



Chandrawat
& Partners

Nominee Director in India

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NOMINEE DIRECTOR IN INDIA

The role of a nominee director

A nominee director is a person appointed by the company to act as a director on its behalf. In addition to complying with all applicable laws and regulations, the nominee director must act in the best interests of the company and its shareholders.

A nominee director has a fiduciary duty to act honestly and ethically. In addition, the nominee director is required to maintain confidentiality regarding the company's affairs while making decisions on behalf of the company. Further, the nominee director must always act in good faith.

It is important to note that a company's nominee director cannot be considered as an independent director. According to section 161 (3) of the Companies Act 2013, the board may appoint any person as a director who is nominated by any institution in accordance with the provisions of any law currently in force or of any agreement, or by the central government or the state government by virtue of its shareholding in a government company, subject to the articles of the company.



APPOINTMENT OF NOMINEE DIRECTOR



A nominee director is an individual appointed as a member of the Board of Directors in a company. The Appointment of nominee directors is governed by and subject to the provisions of the articles of association of the company as per the Companies Act, 2013.

PURPOSE

The primary objective of appointing a nominee director is to represent the interests of the company on the board of another organization. A nominee director is typically appointed by a shareholder, investor, or a parent company to act as their representative and ensure that the appointing organization's interests are safeguarded.

THE OFFICE

According to Section 152 of the Companies Act, 2013, it is mandatory for directors to be appointed by the shareholders. This requirement encompasses the appointment of directors nominated by the nominator and approved by the shareholders. Consequently, these directors are also considered as having been appointed by the shareholders.



CONDITIONS FOR APPOINTING NOMINEE DIRECTOR

- **Pursuance of law or terms of an agreement**

When a financial institution contemplates the appointment of or decides to appoint a nominee director, the appointment should be made in pursuance of any law or terms of an agreement entered into by the company.

- **Relevant legal authority**

The appointment of the director can be made by the central or state government or by any other person in whom the authority is vested according to the relevant legal provisions.

- **Representation of interests**

The nominee director should represent the interests of the organisation or institution in which he is appointed.

- **Compliance**

The appointment must be in compliance with the Articles of Association, if not included, then the article has to be amended in order to include the provisions for the appointment.

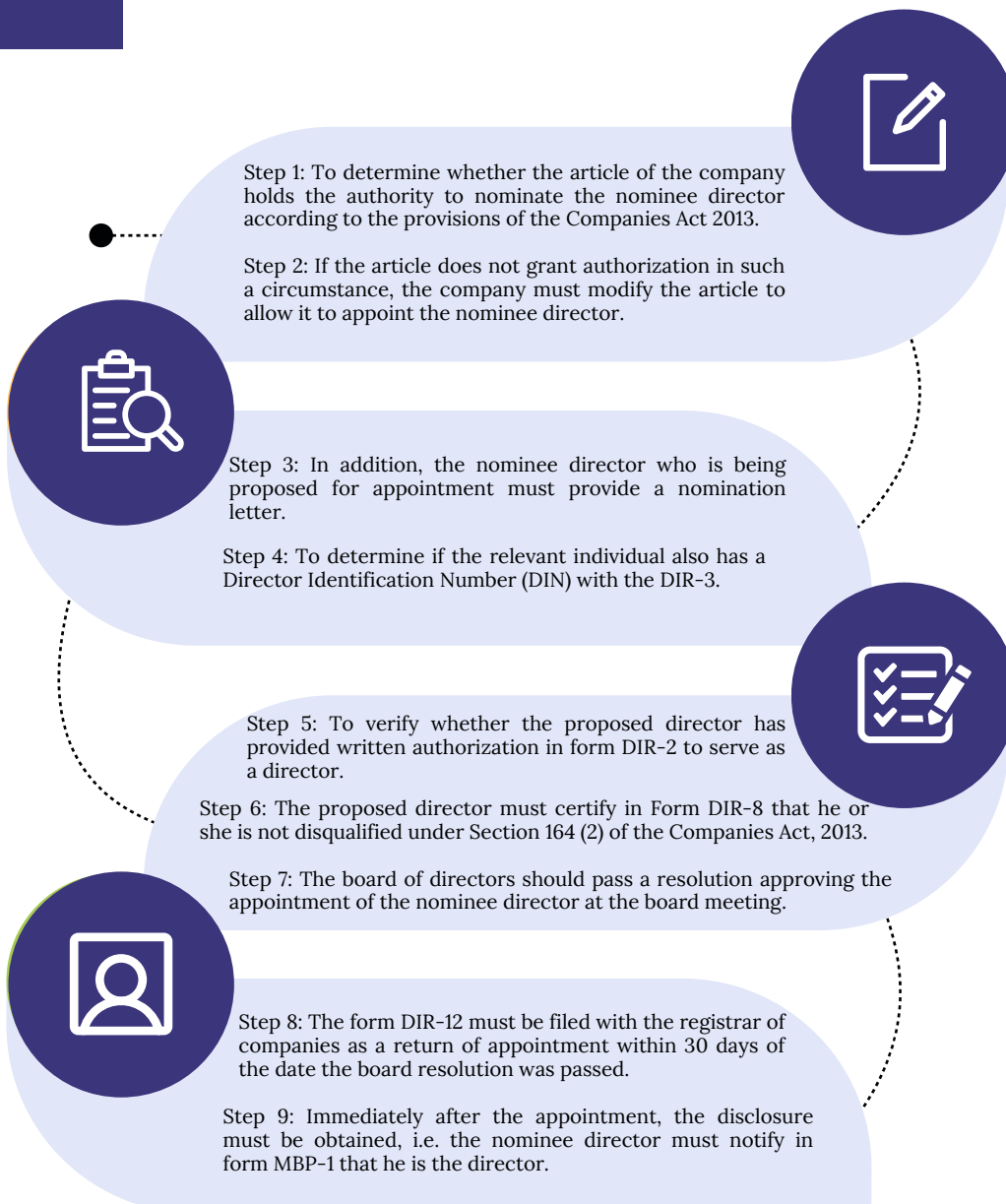
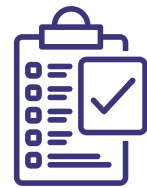


