars of directors (other than first subscribers)	
		*Director Identification number (DIN)	Enter DIN and click the Pre-Fill button
		Details of Directors other than first subscribers	<ul style="list-style-type: none"> <li>* Name,</li> <li>* Gender,</li> <li>* Date of Birth,</li> <li>* Nationality,</li> <li>* Designation,</li> <li>* Category: Promoter/ Professional/ Independent/ Nominee, Whether Chairman/Executive director/Non-executive director,</li> <li>* Name of the company or institution whose nominee the appointee is,</li> <li>* email ID,</li> <li>* Proof of identity,</li> <li>* Residential Proof</li> </ul>
		Number of entities in which director have interest (Need not to mention if such entity is having	<ul style="list-style-type: none"> <li>* Registration number,</li> <li>* Name,</li> <li>* Address,</li> <li>Nature of interest,</li> <li>* Designation,</li> </ul>

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		CIN/FCRN/LLPIN)	Percentage of Shareholding, Amount
9.		OPC Nomination	
	a	*Nomination	<ul style="list-style-type: none"> <li>• Enter the name of subscriber and nominee in case company is One person company.</li> <li>• Proposed nominee should not be a nominee in any other One person company.</li> </ul>
	b	*Particulars of the Nominee	<ul style="list-style-type: none"> <li>* DIN,</li> <li>* Name,</li> <li>* Fathers Name,</li> <li>* Gender,</li> <li>* Date of Birth,</li> <li>* Nationality,</li> <li>* PAN, Aadhaar number,</li> <li>* Place of Birth (District &amp; State),</li> <li>* Occupation type,</li> <li>* Area of Occupation,</li> <li>* Educational qualification,</li> <li>* Permanent Address,</li> <li>* Proof of identity,</li> <li>* Residential Proof</li> </ul>
10.		Stamp Duty	
		Particulars of payment of stamp duty	The State or Union territory will be pre-filled based on the address of the proposed company.
11.		PAN/ TAN Information	
		*Additional Information for applying Permanent Account Number (PAN) and Tax	<p>Details should be entered to apply for PAN and TAN.</p> <p>Please refer below mentioned link for the list of Area Code,</p>

### Incorporation of a Company through SPICe+

		Deduction Account Number (TAN)	AO Type, Range Code & AO No <a href="https://www.tin-nsdl.com/services/pan/pan-aocode.html">https://www.tin-nsdl.com/services/pan/pan-aocode.html</a> <a href="https://www.tin-nsdl.com/services/tan/tan-aocode.html">https://www.tin-nsdl.com/services/tan/tan-aocode.html</a>
		Source of Income	If you want to apply for PAN or TAN via e-biz service through this eform, select the source of income of the proposed company. Select from drop-down i.e. <ul style="list-style-type: none"> <li>• Income from Business/profession,</li> <li>• Capital Gains,</li> <li>• Income from house property,</li> <li>• Income from other source,</li> <li>• No Income</li> </ul>
		Business/Profession code	If the source of income of the proposed company is Income from business/profession, enter the Business/ Profession Code.
		Attachments	<u>As per attachments mentioned below</u>
		Declaration	Refer Declaration formats
		*To be digitally signed by director	
		Declaration and Certification by Professional	<u>Refer checklist for Certification and UDIN</u>

#### 4.4.4 STEP 4 - SPICe+ Part B

- (a) Each section of Part B contains 'Save and continue' button.
- (b) Check form validations will happen on each of the section.
- (c) Enter the basic details related to the company to be incorporated viz.

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- Registered or Correspondence Address
  - Subscribers and directors details
    - ✓ Particulars of First Subscribers
    - ✓ Particulars of Non Individual First Subscribers with Category and details
    - ✓ Directors having DIN and not having DIN to be mentioned
  - Details related to capital etc.
    - ✓ Authorised Capital – Different types as may be applicable
    - ✓ Subscribed Capital – Different types as may be applicable
  - In case the Company does not have Share Capital
    - ✓ Details of Maximum number of members and minimum number of members to be given
- (d) Upload mandatory attachments in web form.
- Memorandum of Association - eMOA
  - Articles of Association – eAOA
  - Declaration by first subscribers and Directors
  - Proof of office address
  - Copy of utility bills as permitted by MCA.
  - Copy of the certificate of incorporation and resolution passed by the company
  - Resolution passed by Promoter Company
  - Proof of identity and residential address of subscribers, nominee and applicants
  - Resolution of unregistered companies in case of chapter XXI (Part 1) companies
  - Where the subscriber to the memorandum is a body corporate, the memorandum and articles of association shall be signed by director, officer or employee of the body corporate duly authorized in this behalf by a resolution of the board of directors and where the subscriber is a, LLP, it shall be signed by a

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partner of the LLP duly authorized by a resolution approved by all the partners of the LLP:

- a declaration in the prescribed form by a chartered accountant (or an advocate, cost accountant or company secretary) in practice, who is engaged in the formation of the company, and by a person named in the articles as a director, manager or secretary of the company, that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with; Please refer in the subsequent paras regarding checklist for certification by a Professional.
  - a declaration from each of the subscribers to the memorandum and from all the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;
  - the address for correspondence till its registered office is established; name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed; the particulars of the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed; and the particulars of the interests of the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed.
- (e) Confirm on the relevant declarations and click on pre-scrutiny.

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- (f) Once pre-scrutiny is successful, click on submit button.
- (g) If any person furnishes any false or incorrect particulars of any information or suppresses any material information, of which he is aware in any of the documents filed with the Registrar in relation to the registration of a company, he shall be liable for action under section 447 and also the promoters, the persons named as the first directors of the company and the persons making declaration shall be similarly liable for action.
- (h) a declaration in the prescribed form by a chartered accountant (or an advocate, cost accountant or company secretary) in practice, who is engaged in the formation of the company, and by a person named in the articles as a director, manager or secretary of the company, that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with;

### 4.4.5 Checklist for Certification of INC 32

S. No	Particulars
1.	Professional should have knowledge of the sections 4, 7, 8(1), 12, 152 and 153 of the Companies Act, 2013 relating to incorporation of company read with rules made thereunder.
2.	Professional should check whether the company has entered valid details in Form INC 32. Also check the limits of Subscribers/members/directors.
3.	Should verify all the documents attached whether all documents are as per requirements, complete and legible. Should also authenticate documents being attached.
4.	Personally visited the premises of the proposed registered office given in the form at the address mentioned.
5.	Should check the Draft MOA & AOA with have been drawn up in conformity of provisions of sections 4 and 5 and rules made thereunder

#### 4.5 Reports and certificates for Special Purposes

- Compliances of Guidance Note on Audit Reports and Certificate for Special Purposes
- Professional engaged for the formation of company or any related assignments taken thereafter needs to ensure that the requirements stated in the Guidance Note on Reports or Certificates for Special Purposes (Revised 2016), issued by the Auditing and Assurance Standard Board is being followed.
- As per the said Guidance Note, the professional engaged for such work needs to obtain the requisite appointment letter stating the terms and conditions as well as the purpose of engagement is clearly mentioned. It is also recommended that the written representations be taken before certification of any forms and also that if there are any changes subsequently, either by the appointee or by the professional, such change of opinions are properly documented, to ensure that the work is done smoothly and the understanding between the appointee and the professional is fully documented. The evidences on the basis of which the work is done will help the professional in future for the Peer Review, if the firm is covered or for any other queries in future raised by any Authorities as any certification done by the Professional is covered under Section 447 and Section 448 of the Companies Act, 2013, which too will help in safeguarding the interest of the professional.
- For the benefit of the professional, the Illustrative formats of the certificates are available in Appendix II of the said Guidance Note which can to be suitably modified as required. The said Guidance Note can be freely downloaded from the following link <https://resource.cdn.icai.org/43452aasb-gn-rcsp.pdf>

#### 4.6 Unique Document Identification Number (UDIN)

- Generation of UDIN for the certifications of forms filed.
- UDIN a 18 digit system generated unique number for every document certified/attested by Practising Chartered Accountant has been made mandatory for certificates issued on the basis of records being maintained under Companies Act, 2013 and applicable provisions under the said Act with effect from 1<sup>st</sup> February, 2019. The said UDIN



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so generated is required to be mentioned on each such form certified by the Practising Chartered Accountant to ensure that the said form is not attested by third person misrepresenting themselves as CA Members;

- Digital Signature is being used for certification of any forms filed online on the portal of MCA. Digital signature is duly recognized under Section 5 of the Information Technology Act, 2000 and has the same effect as affixing the physical signature, if done in the prescribed manner. There is no place to mention the UDIN in the Forms digitally signed and uploaded on the portal of MCA, but UDIN needs to be mandatorily generated within 15 days from the date of digitally signing the form and kept on record. For necessary clarifications etc. the details are available on the website of UDIN and the link to download is <https://udin.icai.org/faqs>
  - (i) Once web form is submitted successfully, applicant will get a confirmation message.
  - (j) Applicant can then download SPICe+ Part B PDF from the Dashboard for affixing DSCs. Also, all the relevant linked forms get enabled and available for the applicant to fill and submit based on the fields/parameters entered by the applicant in Part B.

