

Ease of Doing Business for new Companies Incorporating on or after 23.02.2020 – Single Window Clearance

Posted On: March 2020 - MOCA

Objective of SPICe+ and AGILE- PRO:

- SPICe+ and AGILE PRO is part of various initiatives and commitment of Government of India towards Ease of Doing Business (EODB) introduced w.e.f 23.02.2020 by Ministry of Corporate Affairs.
- Aims at reduction in Procedure, reduction in Cost/Fees and reduction in Time for incorporation of a company

Brief on SPICe + & AGILE- PRO:

SPICe+ - 'Simplified Proforma for Incorporating Company Electronically Plus' is an integrated web form offering 10 services (as listed below) by 3 Central Government Ministries & Departments and one State government.

- Ministry of Corporate Affairs
- Ministry of Labour
- Department of Revenue in the Ministry of Finance
- One State Government (Maharashtra)

AGILE- PRO - Application for Goods and services tax Identification number, employees state Insurance corporation registration pLus Employees provident fund organization registration, Profession tax Registration (in Maharashtra) and Opening of bank account.

<u>Services covered in SPICe + & AGILE PRO:</u>

Part A- (i) Name reservation for new companies

Part B - Bouquet of 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 (only for State of Maharashtra)

Disclaimer: The content above is taken from the source mentioned Resource: MOCA, March 2020.



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- (viii) Mandatory Opening of Bank Account for the Company and
- (ix) Optional Allotment of GSTIN (if so applied for)

Options available for New Companies:

• First submit the application to reserve name through SPICe + Part A and after receiving name approval, thereafter submit for incorporation & other services in SPICe + Part B along with linked e-form AGILE PRO.

(OR)

• File SPICe + Part A and Part B together at one go for Name reservation, incorporation along with other services.

Key points for consideration:

- Registration for EPFO and ESIC shall be mandatory for all new companies incorporated w.e.f 23rd Feb 2020 and no EPFO & ESIC registration nos. shall be separately issued by the respective agencies.
- Registration for Profession Tax shall also be mandatory for all new companies incorporated only in the State of Maharashtra w.e.f 23rd Feb 2020.
- Mandatory application for opening the company's Bank account through the AGILE-PRO linked web form (Currently Punjab National bank & ICICI bank is designated, remaining 6 banks designation in pipeline).
- No separate fees for applying GSTIN/EPFO/ESIC/ Professional Tax or Opening Bank Account for the company.
- Based on the successful validation of the data uploaded in AGILE PRO form by respective department (GSTIN, EPFO, ESIC, PT)-CODE /Number would be generated & displayed on MCA portal and communicated to authorized person email id.
- New companies incorporated through SPICe+ and thereby have obtained EPFO/ESIC numbers will have to file statutory returns only when they cross thresholds prescribed under the relevant Acts.
- Existing companies intending to obtain Establishment code as issued by EPFO &
 Employer code as issued by ESIC shall follow the existing process of registration
 through their respective Common Portal for registration.
- Finalization of Type & Class of company before applying for Incorporation added as an additional requirement:
 - (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

Conclusion:

Prior to the introduction of SPICe + & AGILE PRO, time duration for incorporating a company and subsequent submission of application for other registration such as GSTIN, Bank Account opening etc. would be approximately 15-20 days (only if the documents were in order). And this initiative shall leads to avoidance of repetitive submission of same set of documents to various departments for registration under various Acts and skipping cumbersome and time consuming process. Once the company is incorporated, necessary information will be forwarded to GSTN /EPFO/ESIC/PT and BANK for processing of form for validation and allotment of respective codes/numbers.

Now due to the initiative of Ease of Doing Business through SPICe + & AGILE -PRO, Incorporation of a new company can be completed within 5-7 days with lesser cost, easy procedure through integrated web based Single window clearance system.

