

FAQs on Incorporation and Allied Matters

1. What is e Form SPICe+?

SPICe+ is a part of various initiatives undertaken by the Government of India towards Ease of Doing Business (EODB).

SPICe+ form is an integrated web form and an advanced version of the previous **SPICe** form (i.e. e-form INC-32). SPICe+ web form offers 11 services by 3 Central Government Ministries & Departments. (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and Two State Governments (Maharashtra and Karnataka), thereby saving as many procedures, time and cost for Starting a Business in India.

2. Is it mandatory for every company to follow the SPICe+ process for incorporation of a company?

Every company incorporated with effect from 23rd February, 2020 is required to make an application for reservation of name and incorporation through the web service SPICe+. Name(s) of a company can be reserved in Part A of SPICe+. In case the applicant wants to apply for name, incorporation and other integrated services together, he can do so together by filling necessary information in Part A and Part B.

For change of name, web service RUN (Reserve Unique Name) is required to be submitted.

3. What is RUN?

RUN service is a simple and easy to use web service for reserving a name for change of name for any existing company. The said service has removed the requirement to use a Digital Signature Certificate (DSC) during name reservation. It was another value addition to Ease of Doing Business in India.

4. What needs to be done initially for availing the Incorporation services through SPICe+ Webform?

SPICe+ Web form is a post-login service and existing registered users would need to login into their account using their credentials. New users are required to create a login account first before using the service.

5. What is 'Application Number'?

Application Number refers to a system generated number given to an application for Name reservation/Incorporation which is yet to be submitted/uploaded by the user.

6. What is Part A of web form SPICe+ and can the same be filed separately?

SPICe+ Part A represents the section wherein all details with respect to name reservation for a new company have to be entered. SPICe+ Part A can either be submitted individually for name reservation only or can be submitted together with SPICe+ Part B for both name reservation as well as incorporation and for availing other integrated services.

7. What are the services offered in Part B of SPICe+?

Part B of SPICe+ offers following services viz.

- a) Incorporation;
- b) DIN allotment;

- c) Mandatory issue of PAN;
- d) Mandatory issue of TAN;
- e) Mandatory issue of EPFO registration;
- f) Mandatory issue of ESIC registration;
- g) Mandatory issue of Profession Tax registration, only for companies to be registered in Maharashtra and Karnataka;
- h) Mandatory Opening of Bank Account for the Company and
- i) Allotment of GSTIN (optional, if applied for).

8. What is the sequence of uploading linked forms to SPICE+?

Following is the sequence of uploading linked forms to SPICE +:

- a) eMOA[if applicable]
- b) eAOA [if applicable]
- c) URC-1[if applicable]
- d) AGILE-PRO[mandatory in all the cases]
- e) INC-9[if applicable].

9. What will happen in case the proposed name is identical or too nearly resembles with the name of an existing Limited Liability Partnership or an existing Company?

The name shall be treated as an undesirable name and sent for resubmission or rejected, as the case maybe.

10. Whether the proposed name is undesirable if it is identical with or too nearly resembles with a name which is for the time being reserved and not expired?

Yes, it is treated as undesirable.

11. How do I apply for a name if the proposed name includes the name of a Trade Mark?

In case the proposed name includes a reference of a registered Trade mark name, the user must ensure that he has attached the consent of the owner or applicant for registration of the trade mark along with KYC details (bearing signatures) of Trademark owner. In case the TM owner is a body corporate, the NOC should be provided in the form of a Board Resolution along with KYC documents.

12. What are the words on which approval of regulatory authority would be required?

A name shall generally be reserved if it includes the words like 'Bank', 'Insurance', and 'Banking', 'Venture Capital' or 'mutual fund' or business activity includes the words like 'Bank', 'Insurance', and 'Banking', 'Venture Capital' or 'mutual funds' or such similar words

with the approval of regulatory authority.

Provided that the approval of regulatory authority may be obtained at the time of application for incorporation or change of name, as the case may be.

13. What are the words or expression which can be used only after obtaining previous approval of Central Government?

In terms clause {b} of sub-section (3) of Section 4, the following words and combinations thereof shall not be used in the name of a company in English or any of the languages depicting the same meaning unless the previous approval of the Central Government has been obtained for the use of any such word or expression:-

- a) Board;
- b) Commission;
- c) Authority;
- d) Undertaking;
- e) National;
- f) Union;
- g) Central;
- h) Federal;
- i) Republic;
- j) President;
- k) Rashtrapati;
- l) Small Scale Industries;
- m) Khadi and Village Industries Corporation;
- n) Financial Corporation and the like;
- o) Municipal;
- p) Panchayat;
- q) Development Authority;
- r) Prime Minister or Chief Minister;
- s) Minister;
- t) Nation;
- u) Forest corporation;
- v) Development Scheme;
- w) Statute or Statutory;
- x) Court or Judiciary;
- y) Governor;
- z) the use of word Scheme with the name of Government (s), State, India, Bharat or any Government authority or in any manner resembling with the schemes launched by Central, State or local Governments and authorities; and
- za) Bureau.

