

HOW TO FORM A COMPANY IN INDIA



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How to Form a Company in India

India presents a thriving landscape for startups, offering promising prospects for entrepreneurial endeavors. However, navigating the process of establishing a company in the country can be daunting, especially for first-time entrepreneurs. In this guide, we'll walk you through the steps of forming a company in India, from selecting a business structure to completing registration with the relevant authorities.

Before delving into the intricacies of company registration in India, it's essential to grasp the concept of a company. A company is a legal entity established to conduct business activities. In India, companies are regulated by the Companies Act of 2013 and are registered with the Registrar of Companies (ROC) in the respective state of their headquarters.

1: Choosing a Business Structure

The initial step in establishing a company in India involves selecting a suitable business structure. Various options are available, including:

- **Sole Proprietorship:** Owned and operated by a single individual.
- **Partnership:** Owned and operated by two or more individuals.
- **Limited Liability Partnership (LLP):** Combines features of a partnership and a company, offering limited liability to partners.
- **Private Limited Company:** Privately owned and limits shareholder liability.
- **Public Limited Company:** Can raise capital from the public with no limit on shareholders.

Each business structure offers distinct advantages and drawbacks, necessitating careful consideration based on specific business requirements.

Significance of Choosing the Right Business Structure:

Selecting the appropriate business structure is paramount, as it impacts various aspects of the company's operations:

1. Audit: Registering a company facilitates accurate auditing of business accounts and ledger, mandating compliance with auditing regulations. Choosing an unsuitable structure can lead to increased costs associated with hiring auditors and accountants, potentially affecting the company's revenue.



2. Income Tax: Tax obligations differ based on the chosen business structure, affecting both business stakeholders and the company. For instance, sole proprietors are subject to individual income tax, while companies must file income tax returns with the registrar of companies.

3. Business Expansion: The chosen business structure influences opportunities for business expansion, with certain structures being more conducive to attracting investment. Opting for the right structure is crucial for navigating regulations related to business growth and investment attractiveness.

2. Selecting Your Company Name

Choosing an appropriate name for your company holds significant importance as it will serve as the primary brand identity moving forward. While registering the company name is a straightforward process, there are several crucial points that applicants must consider.

Applicants should ensure that the proposed name does not exactly match an existing name of any Limited Liability Partnership, company, or trademark.

- The format of the company name must adhere to the guidelines outlined in the law. For instance, a Private Limited company should adopt a format like "ABC Pvt. Ltd." Similarly, an OPC (One Person Company) must register a name such as "XYZ (OPC) Private Limited."
- Generic names associated with a specific location are prohibited.
- The proposed name should not contain offensive language or infringe upon existing emblems or trademarks.

How to Complete Company Name Registration?

There are several essential steps for business owners to follow when registering a company name. The applicant (or any representative of the company) must utilize the Reserve Unique Name (RUN) service available on the MCA portal to reserve the desired name.

How to Verify Company Registration Status?

Individuals can verify a company's registration status by visiting the MCA portal. Upon accessing the portal, they should navigate to the "MCA Services" tab and select the "View Company/LLP Master Data" option from the drop-down menu. By entering the company's CIN number, the portal will display the company's precise registration status on the screen.



3. How to Complete Company Registration in India?

The process of registering a company in India has been streamlined, making it more accessible than ever before. By focusing on four key aspects, you can quickly gather all the necessary details, whether you're registering a private limited company or any other business structure. The shift to online registration has made the process more user-friendly and seamless.

What Documents are Necessary for Company Registration in India?