### **4.7 Linked forms with SPICe +**

#### **4.7.1 AGILE- PRO – Web form layout**

This is an Omnibus Form to apply for other registration under One Window System

AGILE-PRO needs to be filed as linked e-Form with SPICe+ for:

- Registration with GSTN
- Registration with ESIC
- Registration with EPFO
- Professional tax registration number
- Bank account number

## Incorporation of a Company through SPICe+

FORM NO. INC-35- AGILE-PRO – WEB FORM (Application for Goods and services tax Identification number, employees state Insurance corporation registration pLus Employees provident fund organization registration, Profession tax Registration and Opening of bank account)

This AGILE-PRO form is part of SPICe+ form for GSTIN / EPFO / ESIC/ Profession Tax/ Bank Account)

S. No	Particulars	Comments
1.	*Name of the company	Name shall be pre-filled based on data entered in SPICe+ Part A
2.	* Do you want to apply for GSTIN Yes/No	Applying for GSTIN at the time of incorporation is not mandatory. Other applications are mandatory
3.	* State (Same as entered in SPICe+)	State shall be pre-filled based on address entered in SPICe+ Part B
4.	* State Jurisdiction	In case application is being made for issuance of GSTIN, select the value from the dropdown - Sector / Circle / Ward /Charge / Unit In case you do not know state jurisdiction, please refer your state website to know your Sector / Circle / Ward /Charge / Unit.
	* Sector / Circle / Ward /Charge / Unit	
5.	* Center Jurisdiction	In case application is being made for issuance of GSTIN, select the appropriate value from the drop-down list of Commissionerate Code, Division Code and Range Code. Please refer to <a href="https://www.aces.gov.in/STASE/ui/jsp/common/statelocation.do">https://www.aces.gov.in/STASE/ui/jsp/common/statelocation.do</a>
	* Commission-erate	
	* Division	
	* Code	
6.	* Reason to Obtain Registration	Voluntary
7.	*Whether The Establishment On Lease O Yes O	Select 'Yes' in case Establishment is on lease or else 'No'.

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	No	
	* Leased From Date To Date	
	(a) Nature of possession of premises	In case application is being made for issuance of GSTIN, select the nature of possession of premise. Owned/ Leased/ Rented/ Consent/ Shared/ Other
	(b) Proof of Principal Place of Business	In case application is being made for issuance of GSTIN, select the proof of principal place of business. Property Tax Receipt/ Municipal Katha Copy/ Electricity Bill/ Rent or Lease Agreement/ Consent Letter/ Rent Receipt with NOC/ Legal Ownership Document
	(c) Whether the building/premises of Establishment is owned or hired.	Select whether the building/premises of Establishment is Hired/ Rented or Owned or Leased.
	* If hired or there is a change in the name of Unit/ownership, please indicate	
	* Leased From Date To Date	
8.	* Option for Composition O Yes O No	In case application is being made for issuance of GSTIN, select whether opted for composition.
	a) Composition Declaration	In case application is being made for issuance of GSTIN and opted for composition, the declaration shall be auto-selected.
	b) Category of	In case application is being made for

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	Registered Person	issuance of GSTIN and opted for composition, select the category of the registered person.
9.	* Nature of Business Activity being carried out at above mentioned Premises (Please tick applicable)	In case application is being made for issuance of GSTIN, atleast one nature of business activity should be selected.
A.	* Primary Business Activity *If Others selected, please specify	One primary business activity shall be selected in all cases.
B.	* Exact nature of work / business	Select nature of work/business from the available drop down in all cases.
	* Work Sub-category	Select the work Sub-category.
	* Nature of work business	Enter the nature of work business.
10.	*Details of the Goods supplied by the Business	In case application is being made for issuance of GSTIN, applicant may enter a valid 4 digit HSN code.
	HSN Code (Four digit)	For HSN code: kindly refer HSN Code as provided on CBIC website ( <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> ) and enter the HSN Code and click on prefill button.
	Description of Goods	Description shall be auto populated based on HSN entered
11.	*Details of Services supplied by the Business.	In case application is being made for issuance of GSTIN, applicant may enter a valid 4 digit SAC code.
	Service Accounting Code	For SAC code: kindly refer SAC Code as provided on CBIC website ( <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> )

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	Description of Services	and enter the SAC Code and click on prefill button. Description shall be auto populated based on SAC entered
12.	Directors / Primary Owners / Office Bearer/ Authorised Signatory for Banks and Profession Tax Details	Details of the Proposed Director / Primary Owner who will act as the Authorised signatory for the purpose of applying GSTIN / EPFO/ ESIC/ Profession Tax and Opening of Bank Account shall be entered here.
	Number of Director details to be entered	Minimum number of directors to be entered for OPC shall be 1, 2 in case of private company, 3 in case of public limited company and 5 in case of Producer Company. Note that the details of such proposed director entered here should match the details as entered in the SPICe+ for the same person.
12A	*Enter Director details who is also an Authorised Signatory / Primary Owner / Office Bearer	Note that the Director / Primary Owners cum Authorised signatory must have valid PAN and he must be Citizen & Resident of India.
	Directors Identification Number (DIN)/Permanent Account Number (PAN)	Either DIN / PAN should be entered. In case DIN is entered, click on Prefill button. PAN and applicant's full name will be prefilled based on / Primary Owners the information available in the MCA records.
	*DIN (Pre-fill)	In case PAN is entered, all details must be entered by the applicant. Enter valid Indian mobile number and email Id and click on "Send OTP" button.
	*PAN	

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	*First Name	<p>Enter the OTP sent on mobile number and email id as entered above and click on Verify button.</p> <p><b>Attach Photo of proposed director cum authorised signatory.</b></p> <p>- Size of photo shall not exceed 100KB. - Only .JPG format is allowed.</p>
	Middle Name	
	*Last Name	
	*Personal Mobile Number (Send OTP)	
	*Personal Email Id	
	*Enter OTP for Mobile Number (Verify OTP)	
	*Enter OTP for Email Id (Verify OTP)	
12 (B)	*Director Details other than Authorised Signatory / Primary Owner / Office Bearer	<p>Note that the details of such proposed director entered here should match the details as entered in the SPICe+ for the same person.</p> <p><b>Attach Photo of proposed director other than authorised signatory.</b></p> <p>- Size of photo shall not exceed 100KB. - Only .JPG format is allowed.</p>
13.	* Police Station	Area of Police station where the registered office is situated.
14.	* Employer's Particulars	<p>To apply for Employer Code as issued by Employees State Insurance Corporation (ESIC) through this e-form enter the registered address, Branch Office &amp; Inspection office of the company or company to be registered.</p>
	* Select Appropriate Branch Office	
	* Select Inspection Office	

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15.	*Bank Particulars * Select Bank Name	Select the bank name in which account should be opened.
		GST declaration shall be enabled only if application is being made for issuance of GSTIN. Profession Tax declaration shall be enabled only in case the company is proposed to be situated in the state of Maharashtra. ESIC/EPFO and Bank declarations shall be enabled in all cases.
16.	*To be digitally signed by director (who has signed the SPICe+ form)	Ensure that the form is digitally signed by the Proposed Director / Primary Owner who has signed the SPICe+ form. Both SPICe+ form and AGILE-PRO form shall be signed by same director who is also the authorised signatory. The Form should be digitally signed by Authorised Signatory who is citizen and resident of India and have PAN

### 4.7.2 eMOA / eAOA – Web form layout

- Electronic Memorandum of Association (eMoA) which is a Charter of the company can be filed as a linked form to SPICe+.
- Electronic Articles of Association (eAoA) which provide all the regulations related to internal affairs of the company can be filed as a linked form to SPICe+.

### 4.7.3 Uploading of SPICe+ e-form

- After affixing DSCs in SPICe+ Part B PDF and all other linked forms, applicant needs to click on upload forms option. Promoter Directors will require DSC. MCA has facility for issuing DSC.
- Upload SPICe+ Part B PDF and all the relevant linked forms.
- On successful upload of forms, Unique service request number(SRN) gets generated and displayed to the applicant.

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- System prompts applicant to make payment.
- After successful payment, Work item/SRN gets routed to Back Office applicant for processing.

The above process will complete the incorporation of a Company.

### 4.8 Care to be taken

Care to be taken and issues involved while incorporating the new Company (Key features)

S. No	Particulars
1.	If applicant has opted the option to file PART A & PART B together at one go, applicant has to give only ONE proposed or approved name. The approved name is valid for a period of 20 days
2.	Changes/modifications to SPICe+ (even after generating pdf and affixing DSCs), can also be done by editing the same web form application which has been saved, only till FIVE attempts, after that whole process to be restarted.
3.	Declaration by all Subscribers and first Directors in INC-9 shall be auto-generated in pdf format and would have to be submitted only in Electronic form in all cases, except where:
	(i) Total number of subscribers and/or directors is greater than 20 and/or
	(ii) Any such subscribers and/or directors have neither DIN nor PAN.
4.	Registration for EPFO, ESIC and Professional Tax (For state of Maharashtra) is mandatory for all new companies incorporated through SPICe+
5.	All new companies incorporated through SPICe+ would also be mandatorily required to apply for opening the company's Bank account through the AGILE-PRO linked web form.
6.	In Opening of Bank Account, applicant has to select only Bank Name & branch will be allocated by bank itself. Also the applicant can open new bank account after incorporation & close this bank account.



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7.	All Check form and Pre-scrutiny validations (except DSC validation) will happen on the web form itself.
8.	All the documents need to be self-attested by the applicant.
9.	All documents annexed should be clear and legible.
10.	Registration for Profession Tax shall be mandatory through SPICe+ only in respect of new companies incorporated in the State of Maharashtra
11.	Subscribers' photo is not required in SPICe+ forms
12.	Resubmissions for SPICe+ forms are permitted for two times
13.	The maximum upload size of SPICe+ forms is 6 MB for each of the PDF form.
14.	<p>In case of technical problems i.e., form upload, pre-scrutiny errors, DSC related, payment related queries, please raise a ticket on <a href="http://www.mca.gov.in/myservices">www.mca.gov.in/myservices</a> and await a resolution.</p> <p>If ticket is not resolved, One may also call up Corporate Seva Kendra at 0120-4832500 after 48 hours .</p> <p>In case of resubmission / rejection remarks, please contact 0120-4832500 and select option 1 for CRC. For escalation mail can be sent to <a href="mailto:crc.escalation@mca.gov.in">crc.escalation@mca.gov.in</a></p>
15.	For name reservation, Rs 1000/- fees is payable for each name separately It is recommended that the Reservation of Name is done before proceeding for incorporation as it will save time and effort of doing the entire submission process again in case the preferred name is not available for registration at the time of submission of the Form. It also gives you the option to give two names for registration and after due verification done by the designated Authority, the preferred name is made available for registration.
16.	A consolidated challan gets generated at the time of filing SPICe+(INC-32) which shall contain applicable fee towards(i) Form Fee (ii) MoA (iii) AoA (iv) PAN (v) TAN.
17.	Companies getting incorporated through SPICe+ with an Authorized Capital up to INR 15,00,000 would continue to enjoy 'Zero Filing Fee' concession.

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	However, Stamp Duty payable as applicable in the State in which Company is registered has to be paid.
18.	While filling up SPICe+ form, one can save the same periodically and retrieve any time later to complete the same hence the process can be done in piecemeal.

### 4.9 Effect of Registration

On verification of all the documents submitted, the Certificate of Incorporation is issued to the Company in Form No. INC-11, which contains details of CIN, PAN and TAN and the date of incorporation.

The subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession with power to and becomes a legal entity..

It is mandatory to mention CIN in Tax Invoices, Letter heads, Name Board and on all the important documents of the Company.

The certificates for GSTIN, EPF, ESIC and Profession Tax is issued separately by the respective Authorities after due verification.

## Chapter 5

# Linked and Other Forms to be Filed

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### A. Linked forms to be filed along with SPICe+

The table below clarifies the specific scenarios in which pdf attachments (MOA, AOA) should be used instead of eMoA, eAoA with SPICe+ (INC-32) and list of linked forms to be filed with SPICe+ (INC-32):

Type of company	eMOA	eAOA	INC-9	URC-1	AGILE-PRO
Part I LLP to Company- [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers and/or directors have DIN/PAN]	*Mandatory	*Mandatory	Mandatory	Mandatory	Mandatory
Part I Firm to company - [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers	*Mandatory	*Mandatory	Mandatory	Mandatory	Mandatory

**Linked and Other Forms to be Filed**

and/or directors have DIN/PAN]					
Part I Section 8 company [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers and/or directors have DIN/PAN]	NA	NA	Mandatory	Mandatory	Mandatory
Section 8 company [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	NA	NA	Mandatory	NA	Mandatory
Other than Part I Section 8 company/ Part I LLP to Company/ Part I Firm to	*Mandatory	*Mandatory	Mandatory	NA	Mandatory

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company/Section 8 company. [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers and/or directors have DIN/PAN]					
Part I LLP to Company- [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	*Mandatory	*Mandatory	NA	Mandatory	Mandatory
Part I Firm to company - [where total number of subscribers and/or directors is greater than 20 OR any such	*Mandatory	*Mandatory	NA	Mandatory	Mandatory

**Linked and Other Forms to be Filed**

subscribers and/or directors does not have DIN/PAN]					
Part I Section 8 company [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	NA	NA	NA	Mandatory	Mandatory
Section 8 company [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	NA	NA	NA	NA	Mandatory
Other than Part I Section 8 company/ Part I LLP to	*Mandatory	*Mandatory	NA	NA	Mandatory

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Company/ Part I Firm to company/Section 8 company. [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]					
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\*Stakeholders are required to file e-MoA and e-AoA i.e. by way of linked filing of INC-33 and INC-34 in all cases except the following:

- Section 8 company selected in field 1 (a) or
- all or any of the non-individual first subscribers are based outside India or
- Part I Section 8 company selected in field 1 (a) or
- Number of subscribers entered in the field 8(a) 'Total number of first subscribers (non-individual + individual)' are more than seven
- Individual foreign subscribers do not possess a valid business visa

In case of the above-mentioned exception(s), MoA and AoA shall always be attached under the Attachments section of SPICe+ form (INC-32).

B. Other Forms to be filed

Form No	Purpose	Filing Fees	Additional Fees	Attachments	Linked Form	Time Limit
RUN	Reservation of Name	Rs. 1000/-	-	In case of conversion or change of name, then Board Resolution required, otherwise no	Nil	NA
INC-3	Nominee Consent for OPC	Linked to INC-4	Linked to INC-4	<ul style="list-style-type: none"> <li>• Copy of PAN card</li> <li>• Proof of identity</li> <li>• Residential Proof</li> </ul> <p>All the enclosures along with this form shall be submitted as an attachment to other forms INC-32 (SPICe), INC-4 or INC-6 as the case may be.</p> <p>User is required to provide copy of residential proof not older than two months</p>	INC-4 to be filed if there is withdrawal of nomination by the existing nominee	30 days from the date of event, plus compliance of other conditions in case of withdrawal of consent by the existing nominee.
INC-4	Change of Nominee/Member	Based on Authorised	Additional Fees to be paid based	<ul style="list-style-type: none"> <li>• PAN Card,</li> <li>• Residential Address</li> </ul>	INC-3 Consent	30 days from the date of



	in case of OPC, Notice of Withdrawal of Consent by the Nominee of OPC or Intimation of Cessation of Nominee of OPC	Capital	on the delay period, Additional Fees capped at 12 times of Normal Fees if delay for filing is more than 180 days.	Proof, <ul style="list-style-type: none"> <li>• Proof of Identity of New Member,</li> <li>• Proof of cessation of old member, if any, attested.</li> </ul>	from Incoming Member	event.
INC-5	OPC- Intimation of Increase of Threshold Limit	Based on Authorised Capital	Additional Fees to be paid based on the delay period, Additional Fees capped at 12 times of Normal Fees if delay for filing is more than 180 days.	Board Resolution, Latest Financials, Certificate from CA in Practice for computation of Average Turnover	NIL	60 days from the date of event.
INC-6	Application for conversion of OPC into Private/Public Company or vice	Based on Authorised Capital	Additional Fees to be paid based on the delay period, Additional	<ul style="list-style-type: none"> <li>• Altered MOA &amp; AOA,</li> <li>• Attested Latest FS,</li> <li>• Board Resolution,</li> <li>• Certificate from CA in</li> </ul>	RUN-Name Reservation INC-5	Mandatory Conversion 6 months from the date of event,

	versa		Fees capped at 12 times of Normal Fees if delay for filing is more than 180 days.	Practice computation for of Average Turnover	MGT-14 Special Resolution for conversion	Mandatory Conversion 30days from the date of passing the Special Resolution for conversion
INC-18	Application to Regional director for conversion of section 8 company into company of any other kind	Rs. 2000/-	-	The following attachments are mandatory: 1. Memorandum of association 2. Articles of association 3. Certified true copy of board resolution(s) authorizing conversion 4. Certified true copy of the special resolution passed for approval for conversion into any other kind and notice convening the general meeting along with the relevant explanatory	No	MGT-14 to be filed first and fees to be paid accordingly

				<p>statement annexed thereto</p> <p>5. Certificate from CA/CS/CWA (in practice) certifying that the conditions laid down in the Act and rules, have been complied with</p> <p>6. Statement of assets and liabilities of the company as on the date not earlier than thirty days of that date duly certified by the auditor</p> <p>7. Copy of valuation report by a registered valuer about the market value of assets</p> <p>8. Audited financial statements, the Board's reports, annual returns and the audit reports for each of the two financial</p>		
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				<p>years immediately preceding the date of the application or, where the company has functioned only for one financial year, for such year</p> <p>9. NOC from all the creditors is mandatory in case yes is selected in field 7.</p> <p>The following attachments are optional:</p> <ol style="list-style-type: none"><li>1. Statement of financial position if applicable</li><li>2. Full details of fixed assets alienated if any, during the preceding three financial years.</li><li>3. Written consent of the lenders is mandatory if any loan is outstanding.</li><li>4. NOC from the concerned authority in</li></ol>		
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				<p>case special status is mandatory when the company has obtained any special status/privilege</p> <p>5. Proof of payment of differential amount is mandatory if the company has acquired any immovable property through lease or otherwise from any Government or authority or body corporate or person since incorporation at concessional rate or free of cost.</p> <p>6. Details of donation/grant/benefit received since incorporation of company is mandatory if company has received any donation and/or</p>		
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				grant/benefits from any person or authority since incorporation. 7. Copy of NOC received from sectoral regulatory authority is mandatory if company is being regulated by any sectoral regulator.		
INC-20	Intimation to Registrar of revocation/surrender of license issued under section 8	Rs 2000/-	-	<ul style="list-style-type: none"> <li>• Copy of Order of Central Government</li> <li>• Certified true copy of altered memorandum and articles of association</li> <li>• Declaration of directors for compliance of conditions in case of surrender of license.</li> </ul>	No	No
INC-20A	Declaration for commencement of business	Based on Authorised Capital	Additional Fees to be paid based on the delay period, Additional Fees capped at	<ul style="list-style-type: none"> <li>• Subscribers proof of payment for value of shares</li> <li>• Certificate of Registration issued by</li> </ul>	No	INC-22 to be filed first

			12 times of Normal Fees if delay for filing is more than 180 days.	the RBI (Only in case of Non-Banking Financial Companies) /from other regulators. It is mandatory to attach this document if 'Yes' is selected in field 3(a). <ul style="list-style-type: none"> <li>Any other information can be provided as an optional attachment(s).</li> </ul>		
INC-22	Notice of situation or change of situation of registered office	Based on Authorised Capital	Additional Fees to be paid based on the delay period, Additional Fees capped at 12 times of Normal Fees if delay for filing is more than 180 days.	<ul style="list-style-type: none"> <li>Proof of Registered Office address (Conveyance/Lease deed/ Rent Agreement etc. along with the rent receipts).</li> <li>Copies of the utility bills (proof of evidence of any utility service like telephone, gas, electricity etc. depicting the address of the premises not older than two months is required</li> </ul>	No	30 days from the date of Incorporation of a new Company/15 days for existing company, if there is change, Existing IFSC Company can file the form Upto 60 days

				<p>to be attached).</p> <ul style="list-style-type: none"><li>• Altered Memorandum of association. This is mandatory to attach in case of shifting of registered office from one state to another within the jurisdiction of same RoC or from one state to another outside the jurisdiction of existing RoC.</li><li>• A proof that the Company is permitted to use the address..... Authorization from the owner or occupant of the premises along with proof of ownership or occupancy and it is mandatory if registered office is owned by any other entity/ person (not taken on lease by company).</li></ul>		
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				<ul style="list-style-type: none"> <li>• Certified copy of order of competent authority. It is mandatory to attach in case of shifting of registered office from one RoC to another within the same state or from one state to another within the jurisdiction of same RoC or from one state to another outside the jurisdiction of existing RoC.</li> <li>• List of all the companies (specifying their CIN) having the same registered office address, if any.</li> </ul>		
INC-23	Application to Regional Director for approval to shift the Registered Office from one	Based on Authorised Capital and Nature of Company.	-	<ul style="list-style-type: none"> <li>• Attachments that are mandatory in all cases:</li> <li>• Memorandum of Association and Articles of Association.</li> </ul>	No	Time Limit with Linked Forms to be adhered to. MGT-14 to be filed first before

	state to another state or from jurisdiction of one Registrar to another Registrar within the same State	Maximum up to Rs. 20000 for other than OPC and Small Company, Maximum Rs 2500 for OPC and Small Companies		<ul style="list-style-type: none"> <li>• Certified true copy of notice of the general meeting along with relevant explanatory statement.</li> <li>• Certified true copy of special resolution sanctioning shifting of registered office.</li> <li>• Certified true copy of the minutes of the general meeting authorizing such alteration.</li> <li>• Proof of service of the application to the Registrar, Chief Secretary of the state, SEBI or any other regulatory authority, if applicable.</li> <li>• In case registered office is shifted from one state to another state the</li> </ul>		making an application
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				<p>following additional attachments are mandatory:</p> <ul style="list-style-type: none"> <li>• Power of attorney/ vakalatnama/ Board resolution.</li> <li>• List of creditors and debenture holders.</li> <li>• Affidavit from Directors in terms of rules.</li> <li>• Affidavit verifying the application.</li> <li>• Affidavit by the company secretary of the company and the directors in regards to the correctness of list of creditors and affairs of the company.</li> <li>• Affidavit by directors about no retrenchment of employees.</li> <li>• Affidavit verifying the list of creditors.</li> </ul>	
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				<ul style="list-style-type: none"><li>• It is mandatory to attach in case if there is any prosecution is pending against the company or if any inquiry, inspection or investigation is initiated against the company.</li><li>• Copy of newspaper advertisement for notice of shifting the registered office. It is mandatory to attach copy of newspaper publication in case if the registered office is shifting within the state.</li><li>• Copy of objections (if received any)</li><li>• Any other information can be provided as an optional attachment(s).</li><li>• User is required to send the copy of newspaper</li></ul>		
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				publication in case of shifting of registered office from one state to another.		
INC-24	Application for approval of Central Government for change of name	Based on Authorised Capital and Nature of Company. Maximum upto Rs. 20000 for other than OPC and Small Company, Maximum Rs 2500 for OPC and Small Companies	-	<ul style="list-style-type: none"> <li>• Certified true copy of minutes of the general meeting of the members where the special resolution was passed for change of name of the company is required to be attached.</li> <li>• Copy of any approval order obtained from the concerned authorities (such as RBI, IRDA, SEBI etc.) or the concerned department.</li> <li>• Any other information can be provided as an optional attachment(s).</li> </ul>	No	RUN-LLP Name Approval Mandatory, MGT-14 for Special resolution mandatory. Time Limit for these forms needs to be adhered