14. What precautions should one take care before applying for the proposed name?

One should be very careful while applying for the name, there can be rejection of name approval application in the following cases:

- a) Proposed Name exactly identical/resembled/phonetically to the name of an existing company/LLP
- b) Proposed Name includes words which are registered under Trademark Act with a specific class(es)
- c) Wrong Class/Category/Sub Category of the Proposed Company is mentioned in web form.
- d) Industrial Activity Code of NIC is not found in consonance with the attached objects of the Company in SPICe+ PART A

- e) Proposed Name is found Descriptive i.e. it contains commonly used words (proper prefix or suffix not used in name)
- f) No significance about Abbreviations used in proposed name**
- g) Proposed Name indicates words Finance/Investment/Capital/ Holding/ Insurance etc whereas the proposed objects of the Company do not indicate such activities.
- h) Objects mentioned in the form are vague and the TM cannot be ascertained. (E.g. manufacturing / development / producing of all type of goods etc.)**
- i) Name contain words viz Board, National, Commission etc as given in Rule 8B of the Companies (Incorporation) Rules, 2014 for which previous approval of the Central Government is required.
- j) Application made with Restricted and Undesirable names (System may not allow filing of such applications)
- k) Proposed name if resembles closely the popular or abbreviated description of an existing company or limited liability as per rule 8A(1)(h) of Companies (Incorporation) Fifth Amendment Rules, 2019.
- l) Previous approval of the Central Government has not been obtained and attached with application Where any word or expression which is likely to give the impression that the company is in any way connected with, or having the patronage of, the Government, or any local authority, corporation or body constituted by the any Government.
- m) If the proposed name contains the name a foreign country/city/town etc. then applicant has to attach any proof of significance of business relations with such foreign country like MOU with a company of such country. In case proposed name includes name of India and a foreign country (eg. India Japan or Japan India) in such cases name shall be allowed if, there is Government to government participation or patronage and no company shall be incorporated using the name of enemy country. (pl refer Rule 8A(1)(t).

Note: The Stakeholders are requested to take utmost care in complying with the above instructions as Name Reservation applications may be put into re-submissions or rejections on the above grounds.

15. What is the procedure after filling the SPICe+?

Once the SPICe+ is filled completely with all relevant details, the same would then have to be converted into pdf format, with just a click of the mouse button, for affixing DSCs. Thereafter all digitally signed applications can be uploaded along with the linked forms as per the hitherto process.

16. What precautions required/points to checked before uploading/submitting SPICe+ form?

- 1) The version of the PDF should be latest/new one.
- 2) Form is digitally signed by the director as well as the Professional.
- 3) Digital signatures are validated.
- 4) That the directors are not disqualified under any provision of the Companies Act, 2013.
- 5) Size of the documents attached are within the prescribed limit.
- 6) Documents attached are legible and
- 7) Signature are not copy pasted in any of the document attached.

17. In case the proposed name indicates different words like Finance/Leasing/Chit fund/Investment/Securities or combination thereof whereas the proposed objects of the Company do not indicate such activities, what would happen in this case?

The proposed name will be considered as undesirable if it is not in consonance with the principal objects of the company as set out in the MOA.

Similarly, if the main objectives relates to Finance/leasing/chit fund/Investment/Securities or combination thereof, the proposed name must include such activity in the name (Rule 8(a)(1)(g) of the Companies (Incorporation) Rules, 2014.

18. Can one apply name with more than one SRN?

No. System prevents application of name reservation in case proposed name is already 'applied for' and payment is already made for such SRN.

Stakeholders should avoid this and wait for a reasonable time for payment confirmation before applying the same name again.

19. What needs to be done when the proposed name applied has already been reserved but due to some issues like (Category/Spelling mistakes etc.), the applicant wants to reapply with the same name?

In such cases, before applying again, it has to be ensured that the stakeholder first withdraws the already reserved name and thereafter apply again. Such name can be withdrawn by making application to crc.escalation@mca.gov.in along with an Affidavit for withdrawal and KYC details of applicant.

20. What are the cases wherein specific objectives are mandatory to be mentioned/ attached while applying for the name?

In case of Activity Code 36 (having many activities)/74 (Other Business Activities)/93 (Other Service Activities), it is not possible to check Trademark. Therefore, it is mandatory in such cases to mention/attach specific objectives, otherwise form will be considered for rejection.

21. Whether it is mandatory to attach in-principle approval of the regulatory authority?

The name approval application may get rejected in case it is filed without In-Principle approval of the Regulatory Authority at the time of Incorporation/ Change of Name, where the objectives contain Insurance Agent/Broker activities.

Further, for change of name, approval of the Sectorial regulator i.e. RBI / SEBI / IRDAI is required.

22. Whether it is necessary to attach Board Resolution/ NOC with the name reservation application?

Certified copy of Board Resolution in case of change of name of a company and certified copy of Board Resolution with NOC duly signed by the Authorised Representative in case of incorporation of subsidiary of Foreign Company should be attached.

BR is also to be attached while providing NOC for using a resembling name / Trademark.

23. What document is required to be attached while reservation of name in case of conversion of Partnership into Company?

Partnership Deed should be attached in case of conversion of Partnership Firm into Company. Also attach the consent of all the partners for conversion of Partnership into Company.

