

Scheme for filing of Statutory Documents and other Transactions by
Companies in Electronic Mode

NOTIFICATION NO. S.O. 1844(E), DATED 26-10-2006 ISSUED BY MINISTRY
OF COMPANY AFFAIRS

In exercise of the powers conferred by sub-section (2) of section 610B of the Companies Act, 1956 (1 of 1956) the Central Government has decided to make a Scheme for implementation of e-Governance Programme named as "MCA-21 Project" to give effect to the provision of sub-section (1) of section 610B in order to provide corporate and other entities and individuals, easy and secure online services including filing of statutory data and registration throughout the country and to enable companies to carry out various transactions with the offices of the Registrars of Companies, Regional Directors and the Central Government in the electronic mode. The Central Government hereby makes the scheme for implementation and administration of e-Governance programme as follows:—

Short Title and Commencement

1. (1) The Scheme shall be known as the "Scheme for Filing of Statutory Documents and other Transactions by Companies in Electronic Mode".
- (2) This Scheme shall be applicable from the date of its publication in the Official Gazette.

The Scheme

2. The Scheme for Filing of Statutory Documents and other Transactions by Companies in Electronic Mode is at Annexure 'A'.

Application of the Information Technology Act, 2000 (21 of 2000)

3. The Scheme would operate under the provisions of the Companies Act, 1956, and insofar as the provisions for use of Information Technology are not specifically made under the Companies Act, 1956, the provisions contained in the Information Technology Act, 2000 will apply.

Saving

4. The transactions filed in the electronic mode and processed pursuant to the launch of the first pilot project for e-Governance, i.e., MCA21, at Coimbatore with effect from 18-2-2006 and subsequent operationalisation of the project at different locations till the date of notification of the Scheme shall be deemed to have been filed and processed under the provisions of this Scheme.

ANNEXURE 'A'

SCHEME FOR FILING OF STATUTORY DOCUMENTS AND OTHER TRANSACTIONS BY
COMPANIES IN ELECTRONIC MODE

Background

1. (1) MCA-21 is one of the mission mode projects of the Government of India under the National e-Governance plan to provide easy and secure on-line services through the use of information technology to various stakeholders with the corporate sector in the country.
- (2) The "MCA-21 Project" was initially launched at Coimbatore as a Pilot Project on 18-2-2006. The second Pilot was launched at Delhi on 18-3-2006 by the Hon'ble Prime

Minister of India. Thereafter, the project was launched in a progressive manner and the nationwide roll-out has been completed across all Registrars of Companies (RoC) jurisdictions. The MCA-21 e-Governance Project is the first of its kind for the Government of India. A programme of this size and magnitude, being comprehensive and complex, is bound to face transitional problems in the initial stages after the roll-out on the ground. As such, it has been found necessary to provide for a stabilization period of one year for the programme till 31-3-2007.

(3) (i) The e-Governance programme has been implemented following the BOOT (Build, Own, Operate and Transfer) framework. The project consists of the period required for implementation till roll-out stage at all sites with testing and certification, and the operation period of six years over which payments towards project cost in the form of fixed equated quarterly instalments would be made to the BOOT Operator by the project owner. The BOOT Operator is responsible for:

- (a) designing and implementing the project till stage of roll-out at all sites with testing and certification thereof;
- (b) owning, operating and maintaining the system for a period of six years after successful roll-out at all sites;
- (c) undertaking necessary replacement investments at the end of the third year/beginning of the fourth year,

(ii) M/s. TCS-CMC consortium were selected as the BOOT Operator following an open competitive bidding process. The implementation of the project started on 1-3-2005.

(4) With the enactment of Companies (Amendment) Act, 2006 (No. 23 of 2006), published in the Gazette of India (Extraordinary), dated the 30-5-2006 the Companies Act, 1956, provides under section 610B of the Act, a comprehensive statutory framework for enabling electronic filing, storage, retrieval, viewing, processing and transmission of company data required to be filed with the Registrar of Companies under the Companies Act, 1956. The Central Government may appoint different dates in respect of different RoCs or Regional Directors from which such scheme shall come into force.

(5) Since the processing of company documents submitted in the electronic form would also be carried out electronically, it is envisaged that filing of all statutory forms, their processing, approvals and responses by the RoCs thereon would also be in electronic mode.

The Scheme

2. The Scheme for Filing of statutory Documents and other Transactions by Companies in Electronic Mode relates to electronic filing, storage, retrieval viewing, processing and transmission of company data required to be filed with the Registrars of Companies, Regional Directors and Central Government under the Companies Act, 1956.