INC-27	Conversion of public company into private company or private company into public company	Based on Authorised Capital and Nature of Company	Additional Fees to be paid based on the delay period, Additional Fees capped at 12 times of Normal Fees if delay for filing is more than 180 days.	<ul style="list-style-type: none"> <li>• Minutes of the member's meeting where approval was given for conversion and alteration of the articles of association.</li> <li>• Copy of Special Resolution</li> <li>• Copy of Altered Articles of Association;</li> <li>• Copy of Altered Memorandum of Association in case of conversion of Unlimited Liability Company to Limited Liability Company.</li> <li>• Declaration of all Directors as per Rule 37(3)(e) and Rule 37(3)(g) in case of conversion of Unlimited</li> </ul>	No	15 days from the passing of Special Resolution in case of conversion from private to public, 30 days from the receiving of the Order for conversion from public company to private company, 60 days from conversion of Unlimited Liability company to Limited Liability Company
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				<p>Liability Company to Limited Liability Company.</p> <ul style="list-style-type: none"><li>• Complete list of creditors and debenture holders in case of conversion of Unlimited Liability Company to Limited Liability Company.</li><li>• Declaration of Solvency in case of conversion of Unlimited Liability Company to Limited Liability Company.</li><li>• Declaration regarding no complaints as per Rule 37(4) in case of conversion of Unlimited Liability Company to Limited Liability Company.</li></ul>		
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				<ul style="list-style-type: none"><li>• Copy of Statutory Auditors Certificate in case of conversion of Unlimited Liability Company to Limited Liability Company.</li><li>• Copy of Newspaper publication in case of conversion of Unlimited Liability Company to Limited Liability Company.</li><li>• Order of competent authority in case of conversion from public company to private company.</li><li>• Certified copy of order for condonation of delay in case form is filed after the prescribed due date;</li></ul>		
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				<ul style="list-style-type: none"> <li>• Other information if any can be provided as an optional attachment(s).</li> </ul>		
INC-28	Notice of Order of the Court or any other competent authority	Based on Authorised Capital and Nature of Company	Additional Fees to be paid based on the delay period, Additional Fees capped at 12 times of Normal Fees if delay for filing is more than 180 days.	<ul style="list-style-type: none"> <li>• Copy of court order or NCLT or CLB or order by any other competent authority is a mandatory attachment.</li> <li>• Any other information can be provided as an optional attachment(s).</li> </ul>	No	INC-23 or CHG-8, if required to be filed

## Chapter 6

# Steps to be taken Post Incorporation

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### Steps to be taken Post incorporation by the Company

#### 6.1 Registered Office

A company shall, within thirty days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

Further, the company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as mentioned below:-

- The verification of the registered office shall be filed in Form No.INC.22 along with the fee, and
- There shall be attached to said Form, any of the following documents, namely :-
  - ✓ the registered document of the title of the premises of the registered office in the name of the company; or
  - ✓ the notarized copy of lease or rent agreement in the name of the company along with a copy of rent paid receipt not older than one month;
  - ✓ the 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
  - ✓ the proof of evidence of any utility service like telephone, gas, electricity, etc. depicting the address of the premises in the name of the owner or document, as the case may be, which is not older than two months.

#### 6.2 Features of name to be affixed at the Registered Office

Every company shall—

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1. paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, in vernacular language of that locality;
2. have its name engraved in legible characters on its seal; if any:  
get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, GSTIN, if any, e-mail and website addresses, if any,

### **6.3 Others**

- Any further compliance related to related party transactions, maintenance of Statutory records in the required format also needs to be complied within the time limits prescribed under the Act. For details refer to the provisions of the Act and Rules stated more in detail in Chapter VII- Management and Administration, Chapter IX- Account of Companies, Chapter XII- Meetings of Board and it's Powers, Chapter XIII- Appointment and Remuneration of Managerial Person;
- The Companies incorporated in India are compulsorily required to end their financial year on March 31 each year. However, if the Company is incorporated from 1<sup>st</sup> January to 31<sup>st</sup> March in any financial year, it has an option to end their financial year on March 31 of the subsequent year. However, the financial year of any newly incorporated Company cannot exceed 15 months.

## Chapter 7

# FAQs on Incorporation and Allied Matters

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**Important FAQs on Incorporation and Allied Matters incorporating the FAQs issued by the Ministry of Corporate Affairs ([www.mca.gov.in](http://www.mca.gov.in))**

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**1. What is SPICE+?**

SPICE+ is an advanced version of the existing SPICe form. As part of Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs notified & deployed a new Web Form SPICE+. Now the company can apply for EPFO/ESI, GST numbers as well with this single window form. It is mandatory for all the companies as per the directives of MCA for the issue of PAN, TAN, EPFO, ESIC, Profession Tax (Maharashtra), and Opening of Bank Account. It has been introduced by the MCA and is effective from 15<sup>th</sup> February, 2020.

**2. What is the difference between SPICe and SPICE+?**

While SPICe is an eform, SPICE+ is an integrated Web form offering 10 services by 3 Central Govt Ministries & Departments. (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government (Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India. SPICE+ is part of various initiatives and commitment of Government of India towards Ease of Doing Business (EODB).

**3. In case the subscriber to the memorandum is a foreign national residing outside India, his signatures and address etc. shall be witnessed by a Notary Public/Embassy/Consulate offices of Embassies as per the Rule 13 of the Companies (Incorporation) Rules, 2014. In such cases, how can the DSC of such a witness be affixed?**

In such cases, SPICE+ (INC-32) shall be filed along with the manually signed and duly attested MOA and AOA.

## Technical Guide for Easy Incorporation of Companies Through SPICe+

**4. Whether every company is required to follow the SPICE process for incorporation of a company?**

Every Company incorporated with effect from 15<sup>th</sup> February, 2020 will have to make an application for reservation of name shall be made through the web service available at [www.mca.gov.in](http://www.mca.gov.in) by using web service SPICe+ (Simplified Proforma for Incorporating Company Electronically Plus: INC-32), and for change of name by using web service RUN (Reserve Unique Name) along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, which may either be approved or rejected, as the case may be, by the Registrar, Central Registration Centre after allowing re-submission of such web form within fifteen days for rectification of the defects, if any, with effect from the 23<sup>rd</sup> February, 2020.

**5. Can a company be incorporated without a registered office?**

As per the Companies Act 2013, a Company shall have its registered office within 30 days of its incorporation.

**6. In case of an overseas subscriber and director, are the documents required to be notarised and apostilled for incorporation of a company?**

The attestation requirements depend on the country in which registered office/residence of the overseas subscriber/director is situated. The documents are required to be attested as follows:

- Residing in a country which is part of the Common Wealth, by a notary public of that country;
- Residing in a country which is party to the Hague Apostille Convention, 1961, attested by a notary public and duly apostilled in accordance with the said Hague Convention; and
- Residing in a country which is not party to said Hague Convention, authenticated by a Diplomatic or Consular Officer empowered in this behalf under Section 3 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (40 of 1948) i.e. attested by Public Notary and authenticated by Indian Embassy in the country of residence.

## FAQs on Incorporation and Allied Matters

7. **What is the due date to intimate the ROC for change in the situation of registered office of the company?**

As per Companies Act, 2013 every change in the situation of registered office of the company is required to be given to the ROC within 30 days of the change.

8. **What is OPC?**

OPC means a company which has only one person as a member.

9. **Can a non-resident become a member of an OPC?**

In terms of Rule 3 of the Companies (Incorporation) Rules, 2014, only a natural person who is an Indian citizen and resident in India is eligible to incorporate an OPC. Therefore, a non-resident cannot become a member or nominee of an OPC.

For the purposes of this rule, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred and eighty two days during the immediately preceding financial year.

10. **How many OPCs can be incorporated by a person or in how many OPCs, he shall be eligible to be a nominee?**

A natural person shall not be member of more than an OPC at any point of time and the said person shall not be a nominee of more than an OPC.

11. **Can a company registered under Section 8 merge with another company with dissimilar objects?**

As per Section 8 (10) of CA, 2013, a company registered under the said Section can only merge with another Section 8 company which has similar objects.

12. **Is a Section 8 company required to seek permission of Central Government for alteration of its articles of association prior to getting the same approved by the members by means of special resolution in general meeting?**

Yes, as per Section 8 (4)(i) of CA, 2013, Section 8 Company is required to obtain prior approval of Central Government for alteration of its articles. However, members may pass the resolution for

## Technical Guide for Easy Incorporation of Companies Through SPICe+

alteration of articles prior to the approval, but it shall be effective only post approval from the Central Government.

