

## **DECODING FORM DIR-3 KYC**

**Don't Lose  
Your  
Directorship!**

**Ensure your KYC is Completed by  
August 31, 2018 to avoid  
Disqualification**



### **A. INTRODUCTION**

Ministry of Corporate Affairs (MCA) vide Notification dated 5<sup>th</sup> July, 2018 has amended Companies (Appointment and Qualification of Directors) Rules, 2014 by inserting Rule 12A and made Directors KYC mandatory which is effective from 10<sup>th</sup> July 2018.

Directors KYC will be made by filing e- Form DIR-3 KYC, which is one step forward towards MCA's effort to systematically weed out fake Companies and its Directors.

In India approx. 50Lac individuals have been allotted Directors Identification Number (DIN) and all of them (***including Disqualified Directors***) are required to file e-Form DIR 3 KYC by 31st August, 2018 without any fees and after 31<sup>st</sup> August 2018 the same can be filed with a fee of Rs.5000/-.

*(MCA website is showing additional precaution by mentioning that after 31st August 2018 e-Form DIR 3 KYC may be filed with fees as may be prescribed and without prejudice to any other action that may be taken, which is not mentioned in the Notification dated 5<sup>th</sup> July 2018)*

**e-Form DIR-3 KYC will be made available on website of MCA with effect from July 14, 2018.**

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### **B. DUE DATE OF FILING :**

According to the aforesaid Notification, every individual who has been allotted Director Identification Number ("DIN):

- (i) **as at 31<sup>st</sup> March, 2018** is required to submit Form DIR-3 KYC **on or before 31<sup>st</sup> August, 2018** and;
- (ii) as on 31<sup>st</sup> March of a financial year **after 31<sup>st</sup> March, 2018**, is required to submit e-Form DIR-3 KYC **on or before 30<sup>th</sup> April** of immediate next financial year.

### **C. CERTIFICATION BY PROFESSIONAL**

e-Form DIR 3 KYC is required to be signed digitally by the applicant director and the same is required to be certified and verified by practicing Chartered Accountant or Company Secretary or Cost and Management Accountant. Professional is required to declare that he has been duly engaged for the purpose of certification/verification of the form and he is certifying the followings:

- (a) That he has satisfied himself about the identity of the applicant and his address based on the perusal of the original of the attached document and in case, where the applicant is residing outside India the particulars have to be verified from the documents duly attested by the attesting authority as prescribed.
- (b) That he has verified and attested the documents of the applicant based on the Originals documents produced before me.
- (c) That he has gone through the provisions of the Companies Act, 2013 and rules made thereunder for the subject matter of this form and matters incidental thereto and he has verified the particulars mentioned in the form (including attachment(s)) from the original records maintained by the Company/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.
- (d) **That Mobile Number and Email ID of the applicant belong to the applicant who is signing the form.**
- (e) That all the required attachments have been completely and legibly attached to this form;
- (f) **That he has kept a copy of this form and attachments thereto, in his records for further reference.**
- (g) That he is understood that he shall be liable for action under section 448 of the Companies Act, 2013 for wrong certifications, if any found at any stage.

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### **D. DEACTIVATION AND RE-ACTIVATION**

In case of non-filing of e-Form DIR-3 KYC by any individual as per dates mentioned above, his/her DIN will be **De-activated** by the Central Government or Regional Director (Northern Region) or any officer authorized by the Central Government for this purpose.

The de-activated DIN **shall be re-activated** only after e-form DIR-3 KYC is filed with additional fees of Rs.5000/- .

### **E.MANDATORY INFORMATION/ DETAILS FOR FILING FORM DIR-3 KYC**

1. Director Identification Number (DIN)
2. Full Name of the Director
3. Fathers Name of the Director Other
4. Whether a citizen of India or not
5. Nationality
6. Whether resident in India or not
7. PAN
8. Date of Birth
9. Gender
10. Aadhar Card Number
11. Passport Number (Mandatory in case of Foreign National)
12. **Personal Mobile and Personal Email Id of the Director**
13. Permanent Residential address&Present Residential address

### **F.MANDATORY ATTACHMENTS TO E-FORM DIR -3 KYC**

Proof of Identity and Proof of Address of individual

### **G. ATTESTATION**

1. Before certification, professional need to ensure whether the applicant is Resident Indian or become Non Resident ( as per definition of FEMA).
2. In case where the applicant is residing outside India, professional need to ensure that the particulars are verified from the documents duly attested by the attesting authority and keep original attested copy with him for future reference.

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3. Requirement for Attestation is no where mentioned in the form or rules. But as per the past practice we can opine following **Attestation Requirements**:

<b>A.</b>	<b>Proof of Identity -Passport / PAN Card</b>	<b>Authority of Attestation</b>
	For Indian National (Resident)	Any professional CA/ CS or CMA ( Practising )
	For Indian National (Non-Resident)- who is residing in country which is part of Common Wealth countries	Attested by Indian Embassy
	For Indian National (Non-Resident) - who is residing in a country which is part of Hague Convention	Attested by Indian Embassy
	For Indian National (Non-Resident) - who is residing in a country outside the Commonwealth and which is not a party to the Hague Apostille Convention, 1961	Attested by Indian Embassy
	For Foreign National Residing in his own country which is under Hague Convention	1. Notarized by the Public Notary of that foreign country; <b>and</b> 2. Apostilled by the competent authority of that foreign country.
	For Foreign National Residing outside his Country and that country where he resides is under Hague Convention	Option A-- Notarized by the Public Notary of that foreign country and Apostilled by the competent authority of that foreign country or Option B--Attested by Embassy of his Country of Origin at place where he resides.
	For Foreign National Residing in his own Country which is under Common Wealth Country	Notarized by the Public Notary
	For Foreign National Residing outside his Country and that country where he resides is under Common Wealth Country	Option A-- Notarized by the Public Notary of that foreign country or Option B--Attested by Embassy of his Country of Origin at place where he resides.

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<b>B. Proof of Address for Indian Citizen ( RI or NRI)</b>	<b>Authority of Attestation</b>
For Indian National (Resident) ( Permanent and Present)	Any professional CA/ CS or CMA ( Practising )
For Indian National (Non-Resident)- Permanent address in India	Any professional CA/ CS or CMA ( Practising )
For Indian National (Non-Resident)- Present address at overseas -which is in a country under Common Wealth countries	Notarized by the Public Notary
For Indian National (Non-Resident)- Present address at overseas - which is under Hague Convention	1. Notarized by the Public Notary of that foreign country; <b>and</b> 2. Apostilled by the competent authority of that foreign country.
For Indian National (Non-Resident)- Present address at overseas - who is residing in a country outside the Commonwealth and which is not a party to the Hague Apostille Convention, 1961	1. Notarized before the Notary (Public) of such country <b>and</b> 2. The certificate of the Notary (Public) shall be authenticated by a Diplomatic or Consular Officer
<b>C. Proof of Address (Foreign National)</b>	<b>Authority of Attestation</b>
For Foreign National Residing in his own Country which is under Hague Convention	1. Notarized by the Public Notary of that foreign country; <b>and</b> 2. Apostilled by the competent authority of that foreign country.
For Foreign National Residing outside his Country and that country where he resides is under Hague Convention	Option A-- Notarized by the Public Notary of that foreign country and Apostilled by the competent authority of that foreign country or Option B--Attested by Embassy of his Country of Origin at place where he resides .
For Foreign National Residing in his own Country which is under Common Wealth Country	Notarized by the Public Notary
For Foreign National Residing outside his Country and that country where he resides is under Common Wealth Country	Option A-- Notarized by the Public Notary of that foreign country or Option B--Attested by Embassy of his Country of Origin at place where he resides .
For Foreign National who is from the Country which is outside the Commonwealth and also not a party to the Hague Apostille Convention, 1961	1. Notarized before the Notary (Public) of such country <b>and</b> 2. The certificate of the Notary (Public) shall be authenticated by a Diplomatic or Consular Officer

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Any applicant, whether Indian or Foreign National if visited in India,	Then all above documents can be Notarized before the Notary Public in India along with his or her valid Business Visa to India.
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- The link of Countries under Hague Convention is as under:

<https://www.ag.gov.au/FamiliesAndMarriage/Families/InternationalFamilyLaw/Pages/HagueConventionOnTheCivilAspectsOfInternationalChildAbduction.aspx>

- The link of Countries under Common Wealth is as under:

<https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/democraticservices/pdfs/List%20of%20Eligible%20Commonwealth%20Countries.pdf>

### **H.PRECAUTION FOR ANY PROFESSIONAL BEFORE CERTIFICATION OF E-FORM DIR 3 KYC**

A word of caution to professional before he certifye-Form DIR-3 KYC:

- To obtain Engagement Letter from the applicant confirming his engagement for the purpose
- To obtain Declaration / Affidavit from the applicant confirming (a) his personal Mobile Number with a copy of mobile bill , (b) his personal Email address which belongs to him only (c) confirmation that he is qualified or disqualified to be Director by MCA (d) he has not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court in India (e) he has no other allotted DIN other than DIN allotted in which changes are intimated under section 154 of the Companies Act, 2013 or a Designated Partner Identification Number under section 7 of the Limited Liability Partnership Act, 2008
- To verify / attest all documents after review of Originals only and
- To keep a copy of e-Form DIR 3 KYC with all attachments attached thereto for his record.

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### **I. FILING OF E-FORM DIR KYC WITH OWN DIGITAL SIGNATURE:**

Since every individual is required to file e-Form DIR-3 KYC with his / her own Digital Signature (DSC), he/ she need to have DSC, for which following documents and details are required to obtain DSC.

Sr. No	Documents required for getting Digital Signature Certificate
1	Photograph in JPEG format
2	<b>Self certified Proof of identity</b> : (Any one of the following) (i) PAN Card (Mandatory for Indian National) (ii) Passport (Mandatory for Foreign National) (iii) Voter Identity Card (iv) Driving License (v) Passport (vi) Aadhar Card
3	<b>Self certified Proof of residence</b> (Any one of the following): (i) Voter Identity Card (For Indian Citizen only) (ii) Driving License (iii) Passport (iv) Aadhar Card (For Indian Citizen only) (v) Electricity Bill not older than <b>1 month</b> (vi) Telephone Bill not older than <b>1 month</b> (vii) Utility Bill for Gas or Water not older than <b>1 month</b>
4	<b>Email ID for video verification</b>
5	Mobile number for verification (in case Foreign Director - Indian Mobile number for verification)
<b>Note:</b>	<b>If Director is residing outside India:</b> Supporting documents should be apostilled/ attested by the Consulate of the Indian Embassy or Foreign Notary Public .

### **OUR VIEWS**

Originally vide the Companies Amendment Act, 2006 dated 29<sup>th</sup> May 2006, provisions for DIN was mandated by inserting Section 266 A to 266 G and e-Form DIN -1 was prescribed . PAN was not mandatory to fill while applying for DIN.

Later MCA vide Circular No. 11 of 2011 dated 7<sup>th</sup> April, 2011 had mandated that all existing DIN holders who have not furnished their PAN earlier at the time of obtaining DIN were required to furnish their PAN by filing e-Form DIN -4 by 31<sup>st</sup> May, 2011 failing which their DIN will be disabled and they shall also be liable for heavy penalty. The last date was further extended vide various Circular No. 32 of 2011 dated 31<sup>st</sup> May, 2011, Circular No. 66 of 2011 dated 4<sup>th</sup> October 2011 , Circular No. 70 of 2011 dated 15<sup>th</sup> December, 2011 and Circular No.4 of 2012 dated 09<sup>th</sup> March , 2012.

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With this backdrop of updating the data based of all Individuals who are having DIN to uodate with PAN details, the MCA has commenced this massive drive of KYC of all DIN holders to clean the Corporate sector from shell companies and bogus directors. MCA has put onus on professionals to ensure that the DIN holders credentials are verified.

Further MCA has also mandated that while filing e-Form DIR-3 KYC the applicant need to use PAN based DSC in case of Indian Nationals i.e., DSC should contain PAN as specified in the form and in respect of Foreign Nationals, applicant's name in DSC would be matched with his/her name entered while filing the e-Form DIR-3 KYC. In case the PAN /Name in DSC does not match with PAN/Name entered in the form, the applicant is required to get a DSC with PAN/Name as specified in the form. While filing the e-Form DIR 3 KYC, the Unique Personal **Mobile Number and Personal Email ID** is required to be mandatorily mentioned and would be duly verified by **One Time Password(OTP)** so that the applicant is aware about his DIN .

With digitization, MCA is striving to clean the corporate sector from non-compliant, negligent and errant individuals from the management of business.

### Disclaimer

*\*This legal update is not intended to be a form of solicitation or advertising. The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate thereafter. No person should act on such information without appropriate professional advice based on the circumstances of a particular situation. This update is intended for private circulation only.*

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