24. How many names would be permitted in Part A of SPICe+?

In case an applicant opts for reserving the proposed name first and file Part B of the SPICe+ form later, then maximum two names can be applied through SPICe+ Part A, out of which single name, as made available by Central Registration Centre (CRC), will be approved and reserved for 20 days from the date of approval. In case entire incorporation application i.e. both SPICe+ Part A and B is being filed together then only one name can be entered in SPICe+ Part A

25. Can an approved name, reserved using Part A of SPICe+, from one Applicant ID at MCA portal be permitted to be filed in Part B of SPICe+ from other Applicant ID?

The same user login ID which was used for reserving the name has to be used for submitting and uploading SPICe+ and other linked forms.

26. When the name gets approved in SPICe+ PartA, what is the process to fill Part B?

Click on 'Fill' button available against SPICe+ Part A SRN displayed on the Dashboard and then click on 'Proceed' button. This will enable the Part B section of SPICe+ form. SPICe+ facilitates on-screen filing and real time validation of data ensuring that the process of incorporation of companies is seamless.

27. In case the subscriber to the memorandum is a foreign national, his signatures and address needs to be notarized as per the Rule 13 of the Companies (Incorporation) Rules, 2014. In such cases, how can the signature of subscribers be attested?

In such cases, SPICe+ (INC-32) shall be filed along with the manually signed Memorandum of Association (MOA) and Articles of Association (AOA). The Signature and address of the subscriber shall be duly notarized / apostilled / consularised, as applicable

28. Whether the documents are required to be notarised and apostilled for incorporation of a company in case the subscriber/director is a Foreign national?

The attestation requirement depends on the country in which registered office (in case of body corporate as a subscriber) /residence of the overseas subscriber and / or director is situated. The documents are required to be attested are as follows:

- a) Proof of Residence in a country which is part of the Common Wealth, by a notary public of that country;
- b) Proof of Residence in a country which is party to the Hague Apostille Convention, 1961, attestation to be made by a notary public of the said country and duly apostilled in accordance with Hague Convention; or
- c) Proof of Residence in a country outside the Commonwealth, and which is not party to Hague Convention, authenticated by a Diplomatic or Consular Officer empowered in this behalf under Section 3 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (40 of 1948) i.e. attested by Public Notary and authenticated by Indian Embassy in the country of residence.

Documents to be notarised and apostilled:

1. Proof of identity
2. Col of the foreign body corporate, if applicable
3. MoA
4. AoA
5. Document executed outside India (Place of execution determines whether the said document is to be notarised / apostilled / consularised)

29. "Zero Filing Fee" is applicable on which Companies for getting incorporated through SPICe+?

Companies getting incorporated through SPICe+ with an Authorized Capital up to INR 15,00,000 would continue to enjoy 'Zero Filing Fee' concession. Such companies will be levied with only stamp duty fees as may be applicable on state to state basis.

30. How many changes/modifications to SPICe+ are allowed after generating pdf

and affixing DSCs?

Changes/modifications to SPICe+ (even after generating pdf and affixing DSCs), can be made up to five times by editing the same web form application which has been saved, generating the updated pdf affixing DSCs and uploading the same. It allows the applicant to modify the data without filing the entire form again, thereby saving substantial time and efforts.

31. Whether it is mandatory for every subscriber and/or director to obtain DSC at the time of incorporation?

Yes, in case number of subscribers and/or directors to eMoA and eAoA is up to twenty and all such subscribers and/or directors have DIN/PAN, it shall be mandatory for each one of them to obtain a DSC.

32. Under which role DSC needs to be associated for First directors not having DIN/subscribers?

First directors not having DIN/Subscribers having PAN shall associate their DSC under 'authorised representative' by providing their PAN. Once DIN is allocated for first directors post approval of SPICe+, DSC may be updated against DIN by using 'Update DSC' service.

33. Is registration for Profession Tax through SPICe+ mandatory all over India?

No. Registration for Profession Tax shall be mandatory through SPICe+ only in respect of new companies incorporated in the State of Maharashtra and Karnataka.

34. Is it mandatory for all new companies incorporated all over India to get Registration for EPFO and ESIC through SPICe+?

Yes. Registration for EPFO and ESIC shall be mandatory for all new companies incorporated w.e.f 23rd February 2020 through SPICe+ webform and EPFO & ESIC registration numbers shall not be separately issued by the respective agencies. However, in case company is being incorporated in an area which falls under 'non-implemented area' for ESIC, ESIC registration shall not be applicable.

However, compliances are not required to be carried out in respect of EPFO and ESIC provisions until the company surpasses the threshold limit provided in EPFO and ESIC provisions.

35. Is it mandatory for all companies incorporated through SPICe+ to open a Bank Account??

All new companies incorporated through SPICe+ (w.e.f 23rd February 2020) would also be mandatorily required to apply for opening the company's Bank account through the AGILE-PRO linked web form.

36. Which Banks are integrated through SPICe+?

At present, Punjab National Bank, ICICI Bank, SBI, Kotak Mahindra Bank, Bank of Baroda, HDFC Bank, INDUS IND Bank, UBI bank and Axis Bank have been integrated with SPICe+ for opening a Bank account.

