



INPUTS FOR AJAY SHANKAR COMMITTEE

Central Level Clearances/Permissions

Ministry of Corporate Affairs

SI No.	Regulation/Act/Rule/Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/Expediting the Clearance Mechanism or Exempting it all together with Justification)
1.	INC-29 (5 in 1), issued by MCA, (DIN allotment, name reservation, incorporation, PAN & TAN, as well as ESIC registration)	As per various acts	Ministry of Corporate Affairs	INC-29 integrates the registration process of DIN, name reservation, PAN, TAN and ESIC, still supporting documents are required to be submitted on MCA's ebiz portal.
2.	Digital signatures application	To apply INC-29 online	5 vendors approved by Ministry of Corporate affairs	The charges vary from Rs 400 to Rs 2500; being issued by 6, MCA authorized agencies. The charges should be similar and time to issue digital signatures must be reduced, it requires 2 to 5 days.
3.	Initial Inspection of Electrical Installation	Centre electricity authority as per electricity supply & Safety regulations 2010"	Chief Electrical Inspectorate office, Gujarat State, Gujarat	The approval process normally takes 45-60 days. Timelines can be improved.
4.	Remission of electricity duty on new installation/Project for defined period	Schedule 1 to Bombay Electricity Act 1958, in accordance with Govt. Notification No. GHU/2002/ 68/ELD/2000/	Office of Collector of Electricity duty, Gandhinagar, Gujarat	Takes almost 12 months in approvals.

SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
		6266/K dtd: 29.08.2002 in Energy & petrochemical Dept.		
5.	Companies Act,1956 & 2013	Companies Act,1956 & 2013	Ministry of Corporate Affairs	For obtaining the approvals for starting a company, there should be only one department, with whom industry should interact (single window). It should be responsibility of this department to internally obtain all the necessary clearances from the various other departments and provide approval to the company. Some efforts on the part of MCA have commenced but those have still to result in to paradigm shift in the time frame required for approvals.
6.	The Companies Act, 2013	As per Rule 5 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, every listed company will have to disclose in its Board Report the ratio of remuneration of Director to the median of the employees of the Company for the financial year	Ministry Of Corporate Affairs	In our opinion, where huge conglomerates have large number of workers, the median remuneration will be very low as compared to the remuneration given to a director. Such comparison cannot be considered justifiable as the basis itself would be unjustified. In this regard, we would like to suggest that, instead of determining median remuneration, the rules should provide for weighted average method.

SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
7.	Companies Act, 2013	The Act excludes Nominee director from being Independent Director	Ministry Of Corporate Affairs	Nominee directors by their character itself are meant to be independent in order to safeguard the interests of the Company as a whole and not merely the institution appointing them. Therefore, directors nominated by public financial institutions/government should be treated as Independent Directors.
8.	Companies Act, 2013	Sub-section (6) of Section 124 makes a provision for transfer of shares in respect of which dividend remains unpaid or unclaimed to the Investor Education and Protection Fund (IEPF) in the name of the company.	Ministry Of Corporate Affairs	Since the Company does not own these shares, legally it cannot transfer these shares to IEPF. Either this provision should be withdrawn or legally the Act should empower transfer of such shares, giving full protection against claims to the Companies and its officials.
9.	Companies Act, 2013	As per section 143 (2) read with section 136 (1) an auditor has to make a report on accounts examined by him and on every Financial Statement including Consolidated Financial Statement laid before the company in general meeting.	Ministry Of Corporate Affairs	The “Group” is not a legal entity. Unlike Standalone Company, there are no “Books of Accounts” for the “Group”. Many of the inquiries which an auditor has to make u/s 143(1) and items to be included u/s 143 (3) of the Act, are applicable to a Standalone Company. Hence, the amendment be made so as to require the auditor to include only those aspects of Consolidated Financial Statements which are applicable.

SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
10.	Companies Act, 2013	Form MR-3 prescribed by MCA for Secretarial Audit Report mandates the secretarial auditor to mention and ensure the compliance of other laws applicable specifically to the company.	Ministry Of Corporate Affairs	The secretarial Auditor possess expert knowledge only on corporate laws and not in other industry specific laws applicable specifically to company. Hence, the reporting by secretarial auditor has to be restricted to the corporate laws.
11.	Companies Act, 2013	As per the Act and the Rules all public Companies which satisfy any one of the prescribed criteria have to appoint at least two Independent Directors.	Ministry Of Corporate Affairs	Due to the surge in demand of independent directors There is a dearth of good independent directors with appropriate skill sets and maturity commensurate with the requirements of the company. The threshold should be increased as follows:- 1) Paid Up share Capital of Rs. 100 crore or more; OR 2) Turnover of Rs. 1000 crore or more; OR 3) Aggregate outstanding loans, debentures and deposits not exceeding Rs. 500 crore.



SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
12.	Companies Act, 2013	A person who is not a retiring director in terms of section 152 , shall be eligible to be appointed at any general meeting, if he or some member intending to propose him as a director, leaves at the registered office of the company, a notice of candidature fourteen days before the meeting along with the deposit of Rs. 1 lakh.	Ministry Of Corporate Affairs	Since the existing independent directors will merely be re-appointed because of the provisions of the Act, the notice of candidature along with deposit of Rs. 1 lakh should not be sought for. Such notice of candidature along with deposit should not be required while re-appointing existing independent directors under the provisions of the Act.



SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
13.	Companies Act, 2013	The provisions now allow loans or guarantee or security to be provided to the wholly owned subsidiary company by its holding company. Any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company is also exempted.	Ministry Of Corporate Affairs	A clarification may be provided by MCA that loans/guarantees given under Section 185/186 will not be covered under Section 188.

SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
14.	Companies Act, 2013	Sub-section 87 of Section 2 defines a 'Subsidiary company'. Accounting Standard (AS) – 21, which is on Consolidation of Financial Statements requires consolidation of accounts of those companies in which the holding company controls the ownership, directly or indirectly through subsidiaries, of more than one-half of the voting power of an enterprise.	Ministry Of Corporate Affairs	This leads to a confusion as to what can be included in the preference share capital since voting power of the preference shareholders is exercisable only when their rights are affected or when dividend on their preference share capital remains unpaid for a period of 2 years or more. Due to such contradicting implications, we would like the MCA to throw some light on the consolidation of financial statements to comply with the Act as well as the AS and accordingly amend.
15.	Companies Act, 2013	Defined under sub-section (37) of section 2 of the Act, the Employees' Stock Option (ESO) can now be granted to the directors, officers and employees of a company as well as its holding or subsidiary companies.	Ministry Of Corporate Affairs	The reach of ESOPs has been expanded to extend the scope of benefit to more number of persons for their contribution to the company. However, we would like to suggest that the fellow subsidiaries also be included in the ambit as large group companies have subsidiaries at many levels.

SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
16.	Companies Act, 2013	As defined under subsection (42) of section 2, a foreign company shall include any company or body corporate which is incorporated outside India but has a place of business in India whether by itself or through an agent, physically or through electronic mode.	Ministry Of Corporate Affairs	We would appreciate if the Ministry lays down certain specific criteria like companies incorporated outside India but having a website containing the Indian domain name (.in) or such other requirement, to identify foreign companies.
17.	Companies Act, 2013	As per the Rule 2 (c) (xii) (a) of the Companies (Acceptance of Deposit rules) 2015, if the service or product is not given within 365 days against the amount received as an advance, the amount received as an advance will be treated as deposit.	Ministry Of Corporate Affairs	While doing business with particular companies such as Government Companies, it is impractical to provide service or product within 1 year due to changes in various business proposals and approval of projects. Hence, this provision shall be relaxed.



SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
18.	Companies Act, 2013	As per the Rule 2 (c) (vii) of the Companies (Acceptance of Deposit rules) 2015, if the securities are not allotted within 60 days from the date on which amount received and held pursuant to an offer made towards subscription to any securities, such amount will be treated as deposit.	Ministry Of Corporate Affairs	In the case of issue and allotment between closely held companies and holding company, the allotment of securities may be delayed due to various reasons such as unavailability of board members to meet for purpose of allotment. Thus, this provision shall be done away with.



SI No.	Regulation/Act/Rule/ Notification/Statutory Order	Key Provision, Section No. and brief under which Clearance/ Permission/ NOC Required	Authority from which Permission/ Clearance Required	Remarks (Suggestions for Rationalizing/Simplifying/ Expediting the Clearance Mechanism or Exempting it all together with Justification)
19.	Companies Act, 2013	The Annual Return under the new Act covers every possible requirement of the Act that would require disclosure. Though the details as required under Form MGT-7 are necessary to ensure compliance, it is also leading to duplication as they are readily available in the Profit and Loss Account and Balance Sheet of the Company, MCA domain, etc.	Ministry Of Corporate Affairs	Exemption from such repetition should be given in these matters to the listed companies. Removal of such duplications would tremendously reduce the size of the Annual Return and would make the task of filing the Annual Return simple and quicker.
20.	Companies Act, 2013	Section 93 of the Act states that every listed company shall file a return with the ROC with respect to change in the number of shares held by the promoters and top 10 shareholders of that company within 15 days of such change	Ministry Of Corporate Affairs	The MCA should provide for a longer duration and a threshold; else the companies may end up reporting changes every day due to the provisions of this section.