Transactions covered under the Scheme

3. (1) The transactions covered under the e-Governance programme are as under:—

- (a) Incorporation of company
- (b) Filing of all annual statutory returns
- (c) Registration, modification and satisfaction of charges

- (d) Statutory filings related to all events as stipulated in the Companies Act (with the exception of matters related to liquidation)
- (e) Inspection of documents
- (f) Issue of certified copies
- (g) Approvals from Regional Director
- (h) Approvals from the Central Government
- (i) Investor complaints:

Provided that the scheme would not be applicable to matters pertaining to liquidation of companies.

(2) While some of the transactions could involve submission of physical papers due to various requirements such as stamp duty, signed copy of complaint by the complainant, provision of supporting documents, issue of certified copies of documents, etc.; the objective in the long-term remains to processing of all transactions in a complete electronic mode.

(3) Issuance of certificates and such other approvals will continue to remain on paper and, as a general rule, will be dispatched by post/courier to the applicant. While the Ministry and its offices would be enabled to provide such approvals through appropriate electronic means with the development of the requisite technical environment to receive and validate electronic documents through appropriate means.

(4) Suitable mechanisms are proposed to be evolved to progressively facilitate all transactions from the respective offices of the Ministry with its stakeholders interactively in the electronic mode in respect of matters related to obtaining additional information, clarifications and re-submissions, in addition to filing of statutory documents.

4. Implementation of the Programme

(1) Website/Portal and Electronic Registry

- (a) The Government has created a website; www.mca.gov.in and set up a portal accessible through the internet to enable electronic filing of documents under the scheme. A Data Centre has been set up at Delhi to serve as a Secure Electronic Registry for storage and retrieval of all the records. A Disaster Recovery Centre has also been set up at Chennai in order to provide for a back-up of the Electronic Registry to which recourse can be taken in the event of any technology breakdown, man-made or natural disaster incapacitating the Data Centre. The operations can be revived within a period of 12 hours in the event of services getting disrupted from the Data Centre. As the sovereign data is managed by an external third party, the project envisages setting up of a Government Secure Repository (GSR) to which the data would be archived periodically.
- (b) The Central Government shall maintain all the records filed electronically in a secure electronic registry so as to ensure that these are available to the public as well as to the Central Government offices as and when required. The periodicity of maintenance of these records is governed by the rules framed under the Companies Act, 1956. Documents maintained in electronic registry will be available for public access and shall be weeded out in accordance with the retention period prescribed under the rules.

(2) Director Identification Number

- (a) A concept of Director Identification Number (DIN) has been introduced as part of the e-Governance initiative. The need for introduction of a unique identifier for Directors arose from (i) creating a comprehensive and authentic database on the Directors, and the phenomenon of companies that raise funds from the public and subsequently vanish, with their directors becoming untraceable. sections 266A to 266G of Companies (Amendment) Act, 2006, provide for a Director Identification Number (DIN). As part of this scheme, the DIN is in the form of a unique identifier for an existing or a future intending director, containing personal information about such director. This would not only help in fixing the identity of the person but also co-relate his participation in other companies, past or present. A process for allotment of DIN has been put in place duly supported by the provisions contained in the Companies Act, 1956 and the rules made thereunder. It is highlighted that the DIN is a one-time process and, once obtained, the individual will use this in all transactions. Suitable provisions have been made for updating any change in the particulars of a Director in the event of such change occurring after allotment of the DIN in the first stage.
- (b) The facility for allotment of DIN has been established even prior to the introduction of the related provisions in the Companies Act, 1956. The process of system generated provisional DIN was introduced to enable the companies to transact their businesses where a reference to the DIN was built into the software as necessary. A number of persons have generated provisional DINs and used such provisional DINs in their filings. The transactions made by the companies using such provisional DINs during the above transition period shall not be invalid on the ground that the provisional DIN holder had not submitted a formal application for the same. However, after the deadline for obtaining a DIN is reached, the system will allow only the regular DIN to be quoted in filings made thereafter.