Forms attached for easy Reference

(New Form yet to be deployed in the MCA Portal – Till the deployment of new Web forms, stakeholders shall continue to use existing SPICe and AGILE forms. The applicability date will vary after the deployment of form in MCA portal for filing – expecting a revised notified date after deployment of form).

By using exiting SPICE & AGILE Forms the new companies until the deployment of Forms can apply for optional EPF, ESIC & GSTIN and mandatory PAN & TAN.

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^{1.} Substituted by the Companies (Incorporation) Amendment Rules, 2020, w.e.f. **15-2-2020**.

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1 Pursuant to sections 4, 7, 8(1), 12, 152 and SPICe+ 153 of the Companies Act, 2013 read with rules made thereunder] -FORM NO. INC-32 (Simplified Proforma for Incorporating Company Electronically Plus) PART-A 1. (a) Type of Company LLPIN (b) Class of Company (e) Category of Company (d) Sub-category of Company 2. Main division of industrial activity of the company Description of the main division Particulars of the proposed or approved name ii PART - B II. Structure of the Company Whether Articles of Association is entrenched o Yes o No Number of Articles to which provisions of entrenchment shall be applicable Details of such articles Short description on entrenchment of the clause Sr. No. Article Number *Company is Having share capital Not having share capital "Capital structure of the company Total authorized share capital (in Rupees) Unclassified Preference Authorized share capital Equity Number of shares Nominal amount per share (in Rupces) Total amount (in Rupees)

^{1.} Substituted by the Companies (Incorporation) Amendment Rules, 2020, w.e.f. 15-2-2020.

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Driving license	number
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VII. PAN/ TAN Information

11. "Additional Information for applying Permanent Account Number (PAN) and Tax Deduction Account Number (TAN)

Information sp	necific to	PAN
Inspendence of	PERSON PR	F 4 7 50.0

Area code	AO type	Range code	AO No
ATRI COUC	75.55.51.65.5		

Information specific to TAN

Area code	AO type	Range code	AO No.

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- ra Income from Husiness/profession
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- in Income from house property

Attach

Attach.

Attach

Attach

- income from other source
- ti No Income

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VII. Attachments

Attachments

- 1. Memorandum of association;
- Articles of Association;
- Declaration by first subscriber(s) and director(s) (Affidavit is not required to be attached);
- Proof of Office address (Conveyance/ Lease deed/Rent Agreement along with rent receipts);
- Copy of the utility bills (not older than two months);
- Copy of certificate of incorporation of the foreign body corporate and resolution passed by foreign company or authority given through constitutional document;
- Resolution passed by promoter company;
- 8. Interest of first director(s) in other entities;
- Consent of Nominee (INC-3);
- Proof of identity & residential address of subscribers;
- 11. Proof of identity & residential address of nominee;
- 12. Proof of identity and address of Applicant I;
- 13. Proof of identity and address of Applicant II;
- 14. Proof of identity and address of Applicant III;
- Resolution of unregistered companies in case of Chapter XXI (Part I) companies
- 16. Declaration in Form No. INC-14
- 17. Declaration in Form No. INC-15
- 18. Optional attachment(s), (if any)
- 19. Attachment Part A