37. Whether any fee is payable by the companies at the time of incorporation for opening Bank A/c through SPICe+?

No, this Service doesn't require any additional fee.

38. What is the process of generating INC-9 (Declaration by all Subscribers and first Directors)?

INC-9 shall be auto-generated in pdf format and would have to be submitted only in electronic form in all cases, except where: (i) Total number of subscribers and/or directors is greater than 20 and/or (ii) Any such subscribers and/or directors haven either DIN nor PAN.

39. What is AGILE-PRO?

AGILE-PRO is an Application for registration of Goods and Service Tax Identification Number (GSTIN), Employee State Insurance Corporation (ESIC), Employees' Provident Fund Organisation (EPFO) Registration and Professional Tax Registration (in Maharashtra and Karnataka) and Opening of Bank Account. The said form shall be accompanied with application of Incorporation.

40. What are the documents which should be enclosed while filing the SPICe +?

The following documents are required to be enclosed:

For SPICe+:

- a) Memorandum of Association
- b) Articles of Association
- c) Declaration by the first director(s) and subscriber(s) (Affidavit not required)
- d) Proof of office address
- e) Copy of utility bills
- f) NOC for use premises for registered office of proposed Company from owner and person whose name mentioned in utility bill
- g) Copy of certificate of incorporation of foreign body corporate (if any)
- h) A resolution passed by promoter company (Applicable if name a body corporate is promoter)
- i) The interest of first director(s) in other entities
- j) Consent of Nominee (INC-3) (Applicable for one person Company)
- k) Proof of identity as well as the residential address of subscribers
- l) Proof of identity as well as residential address of the nominee
- m) Proof of identity and address of Applicant I, II, III (Subscriber OR Director)
- n) Resolution of unregistered companies in case of Chapter XXI (Part 1) Companies
- o) Declaration in Form No. INC - 14 (Applicable for section 8 Company)
- p) Declaration in Form No. INC - 15 (Applicable for section 8 Company)
- q) Estimate of the future annual income and expenditure of the company for next three years (Applicable for section 8 Company),
- r) Optional attachments (if any)
- s) Attachments - Part A

41. What are the linked forms to be filed along with SPICe+? What are the scenarios in which pdf attachments (MOA, AOA) should be used instead of eMoA, eAoA with SPICe+ (INC- 32)?

LIST OF LINKED FORMS TO BE SUBMITTED

Type of company	eMOA	eAOA	INC-9	URC-1	AGILE-PRO
Part I LLP to Company- [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers and/or directors have DIN/PAN]	*Mandatory	*Mandatory	Mandatory	Mandatory	Mandatory
Part I Firm to company - [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers and/or directors have DIN/PAN]	*Mandatory	*Mandatory	Mandatory	Mandatory	Mandatory
Part I Section 8 company [where total number of subscribers and/or directors is less than or equal to 20 and all such subscribers and/or directors have DIN/PAN]	NA	NA	Mandatory	Mandatory	Mandatory
Section 8 company [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	NA	NA	Mandatory	NA	Mandatory
Other than Part I Section 8 company/ Part I LLP to Company/ Part I Firm to company/Section 8 company. [where total number of subscribers and/or directors is less than or equal to 20 and	*Mandatory	*Mandatory	Mandatory	NA	Mandatory

all such subscribers and/or directors have DIN/PAN]					
Part I LLP to Company- [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	*Mandatory	*Mandatory	NA	Mandatory	Mandatory
Part I Firm to company - [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	*Mandatory	*Mandatory	NA	Mandatory	Mandatory
Part I Section 8 company [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	NA	NA	NA	Mandatory	Mandatory
Section 8 company [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or directors does not have DIN/PAN]	NA	NA	NA	NA	Mandatory
Other than Part I Section 8 company/ Part I LLP to Company/ Part I Firm to company/Section 8 company. [where total number of subscribers and/or directors is greater than 20 OR any such subscribers and/or	*Mandatory	*Mandatory	NA	NA	Mandatory

directors does not have DIN/PAN]					
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*Stakeholders are required to file e-MoA and e-AoA i.e. by way of linked filing of INC-33 and INC-34 in all cases **except the following:**

- Section 8 company selected in field 1 (a) or
- all or any of the non-individual first subscribers are based outside India or
- Part I Section 8 company selected in field 1 (a) or
- Number of subscribers entered in the field 8(a) 'Total number of first subscribers (non-individual + individual)' are more than seven
- Individual foreign subscribers do not possess a valid business visa

In case of the above-mentioned exception(s), MoA and AoA shall always be attached under the Attachments section of **SPICe+** form (INC-32).

42. Can physical copies of MoA/AoA be signed and attached with SPICe+ forms or is it mandatory to use eMoA and eAoA??

Yes. It is mandatory to use eMoA (INC-33) and eAoA (INC-34) in following cases, where the number of subscribers are up to 7:

- Individual subscribers are Indian nationals
- individual subscribers who are foreign nationals in case they hold valid DIN and DSC and also submit a proof of a valid business visa
- Non-individual subscribers are resident of India.