(3) e-Forms

- (a) Prior to the implementation of the e-Governance programme, all transactions, including statutory filings by companies, were conducted in the manual mode using the prescribe forms which supported submissions in physical paper form. These Forms have been re-engineered and converted into electronic Forms (e-Forms) so as to make the same compatible with the e-Governance processes. The e-Forms have already been notified for electronic use. The process of re-engineering and revision of e-Forms is a dynamic process and may call for changes from time to time depending on the information requirements and technology changes. As such, these e-Forms would continue to be revised as per the felt needs from time to time so as to optimize the processes under the e-Governance system.
- (b) The e-Forms have been designed with in-built features to facilitate stakeholders. Requirements of repetitive data entry have been significantly reduced. Where such data is needed to be repeated in some of the forms, a facility known as "pre-fill" has been provided to the user whereby the data in the required fields is captured from the data- base available in the electronic registry in an automated manner.
- (c) The process of electronic filing also incorporates the facility of "pre-scrutiny" of the e-Form. This is a completely electronic process where the system verifies if the form is complete in all respects. This is, however, limited to such checks as can be performed by the computerized system.

(4) e-Filing

It has been decided to mandate electronic filing by the companies from the appointed date to be notified separately. Making the filings in electronic mode would also need use of methods that ensure the security and the authenticity of the filings. It would involve a process according to which the user will be required to—

- (i) register himself;
- (ii) apply for a Director Identification Number (in the case of a Director);
- (iii) obtain a Digital Signature.

(5) Authentication of Documents with Digital Signatures

Security and authenticity of filings in electronic mode shall be provided through use of Digital Signatures by the persons, specified under the Act and Rules made thereunder, to file the documents on behalf of the company. The provisions for use of Digital Signatures have already been made under the Information Technology Act, 2000 and the rules notified by the Central Government in this behalf vide Notification GSR 735(E), dated 29-10-2004. As such, all filings made from 16-9-2006 shall be required to be made with the use of Digital Signatures as provided for under various provisions of the Income-tax Act.

(6) Electronic Address

It is important that the companies acquire and communicate an electronic address to the Central Government at which any communications may be sent in the electronic mode. Accordingly, the companies shall be required to interact through the MCA Portal OR use valid e-mail IDs (for themselves or their authorized representatives) so as to enable the offices of the Central Government to interact with them. This would be necessary for interactions related to provision of clarifications, additional/supplementary information pertaining to a transaction, re-submission of transactions, where called for, and verification of status of the progress of transactions.

(7) Attachments

- (a) The filing of various documents including annual returns and balance sheets envisages attachment of certain documents. Paper source documents will generally need to be scanned/digitized to obtain electronic documents that could be submitted as attachments to e-Forms. Such attachments will need to be in Portable Document Format (PDF).
- (b) Where companies maintain and submit their Financial statements as part of Annual Returns and the Balance Sheets (e-Form-20B & Form-23AC) in electronic formats (such as Microsoft(tm) Word or Excel), the same will need to be converted into PDF, thereby obviating the need for scanning these attachments to the extent feasible. For those, who do not have in-house facilities or are first time users of the system, the MCA Portal and the Facilitation Centres would be available to facilitate the required conversion into PDF. In addition, these facilities would also be available at the Certified Filing Centres (CFCs) on payment of user charges.
- (c) There may be some attachments which are much bulkier in size (more than 2.5 MB) where uploading the documents may be time-consuming (for instance, in the case of list of shareholders of companies with a large base of shareholders). In such cases, facility for acceptance of these documents in soft-copy in computer readable media would also be supported.

(8) Physical submission of paper

Notwithstanding the mandating of e-Filing, companies would be required to submit physical copies of the documents requiring use of non-judicial stamp papers till such time the Central Government introduces a process of electronic generation of stamp papers to facilitate these transactions in complete electronic mode. The documents on stamp papers will be required to be scanned and submitted as attachments to the e-Forms during this period of transition. Physical copies of these documents (on stamp papers) would need to be submitted to the Registrars of Companies in physical form. Such copies may also be sent by companies by post/courier. In cases of physical submission, appropriate transaction reference details such as the Service Request Number (SRN) would also be required to be mentioned on the physical paper documents.

(9) Scanning and Digitization of Company Records

The Central Government has scanned and digitized the permanent documents of companies and the Annual Return and Balance Sheets for a period of two years and thus created an electronic repository of part of the legacy data. All event-based filings by the companies immediately preceding the launch of the programme have also been captured in the electronic repository. It is expected that the data in the electronic Registry would get enriched substantially over a period of time as the electronic filings of Companies will add to the legacy records in a seamless manner.

(10) Inspection of Public Documents

The inspection of public documents was earlier carried out by inspection of physical files containing company documents available in the concerned RoC offices. The documents, in so far as these are available in digitized form, shall henceforth be available for public inspection through electronic means using the Internet. However, after the implementation of the e-Governance programme, the documents have been filed only in the electronic form and these are available only in electronic form. The users will have the option of looking at an index of documents available in electronic format. The documents can be accessed electronically upon payment of the statutory fees for a limited duration from the time of accessing the first document of the given company. In case of the documents not available in the electronic repository, the same can be viewed in person from the concerned RoC office in paper form and no fresh payment of fee would be required if the proof of payment for electronic viewing is produced at the RoC office.