The government has introduced the Simplified Proforma for Incorporating a Company Electronically (SPICe), a comprehensive single-point application that simplifies the legalities of company registration. This portal facilitates tasks such as Company Name Registration, Allotment of DIN (for Directors and Incorporation), as well as the allocation of Permanent Account Number (PAN) and Tax Collection and Deduction Account Number (TAN) for the new company. The following documents are required for company registration in India:

Documents Required from Shareholders and Directors

A. Identity Proof Documents:

1. Permanent Account Number (PAN)
2. Aadhaar Card / Passport / Driving License / Voter Identity Card (at least one from the list)

B. Address Proof Documents:

1. Telephone Bill / Mobile Bill
2. Electricity Bill / Water Bill
3. Copy of the Bank Passbook with the latest transaction entry or Bank Statement (not more than 2 months old)

C. Passport size Photographs (3 each)

It's important to note that all the mentioned documents must be Self Attested by the stakeholders involved. Additionally, it's advised to submit the latest documents, and the telephone bill or electricity bill should not be older than 2 months.

Apart from these, obtaining a crypto license in India may become mandatory for certain activities, such as the issuance and trading of various Virtual Delivery Assets.



How to Register a Company Online in India?

If you're wondering how to register a company online in India, here are four essential steps to follow:

1. Director Identification Number (DIN):

Obtaining a Director Identification Number (DIN) is crucial for anyone aspiring to be a director of the company.

2. Digital Signature Certificate (DSC):

Since company registration is an online process, stakeholders need digital signatures for various forms to be filled on the MCA portal.

3. Registration on the Ministry of Corporate Affairs (MCA) Portal:

Submit the SPICe+ form and required documents on the MCA portal for company registration. Directors must first register on the MCA portal to access services such as form submission and document viewing electronically.

4. Certificate of Incorporation:

Upon successful submission of documents, the Registrar of Companies reviews the application. If approved, the Registrar issues a Certificate of Incorporation for the Company.

4. How to Register a Company in India

How to Register a Private Limited Company in India

Below are the steps involved in registering a Private Limited Company in India:

1. Apply for a Digital Signature Certificate.
2. Obtain a Director Identification Number (DIN).
3. Verify and submit an application for name availability.
4. File the e-Memorandum of Association (eMoA) and e-Articles of Association (eAoA) to register the private limited company.
5. Apply for the PAN and TAN of the company.
6. Receive the Certificate of Incorporation, issued by the Registrar of Companies, along with PAN and TAN.
7. Open a current bank account in the company's name.



How to Register a Proprietorship Company in India

Unlike other business structures, registering a proprietorship company in India is straightforward. To register a proprietorship company, the applicant needs the following documents: Aadhar card, PAN card, Bank Account, and Registered Office Proof.

1. Open a Current Account in the name of the Company with any Bank.
2. Obtain GST Registration (depends on the type of business).
3. Obtain a Shop Act License.
4. Register for MSME/Udyam/Udyog/SSI.
5. Obtain an IEC Code (for Import-Export) and FSSAI/Trademark.

How to Register a Start-up Company in India

The following steps are required to register your start-up company in India:

1. Obtain the Incorporation/Registration Certificate for your start-up.
2. Provide details of the Directors.
3. Present proof of concept such as a pitch deck, website link, or video (if applicable).
4. Register your start-up with Start-up India.
5. Obtain DPIIT Recognition.
6. Provide patent and trademark details (optional).
7. Obtain a PAN Number.

Please visit the [Government's official site](#) for more information.

5. Crypto Business Registration in India

The Finance Ministry has mandated that crypto businesses must register with the Financial Intelligence Unit (FIU), the country's anti-money laundering unit, and adhere to other processes under the Prevention of Money Laundering Act. This requirement obliges crypto businesses to conduct verification processes like Know Your Customer.

Mandatory Registration with FIU-IND for Crypto Businesses

- As per a notification from the Ministry of Finance dated July 4, 2024 ("July Notification"), all Virtual Delivery Assets service providers are mandated to register with the FIU-IND. The notification stipulates that these service providers must comply with various provisions of the Prevention of Money Laundering Act & Rules and the



Anti-Money Laundering and Combating the Financing of Terrorism Guidelines before applying for registration with the Finance Intelligence Unit-India.