**13. How will the surplus be treated in case of winding up of Section 8 Company?**

As per Section 8 (9) of CA, 2013, any asset remaining after satisfaction of the debts will be transferred to another company registered under Section 8 having similar objects, subject to such conditions as the NCLT may impose, or the same may be sold and proceeds thereof shall be credited to Insolvency and Bankruptcy Fund formed under Section 224 of the Insolvency and Bankruptcy Code, 2016.

**14. What is Small Company?**

A Small Company, other than public company, means a company where the:

- a) Paid-up share capital of the company does not exceed INR 50 Lakhs or such higher amount as may be prescribed which shall not be more than ten crore rupees; and
- b) Turnover of which as per profit and loss account for the immediately preceding financial year does not exceed two crores rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees.

Note: No higher amount has been prescribed as yet.

Further, holding company, subsidiary company, company registered under Section 8 or a company or body corporate governed by any special act will not be considered as a small company.

**15. Is it mandatory for the name of the company to be indicative of the nature of its business?**

No, it is not mandatory for the name to be indicative of the nature of its business.

**16. Can a company have multiple and varied objects under its MOA?**

As per the Act, the Company may engage in any lawful act or activity for the time being in force. In case, company proposes to pursue any

## FAQs on Incorporation and Allied Matters

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specific objective, MOA shall state the said object for which company is incorporated.

Thus, as per the Act, the question on multiple object or varied object would not arise.

17. **Is a company required to alter its AOA as per the new format under the CA, 2013?**

As per provisions of Section 5(6) of the CA, 2013, AOA of the company shall be in respective forms specified in Table F, G, H, I and J in Schedule I. As per provisions of Section 5 (9) of CA, 2013, provisions pertaining to AOA shall not apply to the AOA of company registered under any previous company law unless amended under the CA, 2013.

It is not necessary, but advisable that subsequent to any amendment to the AOA, the AOA is aligned as per the format specified under the CA, 2013.

18. **Is a company required to pass a special resolution for altering its MOA?**

Yes, a company is required to pass a special resolution for altering its MOA except for the alteration of capital clause of memorandum which could be altered by passing ordinary resolution.

19. **Is an approval from Central Government required for alteration of MOA relating to change in place of registered office from one state to another?**

As per Section 13(4) of the CA, 2013, the alteration of MOA relating to change in place of registered office from one state to another shall not have any effect unless it is approved by the Central Government. As the powers of Central Government on this aspect are delegated to RD, the company will have to make an application and obtain the approval from the RD.

20. **In case of shifting of registered office from one state to another there is a requirement of filing the order with each of the ROC's. Is it possible to file two forms with a single CIN?**

No, it is not possible to file order approving the change of registered office with two different ROC's with the same CIN.



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As per Section 13 (7) of CA, 2013 read with Rule 31 of the Companies (Incorporation) Rules, 2014, the order of the RD approving the change of registered office from one state to another has to be filed in Form INC-28 with the ROC of each of the state within 30 days from the receipt of the certified copy of the order. Given the practical challenge, that the company cannot file Form INC-28 twice with the same CIN, the form is required to be filed with the ROC under whose jurisdiction the registered office was originally situated. The company will then have to file the Form INC-28 again with the new ROC where the registered office of Company is shifted.

**21. What is the limit on the number of members for formation of association or partnership of persons?**

Section 464 of the CA, 2013 provides that no association or partnership can be formed with the number of members exceeding hundred (100) subject to the Rules prescribed under this Act. Rule 10 of Companies (Miscellaneous) Rules provides that no association or partnership can be formed with the number of members exceeding fifty (50).

Therefore, the limit of number members for formation of association or partnership of persons is fifty (50).

**22. Will the notifications, circulars, rules, orders issued for certain type of companies under Companies Act 1956 still be applicable for those companies under the Companies Act 2013?**

Section 465 (2) of the Companies Act 2013 provides that the notification, circulation rules, orders issued under Companies Act 1956, in so far as it is not inconsistent with the provisions of Companies Act, be deemed to have been done or taken under the corresponding provisions of Companies Act 2013. It further provides that it shall continue to be in force, if it was in force at the commencement of CA, 2013 and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act.

Considering the aforesaid, notifications, circulars, rules, orders issued for certain type of companies under Companies Act 1956 will also be applicable for those companies under the Companies Act 2013.

## FAQs on Incorporation and Allied Matters

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**23. Is a Small Company required to prepare Cash Flow Statement?**

As per Section 2 (40), exemptions have been granted to small company, One Person Company and dormant company from preparing Cash Flow Statement. Therefore, it is not mandatory for a small company to prepare Cash Flow Statement.

**24. Is it mandatory for a company to have a common seal?**

No, as per the Companies (Amendment) Act 2015, the companies are not mandatorily required to have common seal. Further, the existing companies may amend their Articles of Association to this effect

**25. What is the first step for availing the Incorporation services through SPICe+ Web form?**

SPICe+ Web form is a post-login service and existing registered users would need to login into their account using their credentials. New users are required to create a login account first before using the service.

**26. What is 'Application Number'?**

Application Number refers to a system generated number given to an application for Name reservation/Incorporation which is yet to be submitted/uploaded by the user.

**27. What is Part A of SPICe+ and can the same be filed separately?**

Name(s) of a company can be reserved in Part A of SPICe+. In case the applicant wants to apply for name, incorporation and other integrated services together, he can do so together by filling necessary information in Part A and Part B.

**28. What are the new fields introduced in Part A of SPICe+ while reserving names?**

New fields introduced are:

- (i) Type\* of company
- (ii) Class of company
- (iii) Category of company
- (iv) Sub-Category of company

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(v) Main division of industrial activity of the company

(vi) Description of the main division.

\*Hitherto entity type

**29. What is to be entered in the space “Proposed name” in Part A of SPICe+?**

User has to enter the name he wants to reserve, for incorporation of a new company or for changing the name of an existing company. Users are requested to ensure that the proposed name selected does not contain any word which is prohibited under Section 4(2) & (3) of the Companies Act, 2013 read with Rule 8 of the Companies (Incorporation) Rules, 2014. Users are also requested to read and understand Rule 8 of the Companies (Incorporation) Rules, 2014 in respect of any proposed name before applying for the same.

For Name Search:

<http://www.mca.gov.in/mcafoportal/showCheckCompanyName.do>

Stakeholders are requested to also check the Trademark search to ensure that the proposed name is not in violation of provisions of Section 4(2) of the Companies Act, 2013, failing which it is liable to be rejected.

For Trade Mark Search: <http://www.ipindia.nic.in/index.htm>

**30. Whether two names would be permitted in Part A of SPICe+ if applied separately?**

Yes. However, a fee of INR 1000 becomes payable if applied separately.

**31. Is it mandatory to attach documents while reserving name through Part A of SPICe+?**

No. However, it would be mandatory to attach relevant documents and No Objection Certificates(NOCs) in Part A of SPICe+ only when a name which requires the approval of a Sectoral Regulator or NoC etc. if applicable, as per the Companies(Incorporation) Rules, 2014, is being applied for. Please note that only one file is allowed to be uploaded as an attachment and the size of the file should not exceed 6MB in case of Part A SPICe+ and overall limit of form size shall not

## FAQs on Incorporation and Allied Matters

exceed 6MB in case both Part A SPICe+ and Part B SPICe+ are filed together. In case of multiple attachments for Part A SPICe+, please scan all documents into a single file and upload the same.

32. Can a user who has an approved name using Part A of SPICe+, permit other users/applicants to use the name for filing Part B of SPICe+?

No. The same user login ID which was used for reserving the name has to be used for submitting and uploading SPICe+ and other linked forms.

33. Will Zero Filing Fee be applicable for Companies getting incorporated through SPICe+ with Authorized Capital up to INR 15,00,000?

Yes. Companies getting incorporated through SPICe+ with an Authorized Capital up to INR 15,00,000 would continue to enjoy 'Zero Filing Fee' concession.

34. What is RUN web service introduced by MCA?

RUN service is applicable only for 'change of name' of an existing company w.e.f 15<sup>th</sup> February, 2020. This has also removed the requirement to use a Digital Signature Certificate (DSC) during name reservation. It was another value addition to Ease of Doing Business in India.

