



# Compliance Services

A short guide on the compliance services in India.

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# INTRODUCTION



The capacity to comply with commands, rules, or demands is referred to as compliance. A private limited company formed in India must guarantee that the requirements of the Companies Act, 2013 are satisfied.

The Companies Act of 2013 governs the appointment, qualification, salary, and retirement of directors, as well as other matters such as board meetings and shareholder meetings.

Registrar of Company ("RoC") compliance is required for registered Private Limited Companies. The corporation must comply with the yearly compliance obligation regardless of its entire turnover or capital amount.

Every year, all firms incorporated in India, such as private limited companies, one-person companies, limited companies, and companies mentioned in Section 8 of the Companies Act, 2013, must maintain yearly compliance such as annual returns and income tax returns.

Company registration is the most common way to establish a business, therefore, many compliances must be followed once the company is incorporated.

Managing the day-to-day operations of the firm while adhering to complex corporate regulations can be tough for an entrepreneur. As a result, it is always preferable to get expert assistance and understand the legal requirements to ensure timely compliance and avoid penalties or fines.



# WHAT IS COMPLIANCE ?

Compliance, implies that a corporation follows all applicable regulations and laws. This comprises both country-specific legislation and regulatory authority requirements, as well as internal firm directions. A variety of tools and processes may be introduced and used by a business to achieve good compliance. They are intended to discover, prevent, or rectify wrongdoing or infractions at an early stage, before any major consequences such as criminal prosecution, penalties, or severe harm to a company's reputation.

## *Classification*

To promote transparency in reporting, the Ministry of Corporate Affairs (MCA) and the Securities and Exchange Board of India (SEBI) issued modifications through circulars and notifications regularly. The Companies Act of 2013 requires numerous compliances to be completed regularly. For a better understanding of the subject, we have classified the numerous Compliances as follows:

- a) **Event-based compliances:** Compliance required upon the occurrence or occurring of a specific event, such as the filing of E-form INC-22 upon the relocation of the Company's Registered Office.
- (b) **Time-based compliance:** Compliances that must be completed annually, semi-annually, or quarterly, such as the filing of E-form AOC-4 and MGT-7.
- c) **Compliance Based on Specific Criteria:** Other compliances are predicated on paid-up share capital, turnover, or any other specific criteria, such as the necessity to submit E- Form AOC-4 (XBRL), Nomination of Company Secretary, and so on.

# WHY IS IT CRUCIAL FOR BUSINESS?



Compliance is no longer a choice for businesses; it is a compulsion. In the case of a violation, Chief Executive Officers ("CEOs"), managing directors, and board members face prosecution and penalties. The public, as well as the media and social media, may amplify this influence.

**Those that invest in compliance gain various benefits enlisted:**

- Violations can be identified and avoided at an early stage.
- Directors and staff are shielded from penalties or punishment since the organization conforms to the law.
- The firm has a good reputation.
- The organization becomes more appealing to new workers, business partners, and investors.

Several rules and norms apply depending on the company's size and business location.



### **It helps to avoid legal ramifications**

No company wants to get involved in large legal battles or face criminal penalties for breaking the law. Legal liabilities may be both a significant blow to the company's reputation and an immediate cash loss. Court hearings and appearances can cause major disruptions to operations of the company. To be legally compliant, one must not only study the important legislation related to the organization, but, must also follow it at all costs.

Building a trustworthy public image is one approach to successfully advertising the company. If the firm is in problems because of noncompliance, the general public may question your reliability. Remember that the customers' trust and loyalty are vital to the company.

### **It boosts the company's productivity**

It was previously highlighted how compliance may help to develop solid corporate standards. This is referred to as internal compliance. It's the company's approach to fostering a great work environment and culture. Employees want to work in an environment where they feel safe and well-cared for. This is only possible if the firm has a defined model. The model might be a collection of principles or regulations that assure the fairness and safety of employees and clients.

# WHO IS IN-CHARGE OF COMPLIANCE?



The criteria for recruiting an officer to act as an in-charge of compliance, differs according to the company's size and organizational structure. Senior management is generally responsible for compliance, while compliance officers are in charge of organization and execution of such compliances inside the corporation. The latter guarantees that personnel in all business sectors and locations follow all applicable laws, regulations, and the company's own rules and codes of behavior. To do this, compliance officers stay current on the newest legislative and regulatory standards, as well as constantly educate personnel in compliance-related areas.