Physical copies of MoA/AoA are required to be signed and attached in case non-individual first subscribers are based outside India or individual foreign subscribers do not possess a valid business visa or any other scenario.

43. What are the exceptional scenarios in which pdf attachments of MOA and AOA should be used instead of eMoA, eAoA with SPICe+ (INC-32)?

The table below clarifies the specific scenarios in which the pdf attachments or electronic versions of MoA/AoA can be used with SPICe+ (INC-32):

S.No.	Scenario	Forms Filed
1	Non-Individual first subscriber based outside India	SPICe+ (INC-32) with apostillised MOA and AOA as attachments
2	Non-Individual first subscriber based in India	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
3	Indian National being Subscriber other than director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)

4	Indian National being Subscriber-cum-Director	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34)
5	Foreign National being Subscriber other than director having valid DIN	<p>SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA(INC-34) Along with Valid Business Visa to be Submitted.</p> <p>In case Business Visa is not available, apostilled MOA and AOA shall be attached and in such cases, eMOA (INC33) and eAOA (INC-34) are NOT acceptable.</p>

6	Foreign National being Subscriber- cum-Director having valid DIN	SPICe+ (INC-32) with linked filing of eMOA (INC-33) and eAOA (INC-34) Along with valid Business Visa to be submitted. In case Business Visa is not available, apostilled MOA and AOA shall be attached and in such cases, eMOA (INC33) and eAOA (INC-34) are NOT acceptable.
7	Foreign National being Subscriber- cum-Director not having valid DIN	SPICe+ (INC-32) with apostilled MOA and apostilled AOA as attachments.

Note: In all the above mentioned cases, the maximum number of subscribers allowed shall be 7 for filing of SPICe+ form. Wherever, the number of subscribers exceeds 7, SPICe+ form shall be filed with MoA and AoA as attachments.

Stakeholders may kindly note that in case SPICe+ (INC-32) has been filed with linked filing of eMOA (INC33) and eAOA (INC-34) without attaching business visa as required under Rule 13 (5) (d) of the Companies (Incorporation) Rules, 2014, the form is liable to be rejected (Marked as Invalid and Not to be taken on record) without putting for resubmission.

44. Can MOA and AOA for few subscribers be attached and for other subscribers form INC- 33(eMOA) and INC-34(eAOA) be filed for the same company?

No. In case the proposed company is required to file MOA and AOA due to any of the above mentioned conditions, then SPICe+ (INC-32) shall be filed only with MOA and AOA as an attachment for all the subscribers. In such cases, the proposed company is NOT required to file the eMOA and eAOA under any circumstances.

45. Does e-AOA (INC-34) provides a facility to add an article?

e-AOA (INC-34) has a facility for adding, modifying articles within a particular clause, and deleting Articles if not applicable. New articles can be added only in 'Others' table.

46. Whether the conditions of private company as required under 2(68) of the Companies Act 2013, be entered in e-AOA (INC-34)?

Yes, e-AOA (INC-34) has facility for adding, modifying articles within a particular clause, and deleting Articles if not applicable. Stakeholders are required to ensure that clause 1 of e-AOA (INC-34) includes name of the private limited company and definition of private limited company.

47. Whether the names of first directors as required under the Companies Act, 2013, be entered in e-AOA(INC-34)?

Yes, e-AOA (INC-34) has facility for adding, modifying articles within a particular clause, and deleting Articles if not applicable.

48. Whether certified copies of e-MOA (INC-33) and e- AOA (INC-34) can be obtained after Incorporation?

Certified Copies of e-MOA (INC-33) and e-AOA (INC-34) may be obtained through certified copies facility available on MCA by payment of fees for the same.

49. In respect of non-individual first subscribers who are based outside India, whether eMOA (INC-33) and eAOA (INC-34) is to be filed with SPICe+ (INC-32)?

No. In respect of non-individual first subscribers who are based outside India, pdf attachments of apostilled MOA and AOA shall be attached with SPICe+ (INC-32).

50. Whether a proposed Section 8/ Part 1 Section 8 company required to file eMOA (INC-33), eAOA (INC-34) along with SPICE+ (INC-32)?

No, Section 8/Part 1 Section 8 companies are mandatorily required to file MOA and AOA as pdf attachments to SPICE+ (INC-32).

51. What needs to be done when there are more than seven subscribers to MoA and AoA?

SPICE+ form shall be filed along with physically signed MoA and AOA as attachments in case of more than seven subscribers.

52. What is the word/character limit for writing objects in eMoA?

For main Objects (Field 3(a)), character limit is 20,000 and for furtherance of objects (Field 3(b)), it is 1,00,000 characters.

53. Is it required to uploaded MoA (INC-33) and eAoA (INC-34) separately?

eMoA and eAoA have to be uploaded as 'Linked Forms' to SPICE+(INC-32)

54. What are the precautions which are required to be taken w.r.t. 'Objects Clause' in SPICE+?

One must be careful on the following aspects w.r.t. 'Objects Clause' in SPICE+:

- a) Objects mentioned in MOA should not be vague.
- b) Objects approved in SPICE+ form Part A form must be in consonance with the objects mentioned in e-MOA/MOA.
- c) Should attach In-principal approval of the Regulator in case main objects approved in SPICE+ form Part A form contains words like "INSURANCE AGENT" along with objects of Tourism, Healthcare and travel agent or in normal commercial activities.
- d) NIC code must be in accordance to the Objectives of the proposed Company.

