

**GHAZIABAD BRANCH  
OF CENTRAL INDIA REGIONAL COUNCIL OF ICAI**



# CA FLYER



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**E- NEWS LETTER**

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## Independent Directors



**CS Divesh Goyal,**  
E-mail: csdiveshgoyal@gmail.com,  
Mobile no: 8130757966

*“The Independent Directors-Dawn of a New Era vis-à-vis Opportunities for Professionals”*

### **Highlights:**

- ❖ Applicability of New Rules of Independent Director
- ❖ Important Due Dates
- ❖ Impact of New Provisions on Existing Independent Directors
- ❖ Opportunities for Professionals like CS, CA etc.
- ❖ ID Empanelment Process
- ❖ Registration Process for Companies
- ❖ Quick Bites

Independent directors play a very crucial role in establishing and maintaining Good Corporate Governance Practices. In order to educate and spread awareness about Corporate Laws, Securities Laws and basic Accounting related reporting and disclosure requirements, amongst Independent directors and to uplift the Corporate Governance standards in India, the Govt. has decided to introduce Online Proficiency Self-Assessment test for Independent directors.

Subsequently, MCA has notified the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019, and the Companies (Accounts) Amendment Rules, 2019. The notifications shall come into force with effective from Dec 01, 2019.

### **OBJECTS:**

- ❖ To promote Good Corporate Governance.
- ❖ To promote Ease of doing Business.
- ❖ To provide a platform to companies which are required to appoint Independent Director/s, so as to enable them to search and select from databank of existing and aspiring individuals, by using variety of Search tools required to appoint Independent Director/s.
- ❖ To ensure responsible business conduct.
- ❖ To create and monitor a databank of existing and aspiring independent Directors after due verification process.

### **Requirements for Appointment of Independent Directors:**

As per Rule 4 of Companies (Appointment and Qualification of Directors) Rules, 2014:-

The following class or classes of companies shall have at least two directors as independent directors

- (i) the **Public Companies** having **paid up share capital of ten crore** rupees or more; or
- (ii) the **Public Companies** having **turnover of one hundred crore** rupees or more; or
- (iii) the **Public Companies** which have, in aggregate, **outstanding loans, debentures and deposits, exceeding fifty crore** rupee

## **APPLICABILITY:**

The new norms shall be applicable to

- ❖ Existing Independent directors (IDs),
- ❖ Individuals who are aspiring to be appointed as independent director,
- ❖ Companies which are required to appoint Independent directors under the Companies Act 2013.

## **A. RESPONSIBILITY OF COMPANY:**

- An independent director may be selected from a \* **Data Bank**
- Responsibility of exercising due diligence before selecting a person from the data bank is on Company.
- Appointment of independent director shall be approved by the company in general meeting
- Explanatory statement annexed to the notice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.

### **Corporate Access Data Bank:**

The Independent Director's Databank contains names, address, and qualification of persons who are eligible and willing to act as Independent Directors. Databank of Independent Directors aims to provide single point access to the corporate to search Independent Directors as per their needs and criteria.

**Registration of Companies:** Companies also may register themselves with the databank”

Those companies which are required to appoint ID under the CA, 2013 to search, select and connect with individuals who possess the right skills and attitude for being considered for appointment as independent director.

### **Process of Registration of Company:**

-Login to [mca.gov.in](http://mca.gov.in) and go to ID registration Tab

-Enter the MCA 21 registered CIN

-OTP Verification through email]

- ❖ Automatically redirected to ID's Data Bank
- ❖ Few basic details (Company Name, Current Status, Registered Address, etc)

Add two designated officer from your company who will also have access to the data Bank site

- ❖ Review shared details

- ❖ Make payment to access databank of ID profile and complete the company registration process

Access and search the profiles of Independent Directors by using several options, shortlist and download profiles.

## **B. PROVISIONS FOR EXISTING INDEPENDENT DIRECTOR (ID):**

### **a) Submission of Application with Institute:**

If a person is already appointed as ID in a Company, on 01.12.2019 (the commencement of these rules) he shall within period of three months from such commencement i.e. till 29th February, 2020 apply online to the institute for inclusion of his name in the data bank.

