

# **Regulatory alert: MCA notifies Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019**

**Online proficiency self-assessment test for independent directors**

**Issued on: 11 November 2019**



## Summary

The Ministry of Corporate Affairs (MCA) on 22 October 2019 amended the Companies (Appointment and Qualification of Directors) Rules, 2014<sup>1</sup>. The amended rules introduce the requirement for every individual who has been appointed or intends to get appointed as an independent director (ID) in a company to include his/her name in the databank as maintained by the Institute<sup>2</sup>.

Further, the new rules also provide for the requirement by certain IDs to pass an online proficiency self-assessment test conducted by the Institute in order to keep their name in such data bank.

## Key highlights

### Online application by IDs for including their name in the data bank

The following individuals shall make an online application to the Institute for including their name in the databank maintained by the Institute. The application can be for a period of one year or five years or for lifetime.

Who should apply	Timeline for making application
Individual who has been appointed as an ID as on 1 December 2019	Within 3 months from 1 December 2019
Individual who intends to get appointed as an ID after 1 December 2019	Before appointment

**Voluntary application:** Further, any individual, including an individual not having a Director's Identification Number (DIN), may voluntarily apply to the Institute for inclusion of his/her name in the data bank.

### Renewal of the name in the databank

The individual may renew his/her information in the data bank for a further period of one year or five years or for lifetime, within 30 days from the date of expiry of the earlier inclusion period<sup>3</sup>.

**If not renewed,** the name of such individual shall stand removed from the data bank. Please note, an application is not required when the individual has lifetime registration.

### Declaration by IDs

IDs shall submit a declaration of compliance with the above requirements to the Board each time they submit the declaration<sup>4</sup> with the company.

<sup>1</sup> Effective from 1 December 2019

<sup>2</sup> The expression "Institute" means the 'Indian Institute of Corporate Affairs at Manesar', Haryana, notified under sub-section (1) of section 150 of the Companies Act, 2013 as the institute for the creation and maintenance of data bank of independent directors

<sup>3</sup> Up to which the name of the individual was applied for inclusion in the data bank, i.e., one year or five years

<sup>4</sup> Required under sub-section (7) of section 149 of the Act

### Online proficiency self-assessment test

Every individual shall pass an **online proficiency self-assessment test** conducted by the Institute:

- within **one year** from the date of inclusion of his/her name in the data bank, and
- with a score of **not less than 60%** in aggregate.

It is pertinent to note that the name shall stand removed from the data bank on failure to pass the test. However, there are limits on the number of attempts an individual may take for passing such test.

**Exemption:** The following individuals are not required to pass the online proficiency self-assessment test:

- Individual who has served for a period 10 years or more as on the date of inclusion of his/her name in the data bank as director or key managerial personnel (KMP) of:
  - a listed public company
  - an unlisted public company having a paid-up share capital of rupees INR 10 crore or more

It has, however, been clarified that for the purpose of calculating 10 years, the period during which an individual acted as a director or KMP in two or more companies at the same time shall be counted only once.

### Our comments

IDs perform functions that are critical to good corporate governance. The amended rules will improve their corporate literacy and will make the IDs aware of their duties, roles and responsibilities so that they can carry them out effectively.

## Contact us

To know more, please visit [www.grantthornton.in](http://www.grantthornton.in) or contact any of our offices as mentioned below:

<b>NEW DELHI</b> National Office Outer Circle L 41 Connaught Circus, New Delhi 110001 T +91 11 4278 7070	<b>NEW DELHI</b> 6th floor, Worldmark 2, Aerocity, New Delhi - 110037 T +91 11 4952 7400	<b>AHMEDABAD</b> 7th Floor, Heritage Chambers, Nr. Azad Society, Nehru Nagar, Ahmedabad - 380015	<b>BENGALURU</b> 5th Floor, 65/2, Block A, Bagmane Tridib, Bagmane Tech Park, C V Raman Nagar, Bengaluru - 560093 T+91 80 4243 0700	<b>CHANDIGARH</b> B-406A, 4th Floor, L&T Elante office Industrial area, Phase-I, Chandigarh 160002 T +91 172 4338 000
<b>CHENNAI</b> 7th Floor, Prestige Polygon 471, Anna Salai, Teynampet Chennai - 600 018 T +91 44 4294 0000	<b>DEHRADUN</b> Suite 2211, Michigan Avenue, Doon Express Business Park, Saharanpur Road, Dehradun - 248002 T +91 135 264 6500	<b>GURGAON</b> 21st Floor DLF Square Jacaranda Marg, DLF Phase II, Gurgaon 122002 T +91 124 462 8000	<b>HYDERABAD</b> 7th Floor, Block III White House Kundan Bagh, Begumpet Hyderabad 500016 T +91 40 6630 8200	<b>KOCHI</b> 7th Floor, Modayil Centre Point, Warriam road junction, M.G. Road, Kochi 682016 T +91 484 406 4541
<b>KOLKATA</b> 10C Hungerford Street 5th Floor, Kolkata 700017 T +91 33 4050 8000	<b>MUMBAI</b> 16th Floor, Tower II Indiabulls Finance Centre SB Marg, Prabhadevi (W) Mumbai 400013 T +91 22 6626 2600	<b>MUMBAI</b> Kaledonia, 1st Floor, C Wing (Opposite J&J office) Sahar Road, Andheri East, Mumbai 400069	<b>NOIDA</b> Plot No. 19A, 7th Floor Sector - 16A, Noida 201301 T +91 120 4855 900	<b>PUNE</b> 3rd Floor, Unit No 309 to 312, West Wing, Nyati Unitree Nagar Road, Yerwada Pune- 411006 T +91 20 6744 8800

For more information or for any queries, write to us at [contact@in.gt.com](mailto:contact@in.gt.com)



Follow us @GrantThorntonIN



**Grant Thornton**

An instinct for growth™

© 2019 Grant Thornton India LLP. All rights reserved.

“Grant Thornton in India” means Grant Thornton India LLP, a member firm within Grant Thornton International Ltd, and those legal entities which are its related parties as defined by the Companies Act, 2013.

Grant Thornton India LLP is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001.

References to Grant Thornton are to Grant Thornton International Ltd (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.