55. What are the precautions which are required to be taken w.r.t. 'Capital Clause' in SPICE+?

One must be careful on the following aspects w.r.t. 'Capital Clause' in Spice+:

There should not be any mismatch in the Authorized Capital mentioned in e-MOA/MOA and point 6 of SPICE+ form.

There should not be a mismatch in the Subscribed Capital mentioned in MOA and point No. 6 of SPICE+ form.

The number of shares / amount of shares subscribed by the subscribers mentioned in point no. 8 of SPICE+ form should not be incorrect

The nominal/face value of the share should not be mentioned as 'ZERO' (0).

56. What are the precautions which are required to be taken w.r.t. 'Registered Office Clause' in SPICE+?

One must be careful on the following aspects w.r.t. 'Registered Office Clause' in Spice+:

- a) There should not be any mismatch in the Registered Office Address mentioned in SPICE+ form and the attached proof.

- b) The attached proof should be in the name of the subscriber/director.
- c) The Address should not be incomplete on the Utility Bill. Attach legible copy of the bill. If the utility bill is in the vernacular language then attach the English translation of said bill
- d) Application would be rejected if Private Authority's bill is attached without sale deed or lease deed.
- e) Application would be rejected if registered office proof not in the name of actual owner (transfer of property).
- f) Application may be rejected in the following cases:
 - i. NOC/Lease Deed/ Rent Agreement is not attached.
 - ii. The name of the proposed company is either not mentioned or is incorrect in NOC/Lease Deed/ Rent Agreement.
 - iii. The NOC/Lease Deed/ Rent Agreement is not provided by the owner.

57. What if the subscribers to eMoA and eAOA are at different places as only one witness is provided?

The eMoA and eAOA would be witnessed after all subscribers have signed as per the current practice.

58. What is to be done when Resubmission remark says, eMoA and eAoA is required to be submitted, but link for eMoA and eAoA is not displayed in SPICE+ dashboard?

Please note that the link for eMoA and eAoA shall be enabled in SPICE+ dashboard only when the attachment no. 1 and 2 i.e. MOA and AOA are not attached or if attached earlier, are removed.

59. What shall be done in case, subscriber sheet is missing in e-MoA form even after filling all details in web-form or when applicant is unable to find a place to affix DSC?

In such a case please install 'Acrobat Reader DC' in order to download/ open pdf.

60. What is the extra care to be taken in the case of Subscribers/Directors are not having DIN?

Where the subscribers/ Directors are not having DIN, the application may be rejected in case-

- PAN Card of the Subscribers/Directors (not having DIN) are not attached.
- ID proof is also required
- Residential Address proof of the Subscribers/Directors (not having DIN) are not attached or transaction sheet of passbook is not attached or old address proof is attached.

61. What are the other points which must be taken care of while applying for SPICE+?

The application may be rejected on the following grounds:

- a) Pdf scanned copy of INC-9 attached instead of e form.
- b) Pdf scanned copy of MOA and AOA attached instead of web forms or electronically.
- c) Attached documents are not legible
- d) Nationality of the subscriber is incorrect in Form SPICE+ form
- e) PAN card/COI of the subscribing Company not attached.
- f) Board Resolution of the Subscribing Company does not contain the details of the shares

subscribed or authorized representative.

- g) Signatures should not be copied and pasted in the attached documents (in this regard action u/s 447/448 of the Companies Act, 2013 can be initiated in case of any such case is noticed).

62. Whether photo of subscribers is required in SPICe+ forms?

As per Rule 38 of the Companies (Incorporation) Rules, 2014, photo of subscribers is not required in e Form SPICe+.

63. What is the maximum upload size of SPICe+ forms?

Maximum size of attachment in SPICe+ is 6 MB for each of the PDF form.

64. How many times re-submission is permitted for SPICe+ forms?

As per Rule 38 of companies (Incorporation) Rules, 2014 two re-submission are allowed to remove the defects in SPICe+ forms.

65. Whether e-form INC-22 is required to be filed with SPICe+?

E Form INC 22 is not required to be filed with SPICe+ if a company is registered with the same address as the address for correspondence. In case the registered address is different, INC-22 is required to be filed within 30 days of its incorporation, for intimating the registered office address.

66. What is the Fees associated with SPICe+?

The Fees depend upon the Authorised Share Capital of Company. Stamp duty rates may differ for different states. Applicants shall note that if Company attempts to first reserve the name of the proposed company by separately filing SPICe+ part A for name approval then INR 1000/- shall be charged for name reservation

Also for PAN-Rs.66/- and TAN-Rs.65/- becomes payable.

67. How PAN & TAN is communicated to the user after approval of SPICe+?

On approval of SPICe+ forms, the Certificate of Incorporation (Col) is issued with PAN as allotted by the Income Tax Department. An electronic mail with Certificate of Incorporation (Col) as an attachment along with PAN and TAN is also sent to the user. Further PAN card shall be issued by the Income Tax Department.