- Under Rule 7(3) of the Prevention of Money Laundering Rules, the Finance Intelligence Unit-India ("FIU-IND") has the authority to issue guidelines on transactions conducted by reporting entities and monitor those transactions, as specified in the Prevention of Money Laundering Rules. In line with this provision, the FIU-IND released guidelines titled the 'Anti-Money Laundering and Combating the Financing of Terrorism Guidelines For Reporting Entities Providing Services Related To Virtual Digital Assets' on March 10, 2023. These guidelines outline the comprehensive scope of compliance for reporting entities offering services related to Virtual Delivery Assets.
- Compliance with the Prevention of Money Laundering Act is crucial to safeguard the safety and financial integrity of Indians. Citizens who engage with unregistered platforms risk dealing with malicious actors, thereby jeopardizing their present and future finances.

Required Documents for FIU-IND Registration

The following documents are necessary for registering with the Financial Intelligence Unit India:

Individuals:

- Recent photograph
- Identification documents
- A certified copy of a valid document containing identity and address details
- Other documents as required by the reporting entity, including those related to the nature of business and financial status

Companies:

- Certificate of Incorporation (COI)/ Memorandum of Association and Articles of Association
- Valid documents for managers, officers, or employees authorized to transact on behalf of the company
- Resolution from the Board of Directors and Power of Attorney granted to managers, officers, or employees authorized to transact on behalf of the company



Partnership Firms:

- Partnership Deed
- Registration Certificate
- Valid document for the person authorized to transact on behalf of the firm

Trusts:

- Trust Deed
- Registration Certificate
- Valid document for the person authorized to transact on behalf of the trust

Unincorporated Bodies/ Bodies of Individuals:

- Power of Attorney granted to transact on behalf of the entity
- Valid document for the person authorized to transact on behalf of the entity
- Resolution of the managing body
- Any additional information required to establish the legal existence of the entity

FIU-IND Registration Procedure

Two entities must register with the Financial Intelligence Unit India (FIU-IND): reporting entities and Principal Officers. The registration procedure is as follows:

Reporting Entity Registration:

- Submit the application with the required documents.
- File the registration application with the FIU-IND.
- Receive the registration certificate after the application is verified.

Principal Officer Registration:

- Submit the application with the necessary documents.
- Register the principal officer after the reporting entity is registered.
- File the application with the principal officer's details.
- Receive the registration certificate after the necessary documentation is verified.



Monthly Reporting to the Financial Intelligence Unit India for Compliance with FIU-IND Registration:

Data Compilation: The FIU Registration Act serves as the primary hub for gathering Cash Transaction Reports (CTRs), Reports on the Purchase or Sale of Immovable Property (IPRs), Cross Border Wire Transfer Reports (CBWTRs), Non-Profit Organization Transaction Reports (NTRs), and Suspicious Transaction Reports (STRs) from diverse reporting entities.

Sl. No.	Financial Intelligence Unit India Report	Description	Due Date
1	Cash Transaction reports	INR 10,00,000/- or more	15th day of the succeeding month
2	Counterfeit Currency Report	Forged or Counterfeit currency	15th day of the succeeding month
3	Non-Profit Organisation Transaction Report	All transactions involving receipts by Non-Profit Organisations of value more than INR 10,00,000/- or more	15th day of the succeeding month
4	Cross Border Wire Transfer Reports	Cross-Border Transfer INR 5,00,000/- or more	15th day of the succeeding month
5	Immovable property	Sale purchase of Immovable property value exceeding INR 50,00,000/- or more	15th day of the month succeeding the quarter
6	Suspicious Transaction Reports	All suspicious transactions whether or not made in cash	Within 7 working days upon confirming the suspicion.

After collecting, analyzing, and sharing information, the FIU Unit serves as a central repository. It also enhances the collection and sharing of financial intelligence through national, regional, and global networks to combat money laundering and related crimes. Additionally, it monitors and identifies strategic key areas concerning money laundering trends, typologies, and development.