MANDATORY REQUIREMENTS FOR APPOINTMENT OF NOMINEE DIRECTOR

- When a financial institution considers or decides to appoint a nominee director, the appointment must comply with applicable laws or contractual terms.
- The director can be appointed by the government or another authorized person as per relevant laws.
- The total number of directors in the company shall not exceed the limit after appointing a nominee director.
- The individual who will be appointed as a nominee director shall hold an active Director identification number (DIN).



PROCEDURE FOR THE APPOINTMENT





DOCUMENTS REQUIRED



Documents required as an attachment for DIN-

- Identity proof of the applicant;
- Address proof;
- Disclosure of agenda of the meeting;
- For convening a board meeting, pass a board resolution to appoint a nominee director under section 161 (3);
- Authorizing the company secretary, or in case of absence of the company secretary, the director is authorized to sign the relevant documents and to file them to the ROC.

DIR-12 attachment list-

- Details of the nominee director along with DIN;
- Consent of the nominee director;
- CTC (Certified true copies of the board resolution passed for the appointment) of the nominee director;
- Letter of documents and other ancillary details as required.

NOMINEE DIRECTOR- FEATURES

- **Mission of a nominee director**

A nominee director plays a vital role in policy making of the investee companies and takes an active part in the overall growth of the company's vision, mission, and values.

Additionally, they are also accounted to suggest good corporate governance practices in conducting the business which will help in building the goodwill of the company.

Nominee director also has a contribution to the growth of the investee company with his experience in analysing the scenario of the market.

- **Responsibility for the safeguarding the interests of the nominator**

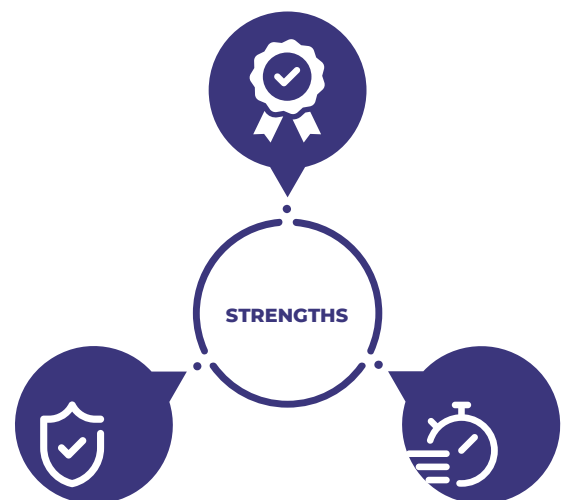
A nominee director is responsible for overseeing the operations of the company, to ensure that the policy decisions are based in accordance with commercial lines and rationality, which adequately safeguards the interests of the nominator.

- **A bridge of information**

A nominee director also acts as an association between the investee company and the nominator for an uninterrupted flow of information.

As per the guiding judicial principles, a nominee director has the right to receive information about the company.

He is not under any obligation to share any information with the nominator merely by virtue of such nomination; rather, such duty of sharing information may arise out of separate agreement entered into between the nominator and the nominee.



- **Active involvement in board meetings**

The nominee director actively involves in discussions and deliberations aimed at financial performance of the company, the future course of action and fund raising, etc. The objective is to apply their expertise on the matters placed before the board with the aim of protecting the interests of the nominator.

- **Maintenance of secrecy and confidentiality**

Although a nominee director has their allegiance towards the nominator, the nominee director is always expected to abide by the code of conduct for directors and key managerial personnel.



DUTIES OF A NOMINEE DIRECTOR

The term "Nominee Director" inherently implies a dual obligation - both as a nominee and as a director. The responsibilities associated with being a director encompass broader implications for the company, while the duties as a nominee are specific to the individual nominator.

