



*Mr. A is a Designated Partner in LLP.
Mr. A is not a director in any company.
Whether he is required to file e-Form
DIR-3-KYC as prescribed in Rule - 12A,
Companies (Appointment and Qualification
of Directors) Rules, 2014?*

(Contributed by CS Gaurav Pingle)

Pursuant to the provisions of Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014, every individual who has been allotted Director Identification Number ('DIN') as on 31st March of a financial year as per these rules

shall submit e-form DIR-3-KYC to the Central Government on or before 30th April of immediate next financial year. The provisions are applicable to an 'individual'. Therefore, any individual - whether director or designated partner - shall comply with the provisions of Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014.

Mr. D is a director in DSC Solutions Private Limited. The company was incorporated on May 7, 2018. Whether Mr. D is required to comply with the provisions of DIR -3 - KYC as prescribed in Rule 12A, Companies (Appointment and Qualification of Directors) Rules, 2014?

Proviso to Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014 states that every individual who has already been allotted a DIN as at March 31, 2018, shall submit e-form DIR-3 KYC on or before August 31, 2018. As DSC Solutions Private Limited was incorporated on May 7, 2018 (i.e., during March 31, 2018 to August 31, 2018) and the DIN of Mr. D was generated at the time of incorporation of the company, then Mr. D is not required to comply with the said provisions. However, Mr. D would be under an obligation to comply with the said provisions in the next Financial Year 2019-2020.

Mr. B was director in XBRL Services Private Limited. He resigned from the said company on January 15, 2018. Necessary e-Form has been filed informing the Registrar of Companies about the resignation of Mr. B. Presently, Mr. B is neither a director in a company nor a designated partner in any LLP. Whether Mr. B is required to comply with the provisions of DIR - 3 - KYC as prescribed in Rule - 12A, the Companies (Appointment and Qualification of Directors) Rules, 2014?

Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014 is applicable for every individual who has been allotted DIN. Therefore, the said provisions are applicable irrespective of the fact that Mr. B is appointed as a director in company or as a designated partner in LLP.

Mr. N is a director in NCRW Sales Private Limited. The Digital Signature Certificate (DSC) of Mr. N has expired. Can the e-Form be filed based on the power of attorney given by Mr. N to some other person?

Mr. N is required to obtain the DSC from a prescribed Certifying Agency appointed by the office of the Controller of Certification Agencies under the provisions of Information Technology Act, 2000. Presently, there is no provision for filing of the requisite form based on power of attorney.

Is practising professional required to obtain an engagement letter from a person for whom the practising professional is certifying the eForm DIR - 3 - KYC?

In our view, an e-mail communication between the practising professional and the person having DIN is sufficient for certification of the e-Form DIR - 3 - KYC. If there is no e-mail communication, then it is desirable to obtain an engagement letter from the person having DIN.

What is the last date for filing of e-Form DIR - 3 - KYC? What is the filing fee?

If the e-Form DIR -3 - KYC is filed on or before August 31, 2018 by applicant (who has been allotted DIN on or before March 31, 2018 and whose DIN is in 'approved' status), then the filing fees is Nil. If the eForm DIR -3 - KYC is filed after August 31, 2018, the applicant shall pay ₹ 5,000 as fees.