Compliance officers also identify possible hazards for the organization and create policies and procedures to guarantee that rules are followed. They analyze and adjust compliance management regularly to adapt it to changing political or economic situations and developing dangers.

# ROC COMPLIANCE

Here is a brief list of all the compliance procedures that must be completed or complied with:

## Board Meetings

A public limited company should hold at least four board meetings every calendar year, while a private firm should hold at least two board meetings per calendar year. A minimum of one-third of the total number of directors, or two directors, shall be present at the meeting, and the agenda should be communicated to them at least seven days in advance. The minutes of board meetings must be retained at the registered office of the firm.

## Annual General Meetings

Every year, one AGM shall be held, with a 15-month break between the two AGMs. Similarly, the goal of an AGM is to review the company's financial accounts, the appointment of an auditor, dividend declarations, remuneration, and so on.

## Appointment of Auditor

A company must appoint its first auditor within 30 days of its incorporation. The initial auditor will be appointed for a five-year term, and his or her appointment must be registered with RoC using Form ADT-1. Form ADT-1 must be filed with the RoC if a corporation appoints a new auditor within 15 days of the annual general meeting.





## Form MGT 7 submission

MGT-7 is an electronic form issued by the Ministry of Corporate Affairs to all corporations to fill out their yearly return data. The Registrar of Companies maintains this e-form electronically and based on the company's assurance of accuracy.

Every corporation must hold MGT within 60 days after the date of the Annual General Meeting. It should include the following details:

- The specifics of the board and member meeting,
- Other holdings and allied firms' registered office and a major place of business,
- Debenture holders/members, including the modifications,
- Key management executives, directors, and promoters, along with a description of the changes made,
- Directors' and senior executive personnel's pay,
- Details of the company's legal matters Details of any penalty or punishment levied on the corporation
- Shareholding pattern Debentures, shares, and other securities,
- Obligation or liability,
- Compliance certification is important.

In the event of a dispute or any matter originating from it, these facts will be available for public scrutiny.

## Filing of Financial Statements

Financial statements serve as a means of communication between shareholders and the board of directors of the corporation. The form also informs shareholders about their investments and discloses all financial activities during the fiscal year. Furthermore, this formality must be completed within 30 days of the annual general meeting. It should include the following elements:

- The balance sheet
- Details of the balance sheet's particulars
- Specifics on corporate social responsibility
- All linked party transactions put into by the corporation details of the profit and loss account
- The audit report, as well as any other incidental transactions (both directors and secretarial audit)
- Information on the auditor and the board meeting should also be included.

## Maintaining Statutory Register

After the fiscal year, businesses must compile their accounts and have them audited by a chartered accountant. Furthermore, the audit reports and financial statements must be submitted to the registrar.

It is required to keep statutory registers, minutes of board meetings, AGMs, creditors meetings, and debenture holder meetings.



# NON ROC COMPLIANCE



In addition to the statutory compliance filings stated above, certain non-RoC compliance for private limited corporations include:

## Filing TDS Return

An employer or business that has a valid TAN - Tax Collection and Deduction Account Number - can file an online TDS return. Any individual or corporation that makes a specific payment specified in the I-T Act is required to deduct tax at the point of sale. The deposit must be made within the time frame specified. Among the payment options are:

- Commission on Salary Insurance,
- Profits from horse racing,
- Income from 'Income on Securities',
- Income from lotteries, riddles, and other games,
- Payment for National Savings Scheme and other programs.

## GST Return Filing

In India, the Goods and Services Tax (GST) is an indirect tax paid on the sale of goods and services. Every GST-registered taxpayer is required to file GST returns. The government uses these returns to assess its tax liability. GST is a developing taxation system, and the government is constantly altering the laws and regulations that surround it. As a result, it is critical to keep current to submit your returns appropriately.

# IMPACT OF NON COMPLIANCE

If a business fails to comply with the laws and regulations of the Companies Act, the firm and its members who fail to comply will be punished with a fine for the duration of the default.

