

E-Form INC-22A ACTIVE – Companies (Incorporation) Rules amended

On February 21, 2019, the Ministry of Corporate Affairs (“MCA”), in exercise of its powers under the Companies Act, 2013 (“Companies Act”) issued the Companies (Incorporation) Amendment Rules, 2019 (“Incorporation Amendment Rules”) to amend and incorporate Rule 25A to the Companies (Incorporation) Rules, 2014 (“Incorporation Rules”). The salient features of the Incorporation Amendment Rules are stated hereunder:

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| Applicability/Eligibility | Every company, incorporated on or before December 31, 2017 |
| Exemptions | Companies which have been struck off or are under the process of striking off or are under liquidation or amalgamated or dissolved, as per the records of the RoC |
| Deadline | On or before April 25, 2019 |
| Compliance | Eligible companies are mandatorily required to file requisite particulars, including details related to its registered office in e-Form INC-22A ACTIVE (Active Company Tagging Identities and Verification). To be able to file INC-22A ACTIVE, eligible companies shall be required to file: (i) requisite financial statements under Section 137 of the Companies Act, 2013 (Form AOC- 4/ Form AOC-4 (XBRL)); and (ii) Annual Returns under Section 92 (Form MGT-7) due for filing with the Registrar of Companies (“RoC”). However, in case of management dispute which has been duly recorded with the RoC, the requirement for filing e-Form Active shall be dispensed with. |
| Consequences | Once INC-22A ACTIVE is successfully submitted within the deadline, the reporting company shall be marked as “ACTIVE Compliant”. Failure to file INC-22A ACTIVE within the deadline, shall result in the defaulting company |

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| | <p>being marked as “ACTIVE noncompliant” on or after April 26, 2019 and subject to RoC’s discretion, may also result in the “defaulting company” being struck off from the records of the RoC. Further, companies which have been marked as “ACTIVE non-compliant” shall be restricted from recording changes with respect to the following aspects – (i) Authorized Share Capital – Form SH-7; (ii) Paid-up Share Capital – Form PAS-3; (iii) Directors (except cessation) – Form DIR-12; (iv) Change in Registered Office – Form INC-22; (v) Amalgamation or Demerger – Form INC-28.</p> |
| Penalty | <p>Any company may file e-Form ACTIVE on or after April 26, 2019 by paying a penalty of INR 10,000 and retrieving the status of the company as “ACTIVE Compliant”.</p> |

As a consequence, it is now mandatory for every company, incorporated on or before December 31, 2017 to file e-Form INC-22A ACTIVE on or before April 25, 2019 failing which the compliance by the companies of eventbased RoC disclosures will also suffer as no request for recording the aforementioned e-forms shall be accepted by RoC until the submission of e-Form INC-22A ACTIVE. However, post this deadline, forms can still be filed by paying a penalty of INR 10,000.

Source courtesy: