

Amita Desai & Co., Company Secretaries, Mumbai

Ministry of Corporate Affairs Compliance Monitoring System (MCACMS)

Brief note on new system of show cause notices and its reply

The Ministry of Corporate Affairs (MCA) has power of adjudication under Section 454 of the Companies Act, 2013. There are various sections where the penalties (not fines) are prescribed under the Act. The sections have minimum and maximum penalty and per day penalty. All these amounts are fixed amounts thus not providing much discretion to the adjudicating officers. Registrar of Companies (RoC) is an Adjudicating Officer.

MCA has launched a new portal, MCACMS ('Ministry of Corporate Affairs Compliance Monitoring System') with Artificial Intelligence (AI) based mechanism. It's an in-house framework for prompt administration of penalties on detection of an offence under the Companies Act, 2013 by the Registrar of Companies.

You may click the following link to open the portal:

<https://mcacms.gov.in/#/>

MCACMS will track compliances and non-compliance of any company automatically and send show-cause notices to the non-compliant companies, directors and its KMPs electronically on email ID registered on MCA portal. The reply will be required to be filed on MCACMS Portal. The same is part of e-adjudication process as per section 454 of the Act

The Show Cause Notice (SCN) sent by MCACMS will have a CMS reference Number like F.No. D/RC000/0000/2019/Section No/FY. As normal SCN it will also have detail information about how it has found the non-compliance due to which Form filed it has noticed by AI and further it states the name of the Company, nature of non-compliance, section not complied with and timeline for submitting the reply. It gives as a note intimation that the Company / Director or KMP has liberty to apply for compounding under Section 441 of the Companies Act, 2013

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The following is the process to file reply on Show Cause Notice issued by MCACMS:

1. Login online to MCACMS Portal;
2. Click on Reply to Show Cause Notice;
3. Input CMS Reference number in portal;
4. Generate OTP; (it will be sent on registered email address)
5. Input OTP in MCACMS Portal;
6. Give reply in 500 words. If reply in more than 500 words it is advisable to print the same on Company letter head and authenticated by a Director/Company Secretary & submit as an attachment;
7. Submit reply & Record acknowledgment.

You may click the following link to know the steps for filing the reply of Show Cause Notices on this portal:

https://mcacms.gov.in/assets/How_to_file_Reply.pdf

In case the director of the non-compliant company fails to submit a reply to Show Cause Notice, it would be assumed that the company has nothing to say regarding the matter. As a result, the RoC shall take penal actions on the Company, Directors and KMPs for violation of the provisions of the Companies Act 2013.

Conclusion: With this automated portal the monitoring of compliances will be speedy and easy for the MCA. Due to this whole process being system driven giving less discretion to the Adjudicating Authority, the process is transparent, which in turn will help in better corporate governance. Further, it will help to ensure that the Corporates and its Directors/ KMPs will adhere to the legal provisions in its true letter and spirit.

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