Further, Ministry of Corporate Affairs has amended the LLP Rules, 2009 through Limited Liability Partnership (Second Amendment) Rules, 2018 notified on 18.09.2018 and effective from 02.10.2018. The said amendment has introduced RUN-LLP Form in place of LLP Form 1 for reserving the name and FiLLiP Form in place of LLP Form 2 for incorporation, earlier LLP incorporations were done in respective ROCs. Now this process is made centralized to keep it at par with companies and as a part of Starting a business in India.

35. Is there any change in number of RSUB chances while filing Part A separately for reserving name(s) or while filing Part A and B of SPICe+ together for integrated incorporation?

No. RSUB chances would remain the same.

36. What are various services offered in Part B of SPICe+?

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Part B of SPICe+ offers following services viz. (i) Incorporation (ii) DIN allotment (iii) Mandatory issue of PAN (iv) Mandatory issue of TAN (v) Mandatory issue of EPFO registration (vi) Mandatory issue of ESIC registration (vii) Mandatory issue of Profession Tax registration (Maharashtra) (viii) Mandatory Opening of Bank Account for the Company and (ix) Allotment of GSTIN (if so applied for).

**37. Under what circumstances RUN Service would be applicable?**

From 23rd February 2020 onwards, RUN service would be applicable only for 'change of name' of an existing company.

**38. How many times changes/modifications to SPICe+ (after generating pdf and affixing DSCs) can be made?**

Changes/modifications to SPICe+ (even after generating pdf and affixing DSCs), can be made up to five times by editing the same web form application which has been saved, generating the updated pdf affixing DSCs and uploading the same

**39. What is the procedure after filling the SPICe+?**

Once the SPICe+ is filled completely with all relevant details, the same would then have to be converted into pdf format, with just a click of the mouse button, for affixing DSCs. Thereafter all digitally signed applications can be uploaded along with the linked forms as per the hitherto process.

**40. Is Registration for Profession Tax through SPICe+ mandatory all over India?**

No. Registration for Profession Tax shall be mandatory through SPICe+ only in respect of new companies incorporated in the State of Maharashtra w.e.f 23<sup>rd</sup> February 2020.

**41. Is Registration for EPFO and ESIC through SPICe+ shall be mandatory for all new companies incorporated all over India?**

Yes. Registration for EPFO and ESIC shall be mandatory for all new companies incorporated w.e.f 23<sup>rd</sup> February 2020 and no EPFO & ESIC registration nos. shall be separately issued by the respective agencies.

## FAQs on Incorporation and Allied Matters

- 42. Is Opening of Bank Account mandatory for all companies incorporated through SPICe+?**

Yes. All new companies incorporated through SPICe+ (w.e.f 23<sup>rd</sup> February 2020) would also be mandatorily required to apply for opening the company's Bank account through the AGILE-PRO linked web form.

- 43. How many Banks have been integrated through SPICe+?**

Presently Punjab National Bank, ICICI Bank, Kotak Mahindra Bank, Bank of Baroda and HDFC Bank has been integrated with SPICe+ for opening a Bank account. Gradually many Public and Private Sectors Banks would also be integrated with SPICe+. Suitable updates in this regard would be published on the MCA portal and FAQs.

- 44. Is any Fee payable by companies at the time of incorporation for opening Bank A/c through SPICe+?**

No.

- 45. Is it mandatory for every subscriber and/or directors to obtain DSC now?**

Yes. In case number of subscribers and/or directors to eMoA and eAoA is up to twenty and all such subscribers and/or directors have DIN/PAN, it shall be mandatory for each one of them to obtain a DSC

- 46. Under which role DSC needs to be associated for First directors not having DIN/subscribers?**

First directors not having DIN/Subscribers having PAN shall associate their DSC under 'authorised representative' by providing their PAN. Once DIN is allocated for first directors post approval of SPICe+, DSC may be updated against DIN by using 'Update DSC' service.

- 47. How INC-9 (Declaration by all Subscribers and first Directors) would be generated?**

INC-9 shall be auto-generated in pdf format and would have to be submitted only in electronic form in all cases, except where: (i) Total number of subscribers and/or directors is greater than 20 and/or (ii) Any such subscribers and/or directors has neither DIN nor PAN.

- 48. What is AGILE-PRO?**

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AGILE-PRO contains application for GSTIN/EPFO/ESIC/Profession Tax Registration (in Maharashtra) and Opening of Bank A/c.

49. **What are the linked forms to be filed along with SPICe+? Are there any exceptional scenarios in which pdf attachments (MOA, AOA) should be used instead of eMoA, eAoA with SPICe+ (INC-32)?**

Please refer the table (Chapter V) which clarifies the specific scenarios and list of linked forms to be filed with SPICe+ (INC-32) and along with exceptional scenarios:

50. **What is the sequence of uploading linked forms to SPICe+?**

SPICe+---->e MOA[if applicable] ----> e AOA[if applicable] ----> URC-1[if applicable] ---->AGILE-PRO[mandatory in all the cases] ---->INC-9[if applicable]

51. **Is it mandatory to use eMoA and eAoA? Can physical copies of MoA/AoA be signed and attached with SPICe+ forms?**

Yes. It is mandatory to use eMoA (INC-33) and eAoA (INC-34) in case, the number of subscribers are up to 7 and in the following scenarios:

- individual subscribers are Indian nationals
- individual subscribers who are foreign nationals in case they valid DIN and DSC and also submit a proof of a valid business visa
- non-individual subscribers based in India.

Physical copies of MoA/AoA is required to be signed and attached in case non-individual first subscribers are based outside India or individual foreign subscribers do not possess a valid business visa or any other scenario as mentioned in FAQ Q.28 in detail.

52. **What are the exceptional scenarios in which pdf attachments (MOA, AOA) should be used instead of eMoA, eAoA with SPICe+(INC-32)?**

The table below clarifies the specific scenarios in which the pdf attachments or electronic versions of MoA/AoA can be used with SPICe+ (INC-32):

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S.No.	Scenario	Forms Filed
1	Non-Individual first subscriber based outside India	SPICe+ (INC-32) with apostilled MOA and AOA as attachments
2	Non-Individual first subscriber based in India	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
3	Indian National being Subscriber other than director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
4	Indian National being Subscriber-cum-Director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
5	Foreign National being Subscriber other than director having valid DIN	<p>SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34) alongwith Valid Business Visa to be submitted.</p> <p>In case Business Visa is not available, apostilled MOA and AOA shall be attached and in such cases, eMOA (INC33) and eAOA (INC-34) are NOT acceptable.</p>
06	Foreign National being Subscriber-cum-Director having valid DIN	<p>SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34) alongwith valid Business Visa to be submitted.</p> <p>In case Business Visa is not available, apostilled MOA and AOA shall be attached and in such cases, eMOA (INC33) and eAOA (INC-34) are NOT acceptable.</p>
7	Foreign National being Subscriber-cum-Director not having valid DIN	SPICe+ (INC-32) with apostilled MOA and apostilled AOA as attachments.



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Note: In all the above mentioned cases, the maximum number of subscribers allowed shall be 7 for filing of SPICe+ form. Wherever, the number of subscribers exceeds 7, SPICe+ form shall be filed with MoA and AoA as attachments.

Stakeholders may kindly note that in case SPICe (INC-32) has been filed with linked filing of eMOA (INC33) and eAOA (INC-34) without attaching business visa as required under Rule 13 (5) (d) of the Companies (Incorporation) Rules, 2014, the form is liable to be rejected (Marked as Invalid and Not to be taken on record) without putting for resubmission.

53. Can I attach MOA and AOA for few subscribers and form INC-33(eMOA) and INC-34(eAOA) for other subscribers for same company?

No. In case the proposed company is required to file MOA and AOA due to any of the above mentioned conditions, then SPICe+ (INC-32) shall be filed ONLY with MOA and AOA as an attachment for all the subscribers. In such cases, the proposed company is NOT required to file the eMOA and eAOA under any circumstances.

54. If a body corporate is one of the subscribers/promoters, can DSC of an authorized Director be affixed?

Yes.

55. In e-AOA (INC-34) if additional Article is required, how to enter the same?

e-MOA(INC-3) has facility for adding, modifying articles within a particular clause, and deleting Articles if not applicable. New articles can be added only in 'Others' table.

56. Can we enter the conditions of private company as required under Section 5 of the Companies, Act, 2013 in e-AOA (INC-34)?

Yes, e-AOA (INC-34) has facility for adding, modifying articles within a particular clause, and deleting Articles if not applicable. Stakeholders are required to ensure that clause 1 of e-AOA (INC-34) includes name of the private limited company and definition of private limited company.