## **Non Filing of Annual Returns**

The company must file an Annual Return on Form MGT-7 within 60 days of the AGM. If a business fails to file its annual return before even the end of the period, the company and each officer who is in default shall be subjected to a fine of up to Rs. 50,000, and in the case of ongoing failure, a further fine of Rs. 100 for each day such failure continues, subject to a maximum penalty of Rs. 5,00,000.

## **Failure to file financial statements**

According to Section 137(3) of Companies Act, 2013, if a firm fails to file Form AOC-4 by the required date, the company would be fined Rs.1,000 for each day the violation persists, with a maximum penalty of Rs.10,000.

## **Failure to file Resolutions and Agreements**

If a company fails to file the resolution or the agreement, it will face a penalty of up to Rs. 100,000 and, if the failure continues, a penalty of Rs. 500 for each day the failure continues, up to a maximum of Rs. 25,00,000, and every officer of the company who is in default, including the liquidator, will face a penalty of Rs. 50,000 and, if the failure continues, a penalty of Rs. 500 for each day the failure continues, up to a maximum.

## **Failure to conduct an Annual General Meeting**

If the company fails to hold a meeting by sections 96, 97, or 98 or fails to comply with any directions of the Tribunal, the company and every officer of the company who is in default shall be punished with a fine of up to Rs.1,00,000, and in the case of continuing default, with a further fine of up to Rs.5,000 for each day such default continues.



### **Directors' failure to disclose conflicts of interest**

If a director of the Company violates the terms of sub-section (1) or (2), such director must be punished by imprisonment for a term not exceeding one year or by a fine which may extend to Rs. 1,00,000 or with both.

### **Noncompliance with the filing of the Return of Unsecured Loans and Deposits**

The Form DPT-3 return is required for all businesses, regardless of size or category. E-Form DPT-3 must include information on all existing loans that are not considered deposits under the legislation, as well as any outstanding receipts of money.

Furthermore, the yearly deposit return must be filed by June 30th of each year. If any firm violates any provision of these regulations, the company and any official of the company who is in default shall be punished with a fine of up to Rs. 5,000 and, if the violation is ongoing, with a subsequent punishment of up to Rs. 500 for every day after the first day during which the contravention continues



# CONCLUSION

Running a business, particularly a private limited company, is not something to be done lightly, and necessitates a continual commitment of substantial time and effort, as well as extensive understanding of numerous financial and regulatory intricacies.

Compliance is a corporate asset that, when managed correctly, can provide firms with a competitive edge, consumer trust, and, eventually, a return on investment. Compliance is more than just "doing the right thing" or "ticking a box," it is a way of life, a part of the business, investor trust, and a transparent and open culture. Remember that the cost of non-compliance is always greater than the cost of compliance.

There are established and skilled specialists on the market today that are ready and prepared to assist their clients at every step of the business cycle, not only in incorporation but also with all compliance and regulatory needs throughout the organization's lengthy existence.

# HOW WE CAN HELP?



Our team can provide valuable assistance to businesses in India with compliance services by helping them navigate the complex regulatory landscape and avoid potential legal pitfalls. Here are some ways our team can help:

**Conduct compliance audits:** Our team can conduct a comprehensive compliance audit to identify areas where a business may be non-compliant with the applicable laws and regulations in India. This can help the business take corrective measures before any regulatory action is taken.

**Develop compliance programs:** Our team can help businesses in India develop and implement robust compliance programs that are tailored to their specific needs. These programs can include policies, procedures, training programs, and monitoring mechanisms to ensure compliance.

**Provide regulatory updates:** Our team can keep businesses up-to-date with the latest regulatory developments in India. This can help businesses stay ahead of the curve and avoid any legal or compliance issues that may arise.

**Represent businesses in regulatory matters:** If a business faces regulatory action in India, our team can represent them in regulatory proceedings and help them navigate the process.

**Conduct due diligence:** Our team can conduct due diligence on behalf of businesses in India to ensure that they are compliant with all applicable laws and regulations. This can be particularly helpful when a business is acquiring or merging with another company.

## SERVING CLIENTS WORLDWIDE



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