**Last Date for filing of application with institute is 29th February, 2019**

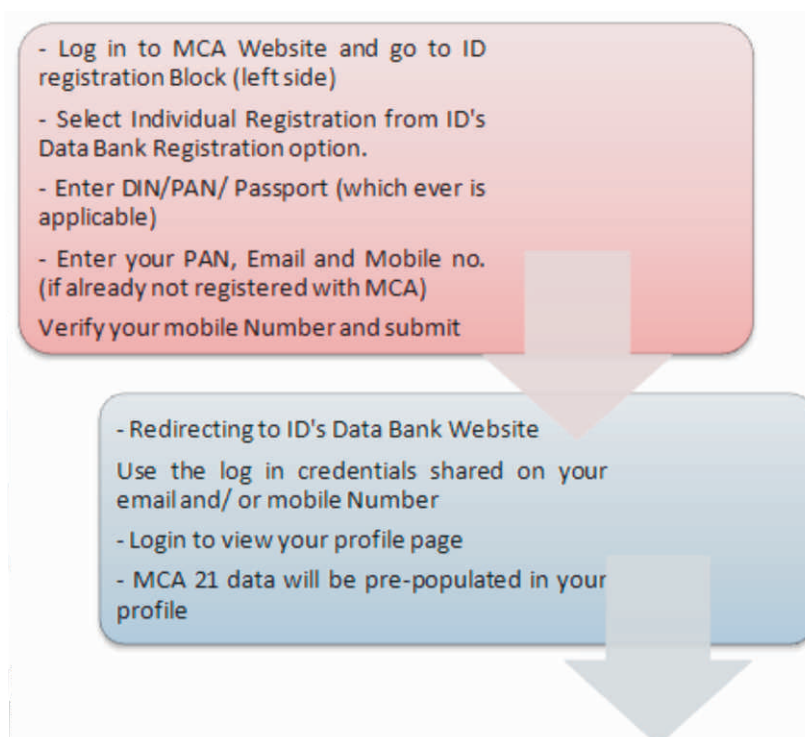
### **b) Passing of examination conducted by Institute:**

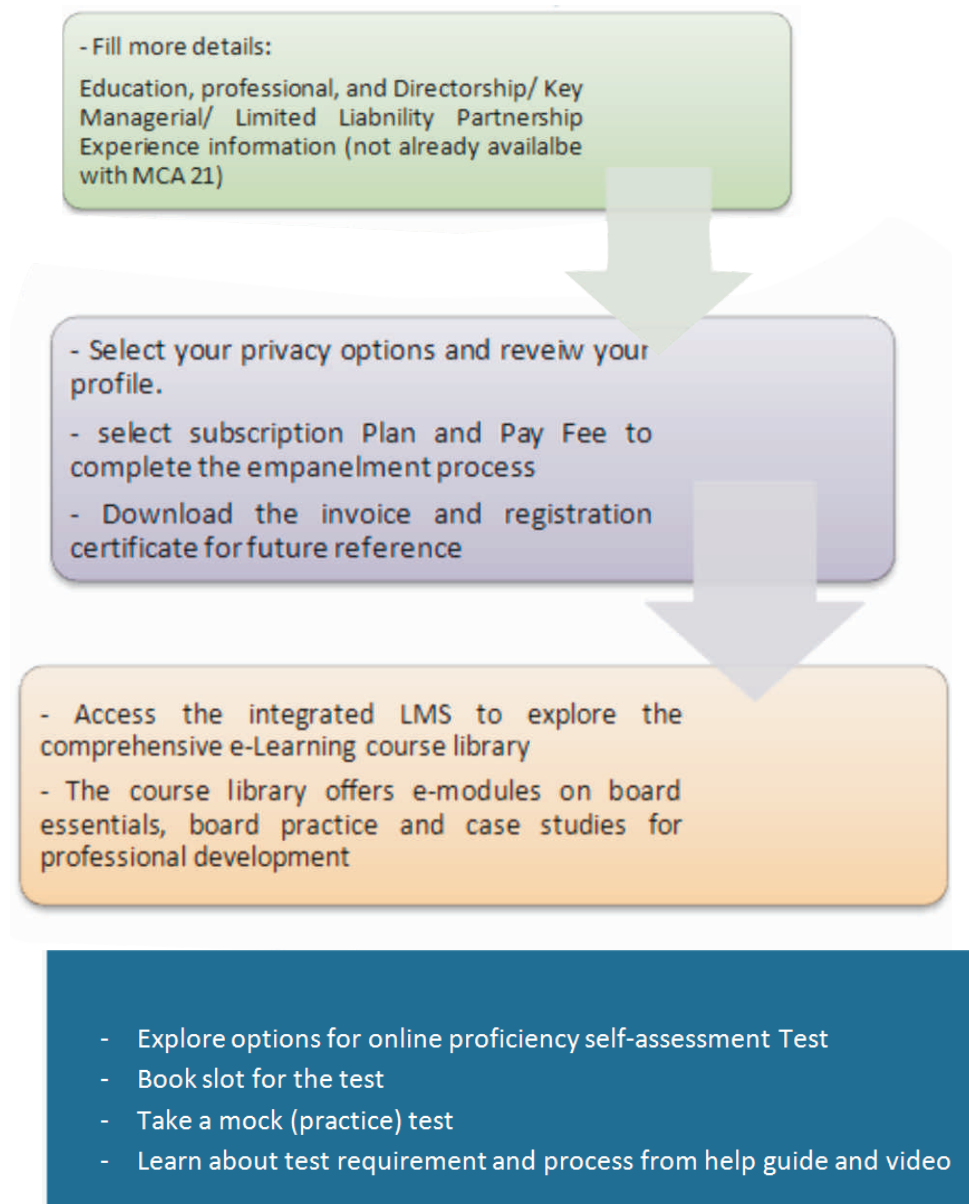
After inclusion of his name in data bank he must pass an online proficiency self-assessment test, conducted by the institute within a period of one year from the date of inclusion of his name in the data bank, (i.e. 1 year from 29th February, 2021 or any other date of inclusion of name in data bank)