(11) Requests for Certified Copies

Requests for certified copies would also be facilitated through electronic means with the implementation of the programme. This functionality is built as an extension of the Inspection of Public Documents, where the user can mark the specified pages and number of copies that are required as certified copies. In case of documents available in the electronic registry, a person can request for certified copies of the selected documents on-line (on payment of prescribed fees). The requestor would also be required to submit the Non-Judicial Stamp Papers of the prescribed value and Court Fee, as applicable in various States. The certified copies of the documents will be sent in physical form to the requester by post/courier under the manual signatures and seal of the competent authority. However, in respect of documents not available in the

electronic registry, the option of requesting certified copies in manual form will still be available. Prescribed fees will be applicable.

(12) Data verification & cleaning

- (a) Before implementation of the e-Governance programme described in this scheme, the company records were filed and received in the manual mode in the offices of Registrars and as per the rules and practices of maintenance of manual records, these documents formed part of Document files of respective companies. As part of the operations, limited amount of data pertaining to companies were maintained in computerized systems using the system of manual data entry. It was observed on test checks that there were inaccuracies in the Data of Companies so entered and maintained.
- (b) The existing data has been migrated to the new e-Governance system. As a result, the migrated database is likely to carry over these inaccuracies in the electronic repository and, in spite of best efforts, it may not be possible to clean the same. To ensure an authentic database in respect of all the companies, Central Government may call upon the companies to verify the existing data which can be viewed on-line without any charge.
- (c) A facility has been provided whereby the companies can access their Master Company Data. In case it is found that the Company Data is incorrect in respect of certain fields, the company would be required to enter the correct data against the appropriate field, enclose a copy of the evidence supporting such correction and send the same by post to the concerned Registrar of Companies in an envelop superscribed 'Master Company Data Correction'. Upon receipt of the request, the requisite changes would be incorporated after verification of the supporting evidence.
- (d) The facility of correction of Company Data has been made available without any charge only for a limited period of time (up to 31-12-2006). Accordingly, all the companies would be requested through public notices (both through the print media and the portal) to view their Company Master Data and take appropriate steps for correcting the same.
- (e) A similar facility has also been made available in respect of the 'Register of Charges' for the companies.
- (f) Where, for any reason, a company encounters difficulty in using the new e-Governance programme, it may contact the respective Registrar of Companies or the staff in the Facilitation Centres who will facilitate electronic filing.

(13) Investor Complaints and Grievance Handling

- (a) Suitable forms have been devised for investors to make complaints and for a complainant to seek redressal of his grievances in the electronic mode using the e-Governance programme. The idea behind instituting the electronic submission of complaints is to ensure that complete details of the complaint are obtained so that the facilitation of redressal can be done effectively. It also provides a facility to consolidate the type of complaints that are received against any company, so that the company can effectively analyze the causes and take remedial action. The persistent complaints and serious nature of complaints also provides the Government with early indicators of problems in companies so that reasonable

steps can be taken as provided by the Law, to protect the interest of the investors/depositors/stakeholders.

- (b) The communication to the companies as well as the complainants would be sent in paper mode during the initial period. This would gradually be phased out and replaced with electronic interaction response.
- (c) Facilitates to provide the management information on complaints to the company Directors/Authorized Representatives would be implemented as part of the scheme in due course of time.

(14) Payment of statutory fees

- (a) The filings by the companies entail payment of statutory fees, wherever prescribed. Multiple options are available for remittance of statutory fees under which the users may opt for 'off-line' mode of payment or 'on-line' mode of payment. In the case of off-line mode of payment, the system calculates the applicable fees and generates a pre-filled challan, which the user would be required to present before one of the Authorised Bank Branches for making payment. The list of Authorised Bank Branches has been made available on the portal of the Ministry and updated from time to time. In case the user opts for on-line mode of payment, he has been given the option to use Credit Card (Master Card or VISA) or Internet Banking. The Internet Banking facility is in the process of being made available under MCA21 and is expected to be operational soon. In the case of on-line payment, the system generates a receipt of the fee amount paid by the user.
- (b) The use of on-line payment mode allows the facility of instant realisation of payment of statutory fees and enable faster delivery of services. As against this, in the off-line mode of payment, it may take a lead time of about 3-4 days for the Banks to intimate about the realisation of payment to the system. The service request gets activated only after confirmation of payment is received from the Bank.
- (c) Keeping in view the possibility of duplicate payments in respect of the same services under on-line payment system, or payments made in excess of those prescribed, a refund process is proposed to be introduced whereby the refunds could be allowed in cases of duplicate/excess payments in genuine cases. However, the cases in which such requests for refunds would be entertained would be specifically indicated in the refund process.