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57. **Can we enter the names of first directors as required under Companies Act, 2013, in e-AOA (INC-34)?**

Yes, e-AOA (INC-34) has facility for adding, modifying articles within a particular clause, and deleting Articles if not applicable.

58. **What is the process for obtaining approved e-MOA (INC-33) and e-AOA (INC-34)?**

The users may obtain approved e-MOA (INC-33) and e-AOA (INC-34) through certified copies facility available on MCA.

59. **Whether eMOA (INC-33) and eAOA (INC-34) is to be filed with SPICe+ (INC-32) in respect of non-individual first subscribers who are based outside India?**

No. In respect of non-individual first subscribers who are based outside India, pdf attachments of apostilled MOA and AOA shall be attached with SPICe+(INC-32).

60. **Is a proposed Section 8/ Part 1 Section 8 company required to file eMOA (INC-33), eAOA (INC-34) along with SPICe+ (INC-32)?**

No. Section 8/Part 1 Section 8 companies are mandatorily required to file MOA and AOA as pdf attachments to SPICe+ (INC-32).

61. **Is a proposed Part I company required to file eMOA (INC-33), eAOA (INC-34) along with SPICe+ (INC-32)?**

No. Part I companies are mandatorily required to file MOA and AOA as pdf attachments to SPICe+ (INC-32) along with form URC-1 which is to be filed as a linked form.

62. **Is INC-22 still required to be filed with SPICe+?**

It is not required to be filed with SPICe+ if a company is registered with the same address as the address for correspondence. In case the registered address is different, INC-22 is required to be filed within 30 days of its incorporation, for intimating the registered office address.

63. **What if there are more than seven subscribers to MoA and AoA?**

SPICe+ form shall be filed with MoA and AOA as attachments in case of more than seven subscribers.

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64. In case of subscriber to the memorandum is a foreign national residing outside India, his signatures and address etc. shall be witnessed by a Notary Public/Embassy/Consulate offices of Embassies as per the Rule 13 of the Companies (Incorporation) Rules, 2014. In such cases, how the DSC of such a witness be affixed?

In such cases, SPICe+ (INC-32) shall be filed with manually signed and duly attested MoA and AoA.

65. Whether subscribers' photo is required in SPICe+ forms?

No. Subscribers' photo is not required.

66. How many resubmissions are permitted for SPICe+ forms?

Two

67. What are the different types of Part I companies can be incorporated?

Part I company can now be incorporated as Part I Section 8 Company/ Part I LLP to Company/ Part I Firm to Company.

68. What is LLPIN and when does it have to be entered?

LLPIN is LLP Identification Number and it has to be entered only when an existing LLP wishes to convert itself into a company. Please note that in case of conversion of LLP to company, the proposed name shall be the name of the existing LLP except for the change in suffix 'LLP/Limited Liability Partnership'. Also, State entered should be same as the State in which the registered office of LLP is situated.

69. Is it mandatory to file INC-12 to incorporate Section 8/Part I Section 8 Company?

No. License number for Section 8/ Part I Section 8 company shall be issued through SPICe+ form. Form INC-12 shall not be filed for obtaining license number for new company incorporation.

70. What is the word limit for writing objects in eMoA?

For main Objects (Field 3(a)), character limit is 20,000 and for furtherance of objects (Field 3(b)), it is 1,00,000 characters.

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71. **Please clarify on attestation requirements in respect of foreign companies wanting to form a subsidiary in India?**  
Attestation requirements will be as per Rule 13 of the Companies (Incorporation) Rules, 2014.
72. **Is eMoA (INC-33) and eAoA (INC-34) to be uploaded separately?**  
eMoA and eAoA have to be uploaded as 'Linked Forms' to SPICe+ (INC-32).
73. **What if the subscribers to eMoA and eAOA are at different places as only one witness is provided?**  
eMoA and eAOA would be witnessed after all subscribers have signed as is happening presently.
74. **Is refund applicable if SPICe+ forms get rejected?**  
Yes
75. **What is the maximum upload size of SPICe+ forms?**  
6 MB for each of the PDF form.
76. **Can NIDHI Company be incorporated using SPICe+ forms?**  
Yes. Type of company shall be selected as 'Nidhi company'.
77. **Is it mandatory to apply for PAN and TAN along with SPICe+ (INC-32)?**  
Yes
78. **What is the Fee payable for PAN and TAN?**  
For PAN-Rs.66 and TAN-Rs.65 becomes payable.
79. **On approval of SPICe+ how PAN & TAN is communicated to the user?**  
On approval of SPICe+ forms, the Certificate of Incorporation (Col) is issued with PAN as allotted by the Income Tax Department. An electronic mail with Certificate of Incorporation (Col) as an attachment along with PAN and TAN is also sent to the user. Further PAN card shall be issued by the Income Tax Department.
80. **Whether fee towards PAN and TAN is payable separately?**  
No. A consolidated challan gets generated at the time of filing SPICe+ (INC-32) which shall contain applicable fee towards

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- (i) Form Fee
- (ii) MoA
- (iii) AoA
- (iv) PAN
- (v) TAN

81. Please provide the contact details of officer responsible if PAN Card is not received by the user?

After receipt of Certificate of Incorporation (with PAN indicated therein as allotted by the Income Tax Department) in case of non-receipt of PAN card, stakeholders shall check the status at [www.TIN-NSDL.com](http://www.TIN-NSDL.com)

82. Are AO codes for PAN and TAN different? Where can one find these AO Codes?

AO codes for PAN and TAN are different and can be found at links below. Please do not affix or suffix zeros to AO codes.

AO Codes for PAN

<https://www.tin-nsdl.com/services/pan/pan-aocode.html>

AO Codes for TAN

<https://www.tin-nsdl.com/services/tan/tan-ao-code.html>

Example:

AO code for PAN for Dilshad Garden area in Delhi is DEL W 64 1 while AO code for TAN Delhi is DEL W 391 1

83. What is the mode of grievance redressal?

In case of technical problems i.e., form upload, pre-scrutiny errors, DSC related, payment related queries, please raise a ticket on [www.mca.gov.in/myservices](http://www.mca.gov.in/myservices) and await a resolution. You may also call up Corporate Seva Kendra at 0124-4832500 after 48 hours if ticket is not resolved. In case of resubmission / rejection remarks, please contact 0124-4832500 and select option 1 for CRC. For escalation you may send a mail to [crc.escalation@mca.gov.in](mailto:crc.escalation@mca.gov.in)

84. What if an applicant for allotment of Director Identification Number (DIN) has been identified as a potential duplicate in SPICe+?

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If SPICe+ form is filed containing details of a DIN applicant who has been identified as a potential duplicate following message shall be displayed along with 'Yes' and 'No' options- "The system has identified applicant(s) as potential duplicate because the contents are matching with an already filed DIN application form. Please ensure that no DIN has already been allotted to the applicant. If you still wish to continue say 'Yes'. Please note that DIN application shall be approved only after due verification by MCA ". If the user selects 'No', then the filing of eForm shall not be allowed.

- 85. How to proceed to Part B once name gets approved in SPICe+ Part A.**

Click on 'Fill' option available against SPICe+ Part A SRN and then click on 'Proceed' button. This will enable the Part B section of SPICe+ form. Please note that the SRN of SPICe+ Part A cannot be entered in SPICe pdf form (available at MCA company forms download page). These SRNs can only be used in SPICe+ web forms.

- 86. As per Resubmission remarks, eMoA and eAoA is required to be submitted. But link for eMoA and eAoA is not displayed in SPICe+ dashboard.**

Please note that the link for eMoA and eAoA shall be enabled in SPICe+ dashboard only when the attachment no. 1 and 2 i.e. Memorandum of Association and Articles of Association are not attached or if attached earlier, are now removed.

- 87. Error displayed while resubmission of forms mentioning 'Form is not Pre-scrutinized'.**

For successful resubmission of forms, please ensure that all the forms required to be filed as linked forms to SPICe+ are also regenerated by clicking on 'Submit' button and fresh pdf is downloaded even though no changes are made in such web-forms. System shall not allow to submit old pdfs that were downloaded and submitted in any earlier filing.

- 88. Subscriber sheet is missing in e-MoA form even after filling all details in web-form. Unable to find place to affix DSC.**

Please install 'Acrobat Reader DC' in order to download/ open pdf.