Failing which, his name shall stand removed from the databank of the institute:

### **c) Submission of declaration with Board of Director:**

Every independent director shall submit a declaration of compliance of sub-rule (1) [i.e. submission of application with institute] and sub-rule (2) [i.e. submission of application with institute for renewal] to the Board, each time he submits the declaration required under sub-section (7) of section 149 of the Act.





**Knowledge/Skill-set of Independent Directors:** Independent Director should have following knowledge to clear the proficiency Test:

As per Rule 5 of Companies (Appointment and Qualification of Directors) Rules, 2014 which states about Qualifications of independent director.— that he should be person with ***“appropriate skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company’s business.”***

COMPLIANCE BY PERSON ALREADY AN INDEPENDENT DIRECTOR			
S. No.	Particular of Compliance	Time Period	Rule No.
	Submission of Application with Institute	Till 29-02-2020	Sub–Rule- 1
	Passing of examination conducted by Institute	Till 28-02-2021	Sub–Rule-4
	Submission of declaration with Board of Director	As the time of declaration u/s 149(7)	Sub–Rule-3



**Quick Bites:**

A. What shall be impact if an Existing Director fails to get registered with Data Bank or fails to clear examination within one year?

**Exemption – Proficiency Test:**

Individuals who have served for a period of 10 years as on date of inclusion of his name in databank as director or Key Managerial Personnel (KMP) in listed public company or unlisted public company having paid up capital of Rs. 10 crore or more shall not be required to pass online proficiency self-assessment test.

For purpose of calculation of 10 years, if a person is acting as director or KMP in two or more companies shall be counted only once.

**Others:**

- ❖ Name shall be included in data bank for a period of one year or five years or for his life-time;
- ❖ Every individual whose name has been so included in the data bank shall file an application for renewal for a further period of one year or five years or for his life-time, within a period of thirty days from the date of expiry of the period upto which the name of the individual was applied for inclusion in the data bank,
- ❖ Failing which, the name of such individual shall stand removed from the data bank of the institute.
- ❖ No application for renewal shall be filed by an individual who has paid life-time fees for inclusion of his name in the data bank

**C. Responsibility of New ID**

For appointment of as ID in a Company, on or after 01.12.2019 (the commencement of these rules) the person shall before such appointment apply online to the institute for inclusion of his name in the data bank and have to pass the Proficiency Test.