List of attachments

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	VIII. Declaration
	Declaration
	I have gone through the provisions of the Companies Act, 2013, the rules thereunder and prescribed guidelines framed thereunder in respect of reservation of name, understood the meaning thereof and the proposed name is in conformity thereof.
Q.	I have used the search facilities available on the portal of the Ministry of Corporate Affairs (MCA) for checking the resemblance of the proposed name with the companies and Limited Liability partnerships (LLPs) respectively already registered or the names already approved. I have also used the search facility for checking the resemblances of the proposed name with registered trademarks and trade mark subject of an application under the Trade Marks Act, 1999 and other relevant search for checking the resemblance of the proposed name to satisfy myself with the compliance of the provisions of the Act for resemblance of name and Rules thereof.
ď	The proposed name is not in violation of the provisions of Emblems and Names (Prevention of Improper Use) Act. 1950 as amended from time to time.
a	The proposed name is not offensive to any section of people, e.g. proposed name does not contain profanity or words or phrases that are generally considered a slur against an ethnic group, religion, gender or heredity.
	The proposed name is not such that its use by the company will constitute an offence under any law for the time being in force.
	I undertake to be fully responsible for the consequences in case the name is subsequently found to be in contravention of the provisions of section 4(2) and section 4(4) of the Companies Act, 2013 and rules thereto and I have also gone through and understood the provisions of section 4(5) (ii) (a) and (b) of the Companies Act, 2013 and rules thereunder and fully declare myself responsible for the consequences thereof.
D	a person named in the articles as a director of the company has been duly authorized by the promoters of the company to sign this form and declare that all the requirements of the Companies Act, 2013 and the rules made thereunder in respect of Director Identification Number (DIN), registration of the company and matters precedent or incidental thereto have been complied with.
D	I am authorized by the promoter subscribing to the Memorandum of Association and Articles of Association and the first director(s) to give this declaration and to sign and submit this Form.
U	I further declare that, company shall not commence its business, unless all the required approval from the sectoral Regulators such as RBL SEBI etc. have been obtained;
П	I on behalf of the promoters and the first directors, hereby declare that the registered office is capable of receiving and acknowledging all communications and notices addressed to the proposed company on incorporation, shall be maintained at the given address at item 7 of this form;
D	"I, on behalf of all the first director(s) named in the Articles of Association of the proposed company, solemnly declare, that the declaration given herein as stated above are true to the best of my knowledge and belief, the information given in this integrated application form for incorporation and attachments thereto are correct and complete, and nothing relevant to this form has been suppressed. All the required attachments have been completely, correctly and legibly attached to this form and are as per the original records maintained by the promoters subscribing to the Memorandum of Association and Articles of Association.
13	I. on behalf of the proposed Directors whose particulars for allotment of DIN are filled as above, hereby confirm and declare that they are not restrained, disqualified, removed for being appointed as Director of a company under the provisions of the Companies Act, 2013 including sections 164 and 169, and have not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court, and not been already allotted a Director Identification Number (DIN) under section 154 of the Companies Act, 2013, and 1 further declare that I have read and understood the provisions of Sections 154, 155, 447 and 448 read with Sections 449, 450 and 451 of the Companies Act, 2013.
П	
	having Membership number and/or certificate of practice number
	has been engaged to give declaration under section 7(1) (b) and such declaration is attached.

Note: Attention is drawn to the provisions of sections 7(5) and 7(6) which, inter-alia, provides that furnishing of any false or incorrect particulars of any information or suppression of any material information shall attract punishment for fraud under section 447. Attention is also drawn to provisions of section 448 and 449 which provide for punishment for false statement and punishment for false evidence respectively. To be digitally signed by director DSC BOX "DIN / PAN IX. Declaration and Certification by Professional Declaration and Certification by Professional member of having office at " Who is engaged in the formation of the company declare that I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that: the draft memorandum and articles of association have been drawn up in conformity with the provisions of (i) sections 4 and 5 and rules made thereunder; and all the requirements of Companies Act, 2013 and the rules made thereunder relating to registration of the (ii). company under section 7 of the Act and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order; I have opened all the attachments to this form and have verified these to be as per requirements, complete and (iii) I further declare that I have personally visited the premises of the proposed registered office given in the form (iv) at the address mentioned herein above and verified that the said proposed registered office of the company will be functioning for the business purposes of the company (wherever applicable in respect of the proposed registered office has been given). It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong (8) certification, if any found at any stage. Cost accountant (in whole-time practice) or Chartered accountant (in whole-time practice) or Company secretary (in whole-time practice) Whether associate or fellow · Membership number Certificate of practice number income-tax PAN Prescrutiny Check Form

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