(15) Availability of Services and Sustainability

- (a) The Government has put in place processes for taking the documents electronically filed by the companies on record, complete the processing thereof and maintain the records in the Electronic Registry for access to the public and to the Central Government as per requirement.
- (b) To ensure sustainable performance of the e-Governance solution, the Government has established a six-year operating period with the selected Operator. Beyond this period, Ministry would evolve a suitable structure to seamlessly operate the same. Such a structure could include setting up of a Special Purpose Vehicle (SPV) and could entail introduction of user charges for sustaining the operations by such an entity.

(c) The services under the e-Governance project shall be available to the stakeholders on a round-the-clock basis throughout the week basis thereby enabling introduction of the concept of anywhere, anytime filing in electronic mode in a secure manner for all transactions with and by the Ministry of Company Affairs. But for exigencies beyond reasonable control, the Operator has been made responsible under the contract for maintaining reliable availability of system to support this concept.

(16) Facilitation Centres

(a) As for the facilitation, the Government has planned to set up Facilitation Centres at 53 locations throughout the country as part of the project out of which Facilitation Centres at 39 locations have already been set up. All services from these Centres are available free of any charge. These Centres, managed and operated by the Operator, would remain operational for a period of three years, by which time it is expected that the stakeholders would have switched over to e-filing from their virtual offices. The Ministry has also introduced a scheme of Certified Filing Centres (CFCs) in order to provide a much wider out-reach of the facilitation services. These CFCs will be managed and operated by the professionals (Chartered Accountants, Company Secretaries, Cost & Works Accountants and the body corporates managed by these professionals) and the services would be provided on a user-charge basis. The Government may review, modify or introduce newer schemes from time to time to facilitate e-filings by companies.

(b) The Government would strongly encourage the stakeholders to optimally use the facilities available under the e-governance programme from the comfort of their offices or homes and transact all business on-line from their virtual offices. However, in case the company representatives/professionals/stakeholders face any difficulties in using the system and the facilities from their virtual offices, for whatsoever reasons, adequate support and help would be available at the facilitation centres. However, for the purposes of filing of documents, the stakeholders would be required to bring their filings (e-forms and attachments duly authenticated with Digital Signatures) in soft-copies at these centres in computer readable media such as floppies or CDs or USB tokens.

(17) Help Desk

In a large scale Transition involving migration from a traditional paper based system to an e-Governance system, extensive facilitation and help would be needed by the stakeholders. With this in mind, help system has been provided at three levels:

- (a) through a central call centre with phone numbers published on the MCA portal;
- (b) e-mail facility that can be accessed through the portal;
- (c) at the various Front Offices/Facilitation Centres.

(18) Performance factors

(a) It is expected that the responses provided would be resulting from the combined performance levels of the system responses (including system availability), performance of the facilitation centres, the time-lines of payment acknowledgements from Banks and the processing time required by the offices of MCA. The Government will progressively evolve monitorable and measurable levels of performance at each level so that the overall efficiencies in service delivery

standards could be measured against service benchmarks comparable with those obtaining in the developed economies of the world.

- (b) Presently, these service levels are defined in the Citizen Charter. It is expected that there would be improvement over the time-lines mentioned in the Citizen Charter as the e-Governance programme progresses dynamically. The MCA would publish these service benchmarks after complete stabilization of the system operations.

(19) Process changes

- (a) The e-Governance programme shall be developed around a set of detailed processes, basically designed to be easily adaptive to scalability while accommodating changes to technology or other solution components.
- (b) The processes could also be impacted due to changes in law and also based on the evolution that is expected to occur with the passage of time.
- (c) It may also be provided that where a filing does not require any immediate processing or approval, it may be taken on record through the 'Straight Through Process' (STP) to be implemented through amendment of the relevant regulation.
- (d) Central Government may also introduce the process of electronic generation of stamp papers in due course of time, after the requisite authorizations have been received from the states, so as to completely eliminate the process of submission of physical documents.
- (e) The process innovations would entail changes and MCA will provide enough lead time including public announcements and information through the MCA portal for the benefit of users of this system.