For appointment of as ID in a Company, on or after 01.12.2019 (the commencement of these rules) the person shall before such appointment apply online to the institute for inclusion of his name in the data bank and have to pass the Proficiency Test.

<i>QUICK BITES</i>	
1.	To get empanelled with Data Bank of Independent Director DIN is mandatory or Not?
	DIN is not mandatory for empanelment of any person for Data Bank of Independent Director. If a person not having DIN he can get empanelled on the basis PAN.
2.	A foreign national don't have DIN and PAN. How can he get empanel for the same?
	He can get empanel by passport no and providing basic contact information, such as email, mobile No. etc.

3.	How to create Login Id and password on Independent Director's Databank?
	Log in ID and Password shall be share by the authority on Mobile No and email ID.
4.	Which type of details required filling in the form?
	<ul style="list-style-type: none"> <li>• Personal Details</li> <li>• Professional Details</li> <li>• Education Details</li> </ul>
5.	Whether need to disclose director's ship in all the Companies?
	<p>Person have to mention details of companies in which <b>He Is Or Was</b> directors along with following information:</p> <ul style="list-style-type: none"> <li>• Name of Company</li> <li>• Nature of Industry</li> <li>• Nature of Directorship</li> <li>• Duration of tenure with dates</li> </ul>
6.	Whether need to disclose details of designated partners in all the LLP?
	<p>Person have to mention details of LLP in which he is or was <b>DesignatedPartner</b> along with following information:</p> <ul style="list-style-type: none"> <li>• Name of LLP</li> <li>• Nature of Industry</li> <li>• Duration of tenure with dates</li> </ul>
7.	Which information of person shall be displayed on Data Bank?
	In the declaration section, you also have an option to select the information that you want to be displayed on the databank.
8.	What shall be subscription plans for the Data Bank?
	There are three different subscription plans available – 1 Year, 5 Years, and Life time.
9.	If a person is Independent director since years. Need to get enroll himself with Data Bank or need to pass examination.
	Yes, Existing Independent Directors also required empanelling themselves for data bank and needing to pass examination.
10.	Whether there is any limit on no. of attempt of proficiency test?
	There is no limit on the number of attempts an individual may make for passing the online proficiency self-assessment test.
11.	If Individual fails to pass the test with in 1 year of addition of his name in data bank. What shall be consequences?
	<p>In case the above test is not passed by such individual, his/her name shall stand removed from the data bank by the Institute.</p> <p>It Means after removal they should not continue as Independent Director until unless they pass the test.</p>
12.	If a person fails to pass proficiency test, can appoint as normal Director?
	They are not disqualified. They can be appointed as " normal Director "

13.	Whether any one is exempted from the test?
	An individual who has served, in aggregate, for a period of not less than ten years as a director and/or a Key Managerial Personnel in a listed public company or in an unlisted public company having a paid-up share capital of Rs. 10 crore or more as on the date of inclusion of his name in the data bank shall not be required to clear the proficiency test.
14.	Whether over lapping period shall be count two periods or one period?
	A period of 10 years as above, any over lapping period during which an individual has acted both as a director and/or key managerial personnel (KMP) at the same time in two or more companies shall be counted only once

## STUDENTS' FEST 2019



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## SEMINAR ON HOW TO PROCEED WITH PENALTY NOTICES UNDER SECTION 270A OF I.T. ACT



CLOSING CEREMONY OF MCS BATCH 26





CLOSING CEREMONY OF MCS BATCH 27





## CLOSING CEREMONY OF OP BATCH 56



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## CLOSING CEREMONY OF OP BATCH 57





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## CLOSING CEREMONY OF OP BATCH 58



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## GHAZIABAD BRANCH OF CIRC OF ICAI

Yamunotri Complex, IInd Floor, A-12, Ambedkar Road, Ghaziabad (U.P.)  
Phone: 0120-4114478  
E-mail: [newsletter@icaigzb.org](mailto:newsletter@icaigzb.org)  
Website: [www.icaigzb.org](http://www.icaigzb.org)

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