68. Whether fee towards PAN and TAN is payable separately?

No. A consolidated challan gets generated at the time of filing SPICe+ (INC-32) which contains applicable fee towards:

- a) Fee for the form[SPICe+]
- b) MoA fee
- c) AoA fee
- d) PAN
- e) TAN
- f) Fee for URC-1[if applicable]

69. Please provide the contact details of officer responsible if the user does not receive PAN Card?

After receipt of Certificate of Incorporation (with PAN indicated therein as allotted by the Income Tax Department) in case of non-receipt of PAN card, stakeholders shall check the status at www.TIN-NSDL.com

70. Whether AO codes for PAN and TAN different? Where can one find these AO

Codes?

AO codes for PAN and TAN are different and can be found at links below. Please do not affix or suffix zeros to AO codes.

AO Codes for PAN

<https://www.tin-nsdl.com/services/pan/pan-aocode.html>

AO Codes for TAN

<https://www.tin-nsdl.com/services/tan/tan-ao-code.html>

Example:

AO code of PAN for Dilshad Garden area in Delhi is DEL W 64 1 while AO code of TAN Delhi is DEL W391 1

71. What is the mode of grievance redressal?

In case of technical problems relating to incorporation like, form upload, pre- scrutiny errors, DSC related, payment related queries, please raise a ticket on www.mca.gov.in/myservices and await a resolution. You may also call up Corporate Seva Kendra at 0124-4832500 after 48 hours if ticket is not resolved. In case of resubmission / rejection remarks, please contact 0124-4832500 and select option 1 for CRC. For escalation you may send a mail to crc.escalation@mca.gov.in

72. What if an applicant for allotment of Director Identification Number (DIN) has been identified as a potential duplicate in SPICe+?

If SPICe+ form is filed containing details of a DIN applicant who has been identified as a potential duplicate following message shall be displayed along with 'Yes' and 'No' options- "The system has identified applicant(s) as potential duplicate because the contents are matching with an already filed DIN application form. Please ensure that no DIN has already been allotted to the applicant. If you still wish to continue say 'Yes'. Please note that DIN application shall be approved only after due verification by MCA ". If the user selects 'No', then the filing of SPICe+ shall not be allowed.

73. What is to be done to avoid the error 'Form is not Pre-scrutinized while resubmission of forms?'

For successful resubmission of forms, please ensure that all the forms required to be filed as linked forms to SPICe+ are also regenerated by clicking on 'Submit' button and fresh pdf is downloaded even though no changes are made in such web-forms. System shall not allow to submit old pdfs that were downloaded and submitted in any earlier filing.

74. If any NBFC wants to change the name of its Company, then from which regulatory authority the approval is required?

It needs to take the prior approval/ No objection Certificate from Reserve Bank of India (RBI).

75. What are the points which must be taken care while applying for incorporation of One Person Company?

The application for incorporation of One Person Company may be rejected on the following grounds:

- a) AOA contains the provision for issuances of shares and debentures.
- b) Objects in MOA are not in compliance with Rule 3(6) and contains words like issue shares/debenture/make investment etc.

76. What are the documents which are required while incorporating the Section 8

Company?

The following documents are required while incorporating Section 8 Company:

i. For application of DSC, self-attested copy of-

- a) Photo ID – PAN/Voter ID/Driving License
- b) Address Proof- Voter ID, Bank Statement, Utility Bill.(Bank Statement and Utility bills should not be older than last 2 months)
- c) Photos of the applicant (even soft copy will serve the purpose)

ii. For Name Availability

- a) Proposed name (use of word Foundation, Association etc. is mandatory for Section 8 company)
- b) Main Objects of the company

iii. For SPICE+ form– Application for Incorporation Certificate

- a) Memorandum of Association
- b) Articles of Association
- c) PAN of the subscribers to the Memorandum(1st Directors of the company)
- d) Proof of ID and Address of the subscribers to the Memorandum.
- e) Notarized Rent Agreement of the Registered Office.
- f) NOC from the owner to use the premises
- g) Utility bill of the premises, not older than last 2 months
- h) Declaration under form INC 15, from all the directors
- i) Declaration under Form INC 14 by the Chartered Accountant
- j) Estimated Income and Expenditure for the next 3 years in the Prescribed Format.

iv. For Agile Pro

- a) Name of the Bank, where company is willing to open the Bank Account.
- b) Specimen Signature for EPFO
- c) NOC for opening a bank account
- d) Declaration of Authorised signatory for GSTN

77. Whether a Section 8 Company can contain Micro Finance/Credit words in its name or object at the time of incorporation?

No.

78. What are the points which must be taken care while applying for incorporation of a Foreign Subsidiary Company?

The application for incorporation of such a Company may be rejected on the following grounds:

- a) The documents are not Apostilled/Notarized/attested by Consulate.
- b) PAN Undertaking is not attached.
- c) Business Visa/OCI along with arrival stamps is not attached.
- d) The Board resolution of the subscribing company do not contain the details of the shares subscribed **and** the Authorized Representative.