The nominee director bears the sole responsibility of ensuring adherence to both sets of obligations, which often creates a conflict of interest. They are required to make difficult choices between prioritizing the company's interests and those of their nominator, highlighting the challenging nature of their dual role.

- **Act in good faith:** A nominee director is expected to act in good faith and in the best interests of the company. He must ensure that his actions will not be motivated by personal gain, or his own interests.
- **Exercise care, skill, and diligence:** A nominee director must exercise the same level of care, skill, and diligence as any other director on the board.
- **Maintain confidentiality:** A nominee director must maintain the confidentiality of the company's affairs and must not disclose any confidential information.
- **Disclose conflicts of Interest:** A nominee director must disclose any conflict of interest.
- **Ensure compliance:** A nominee director must ensure that the company complies with all legal and regulatory requirements. He must also ensure that the company's activities are consistent with the objectives of the shareholder and beneficial owner who appointed him.



DO'S AND DONT'S BY NOMINEE DIRECTOR

A nominee director should be careful and consider certain Do's and Don'ts while delivering his duties:

DO'S

Discipline & Involvement

A nominee director should:

- attend the board meetings regularly and effectively and work in the spirit of cooperation.
- study the board papers thoroughly and use the good offices of the executive directors/officers for eliciting any information at the meetings of the board of directors.
- procure the board papers and follow-up reports on a definite time schedule.
- Make efforts to provide required guidance and knowledge for effective management of the company

DONT'S:

Non-interference

A nominee director should not:

- interfere in the day-to-day functioning of the investee company.
- send any instructions or directions to the employees or officers of the investee company in any manner.
- sponsor any loan proposal, buildings and sites for company's premises, enlistment or empanelment of contractors, architects, doctors, lawyers, etc.
- approach or influence for sanction of any kind of facility.
- participate in the board discussion, if a proposal in which he is directly or indirectly interested and should disclose the interest well in advance to the management.
- involve himself in any matter relating to personnel administration whether it is appointment, transfer, posting or promotion or redressal of individual grievances of any employee.
- reveal any information relating to any constituent of the company to anyone as, he is under oath of secrecy and fidelity.
- directly call for papers/files/notes recorded by various departments for scrutiny etc.

NEED FOR NOMINEE DIRECTOR SERVICES IN INDIA



- For every Indian company, it is mandatory to have at least one resident director as per the Indian Companies Act, 2013.
- A resident director understands business operations effectively.
- Professional directors can be appointed on board with fixed remunerations.
- Saving on visit expenses.
- Faster processes for legal registrations and filings.
- Business growth without fear of non-compliance.

OUR NOMINEE DIRECTOR SERVICES

We follow a transparent and straightforward process when offering nominee director services in India. We ensure that our clients are well-informed throughout each stage of the process.

01

Our team meticulously selects a suitable candidate who possesses the necessary qualifications and documents. We seek individuals with expertise in corporate governance, annual reporting, and filing, and we subject them to rigorous enhanced due diligence checks.

02

Upon engagement, we promptly provide our clients with all the essential Know Your Customer (KYC) documents for the India nominee director. This includes the nominee's up-to-date resume, a copy of their passport, proof of address, and non-criminal records. Additionally, we furnish the client with the nominee director's Director Identification Number (DIN) and other relevant forms.

03

Our professionals excel in drafting comprehensive agreements for the nominee director arrangement. We also prepare a statutory declaration that must be signed by all parties involved. This document serves as a guarantee that the company is fully managed by you and that you are indemnified.

04

By following this meticulous and transparent approach, we ensure that our clients have complete confidence in our professional services.



WHY CHOOSE US?

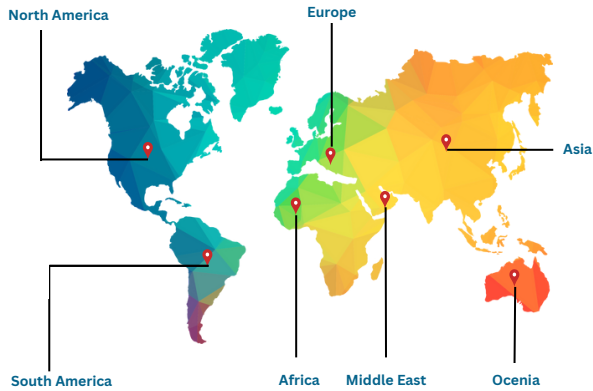
We are well equipped to offer nominee director services in India to our international clients. Our full service package includes the following services:

- Company registration;
- Free trade zone company formation;
- Work visa application;
- Corporate bank account opening;
- Financial license applications, etc.

We specialize in providing nominee director services to both individuals and corporations. With a strong commitment to upholding the highest level of integrity and confidentiality, we ensure that our clients can trust us with their important business matters.



SERVING CLIENTS WORLDWIDE



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Chandrawat & Partners is a leading and rapidly growing full-service law firm in India providing high quality professional, legal and corporate services to foreign and local clients, representing worldwide companies and individuals in a wide range of practice areas and sectors.

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