

Prepared by:

CS Ankur Garg

<https://www.facebook.com/#!/ankur.gargcs>

Intimation to ROC for Auditor appointment in Form ADT.1

Dear All,

As we all are aware that there is a provision in Company Law for intimation to **Registrar of Companies** regarding appointment of statutory auditor in the Annual General Meeting by shareholders. This intimation is an annual intimation and it was also there in erstwhile Companies Act, 1956 and continued in Companies Act, 2013.

However few changes have been made by the regulators through Companies Act, 2013, w.r.t. the Intimation procedure, timelines for filing intimation along with the person liable to file such intimation with **Registrar of Companies**. It is pertinent to note that appointment of statutory auditor is governed by section 139 of the Companies Act, 2013.

Appointment of Auditor in Companies Act, 2013

As per section 139 of the Companies Act, 2013, every company shall, at the first Annual General Meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting.

Further it shall be duty of the Company to place the matter relating to such appointment for ratification by members at every Annual General Meeting.

Before appointment Auditor shall be liable to provide the written consent to the Company for such appointment, along with a certificate to the effect that the appointment, if made, shall be in accordance with the prescribed conditions.

INTIMATION TO ROC ABOUT APPOINTMENT OF STATUTORY AUDITOR

Under Companies Act, 1956, it was duty of the Auditor to file **form 23B** with ROC regarding his appointment as Statutory Auditor whereas Under Companies Act, 2013, it is duty of the Company to file form **ADT.1** through **E-form GLN.2** with ROC regarding the appointment of Statutory Auditor. Please find below detailed analysis:

1. Position under erstwhile Companies Act, 1956

Intimation as to appointment

As per section 224(1) of the Companies Act, 1956, a company is required to give intimation of appointment to every auditor(s) so appointed within seven days of the appointment as desired by section 224(1). The intimation may be given in form of a letter on the letter head of the company by a responsible officer of the company.

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Obligation on the auditor to give intimation to the Registrar

Every auditor appointed under section 224(1) by a company in Annual General Meeting shall inform the Registrar in writing that he has accepted, or refused to accept the appointment [Section 224(1B)]. The information shall be given in e-Form 23B within a period of thirty days from the date of appointment in the AGM.

2. Position under Companies Act, 2013

Companies Act, 2013, casts the duty on the Company to inform the auditor concerned of his or its appointment, and also file a notice of such appointment with the Registrar within **fifteen days** of the meeting in which the auditor is appointed.

Hence, now as per section 139(1) read with Rule 4(2) of Companies (Audit and Auditors) Rules, 2014, appointment of Auditor at the Annual General Meeting is to be intimated by the Company to the Registrar of Companies within 15 days of appointment through filing of form **ADT.1**. Form ADT.1 is to be filed through E-form **GLN.2** as directed by MCA through its General Circular No. 9/2014 dated April 25, 2014.

Intimation to ROC in case of appointment of First Auditor under Companies Act, 2013:

It is worth noting here that only in respect of the auditors appointed under section 139(1) Company is under an obligation to give notice of appointment to the Registrar in Form No. **ADT.1** through E-form **GLN.2**. Therefore, in case of appointment of first auditors by the Board of directors of a company pursuant to section 139(6), Company is under no obligation to give notice of appointment of First Auditor to the Registrar.

NON-FILING OF FORM 23B FOR FINANCIAL YEAR 2013-14

I have observed that many companies have not filed **form 23B** last year for FY 2013-14 when they appoint Auditor in the AGM and now they are concerned what to be filled in form 23AC and 23ACA in place of SRN No. of form 23B.

I have analyzed this issue and my opinion is mentioned below.

“Kindly appreciate that Form 23B has been discontinued by MCA now. So for Annual filing forms like 23AC and 23ACA for the FY 2013-14, it would not be possible to fill SRN of 23B, if you have not filed form 23B last year in respect of FY 2013-14.

As per section 224(1) of Companies Act, 1956, ideally Form 23B should have been filed last year by the Auditor after appointment of Auditor for FY 2013-14 in the AGM.

However, now as per new rule prescribed in section 139(1), Auditor appointed at the AGM is to be intimated by the Company to the ROC within 15 days of appointment through filing of form **ADT.1**.

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Form **ADT.1** is to be filed through E-form **GLN.2**. Kindly refer MCA General Circular No. 9/2014 dated April 25, 2014.

So the solution for non-filing of Form 23B for FY 2013-14 would be to file form **ADT.1** through E-form **GLN.2** with late fee in respect of FY 2013-14. In this case you can very much use the SRN of form **GLN.2** filed in respect of FY 2013-14 when you prepare form 23AC and 23ACA for FY 2013-14." I hope that the above suggestion would be of some help.

You may download new set of MOA and AOA as per Companies Act, 2013, from the link given below:

<http://www.caclubindia.com/forum/download-sample-moa-and-aoa-as-per-companies-act-2013-298105.asp>

For my other Corporate Law Articles on Companies Act, 2013, kindly refer the links mentioned below:

1. [Useful Interpretations about Companies Act, 2013 - Part-1](#)
2. [List of Resolutions to be filed with ROC in Form MGT.14](#)
3. [Procedure for Appointment of Additional Director in CA 2013](#)
4. [Different Monetary Limits under Companies Act 2013](#)
5. [Companies to have Uniform Financial year under CA 2013](#)
6. [Procedure for Increase in Authorise Share Capital under Companies Act, 2013](#)

Disclaimer:

This write up is intended to start academic discussion on few significant interpretations under Companies Act, 2013. It is not intended to be a professional advice and should not be relied upon for real time professional facts. Readers are advised to refer relevant provision of law before applying or accepting any of the point mentioned above. Author accepts no responsibility whatsoever and will not be liable for any losses, claims or damages which may arise because of the contents of this write up.

I am very hopeful that this write up would be of some help to understand the concepts in new Companies Act, 2013.

Thanks

CS Ankur Garg

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