79. What are the documents which are required while converting the LLP into Company? Documents which are required are as follows:

1. List showing the names, address and occupation of the persons named as members with details of shares held by them, if any

2. List showing the first directors of Company along with their particulars.
3. Copy of LLP agreement and Incorporation Certificate
4. Statement of assets and liabilities of LLP supplemented by a certification of chartered accountant in practice, dated not earlier than 15 days of filing form no. URC-1 along with the financials of previous year.
5. Copy of latest income tax return of LLP
6. Undertaking of proposed directors signifying the oath of compilation with requirements of Indian stamp Act, 1899
7. Certificate from a CA/CS/CWA certifying the compliance with all the provisions of Stamp Act, to the extent applicable
8. Written consent/ no objection certificate from all secured creditors.
9. Written consent of majority of partners.
10. Publication of advertisement seeking public objections at least 21 days before filing form.

The other points to be taken care for applications in case of PART 1 companies:

- a) Date of Advertisement should not be older than 30 days.
- b) In URC-2, it is to be specifically mentioned that objection in writing should be communicated to the Registrar at Central Registration Centre (CRC), Indian Institute of Corporate Affairs (IICA), Plot No. 6, 7, 8, Sector 5, IMT Manesar, District Gurugram (Haryana)-122050.
- c) Financial Statements should not be older than 15 days from the date of filing the form or the notes to financial statements are not attached.
- d) All the partnership deeds should be attached in the Form.
- e) Amount of Fixed Assets/Secured Debts/Number of shares or price per share should be correct.
- f) NOC from the Secured Creditors should be attached.

80. Whether filing INC-12 is mandatory to incorporate Section 8/Part I Section 8 Company?

No, as substituted by the Companies (Incorporation) Amendment Rules, 2020 w.e.f. 15th February, 2020, license for Section 8/ Part I Section 8 Company shall be issued through SPICe+ form. Form INC-12 shall not be filed for obtaining license for a new Section 8 company.

81. Which words are mandatorily to be used in the name of section 8 Company?

The proposed name of Section 8 company shall include any one of the words i.e. Foundation, Forum, Association, Federation, Chambers, Confederation, Council, Electoral Trust, etc.

82. Which NIC code is required to be selected in SPICe+ PART-A in case of application for incorporation is for a Section 8 Company?

The objects of a Section 8 Company can be the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object and for that **preferably** NIC code 85 i.e. (Health and Social Work)/91 i.e. (Activities of Membership Organisations) is to be selected in SPICe+

PART-A.

Producer Companies

83. What are the documents which are required while incorporating the Producer Company?

- a) Documents are as follows:-
- b) DIR-2 of the Proposed Directors (only farmer/agriculturist/producer can be a director)
- c) Affidavit from the 1st directors regarding non-acceptance of deposits by the Company.
- d) INC-9 duly signed by each subscriber and first directors to the memorandum.
- e) Proof of registered office address.
- f) Proof of Identity (Voter ID/Driving License/Passport) and Residence (Bank Statement/Electricity Bill/Telephone bill not older than 2 months) of subscribers/Directors not having DIN.
- g) Duly signed MOA and AOA.
- h) List of subscribers duly signed.
- i) A certificate signed and duly stamped by the district agriculture officer or equivalent to the effect that the subscribers are engaged in the farming activities and earning their livelihood from farming/agriculture etc.

Note- Share Capital of a producer company shall consist of equity shares only.

84. What are the points which must be taken care while applying for incorporation of a Producer Company

The application for incorporation of a Producer Company may be rejected on the following grounds:

- a) The Producer Certificate is not attached or the signatures/stamp of the signing authority is not legible or not on letter head of the **concerned** department.
- b) The Objects are not in consonance with Section 581(1)(B) of Companies Act, 2013.
- c) The MOA and AOA contains the provisions for issuance of Debentures and Preference Shares.

Nidhi Companies

85. Whether a NIDHI Company can be incorporated using SPICE+ form?

Yes. In such case, type of company shall be selected as 'Nidhi Company'

86. What are the documents which are required while incorporating the Nidhi Company?

Documents are as follows:-

- a) Identity (PAN Card) and Address proof (Bank Statement, Electricity Bill, Telephone Bill, Water Bill) of all the Directors cum Subscribers of the Company;
- b) Identity (PAN Card) and Address proof (Bank Statement, Electricity Bill, Telephone Bill, Water Bill) of all the Subscribers of the Company;
- c) Utility bill (Electricity Bill, Water Bill, Telephone Bill) of the proposed registered office address;
- d) NOC from the owner of the proposed registered office for using the premises;
- e) Declaration from all the Directors and Subscribers under Rule 4, 5, 6 and 10 of NIDHI Rules, 2014.

Note-

1. A NIDHI to be incorporated should be a Public Company;
2. Minimum Paid up Capital should be Rs. 5 Lakhs;
3. NIDHI Company can't issue Preference Shares;
4. No NIDHI shall have any object in its MOA other than the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit.

87. What are the points which must be taken care while applying for incorporation of a Nidhi Company?

The application for incorporation of a Nidhi Company may be rejected on the following grounds:

- a) Objects contains provision for advertisement/opening of branch office.
- b) Non-Compliance of Minimum Paid-up Capital of Rs. 5.00 lac.
