

LLP - an Attractive Structure for Start-ups, Service Sector, Professional Firms and MSMEs





Structure of Limited Liability Partnership (LLP)

In India, LLP Law came in 2008.

**From 01st April, 2009 LLPs
registration was allowed**



Structure of Limited Liability Partnership (LLP)

Key objective to bring entities
from unorganized sector to
organized sector providing them
the benefits of a body corporate





Registered LLPs



**As on date, approx. 2,39,000 LLPs
have been registered**

Source: MCA



As on 30th June 2021, a total
number of 2,11,109 LLPs were
active in the country

Source: MCA





Registered Companies



As on 30th June 2021, a total
number of 21,87,026 Companies
are registered in India

Source: MCA





Active Companies



**Out of which 13,76,654 Companies
were active in the country**

Source: MCA





Contribution wise no. of LLPs

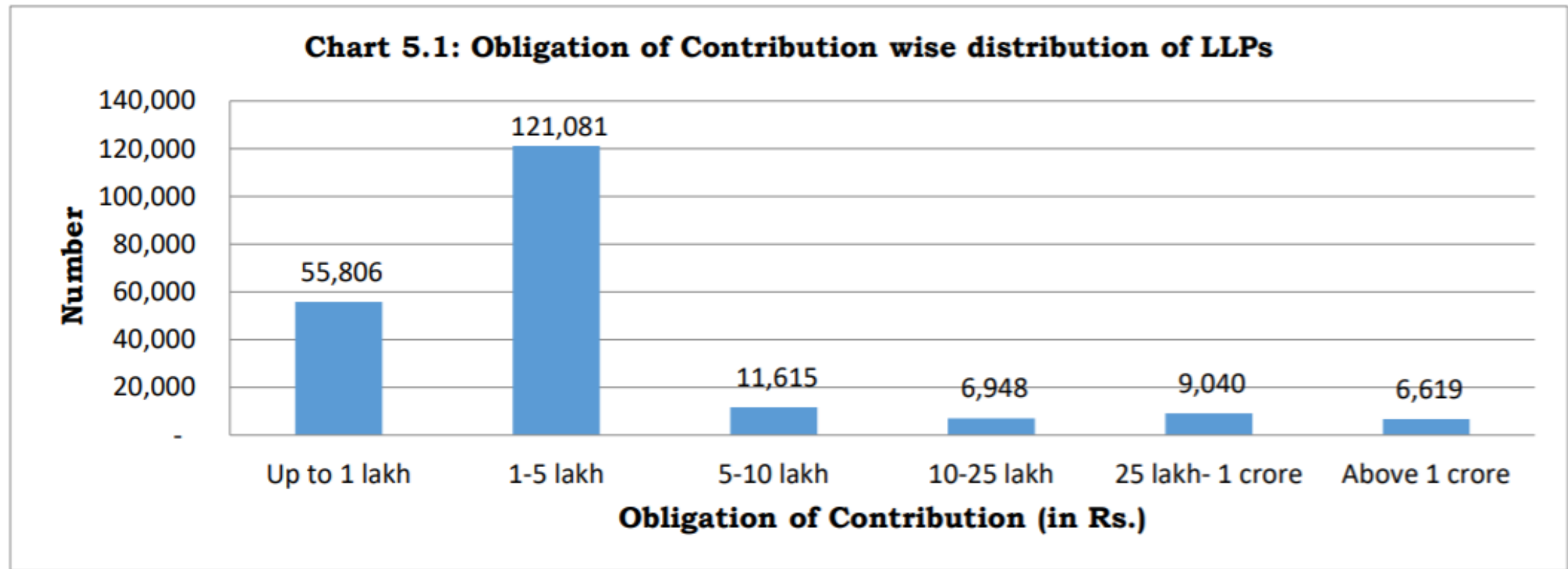


About 83.79% active LLPs
(1,76,887 in number) have
obligation of contribution less than
or equal to Rs. 5 lakhs each

Source: MCA



Contribution wise no. of LLPs



Source: MCA



Sector wise LLPs as on 30th June, 2021



Service Sector: 36%



Real Estate, Renting & Construction: 17%



Trading Sector: 16%

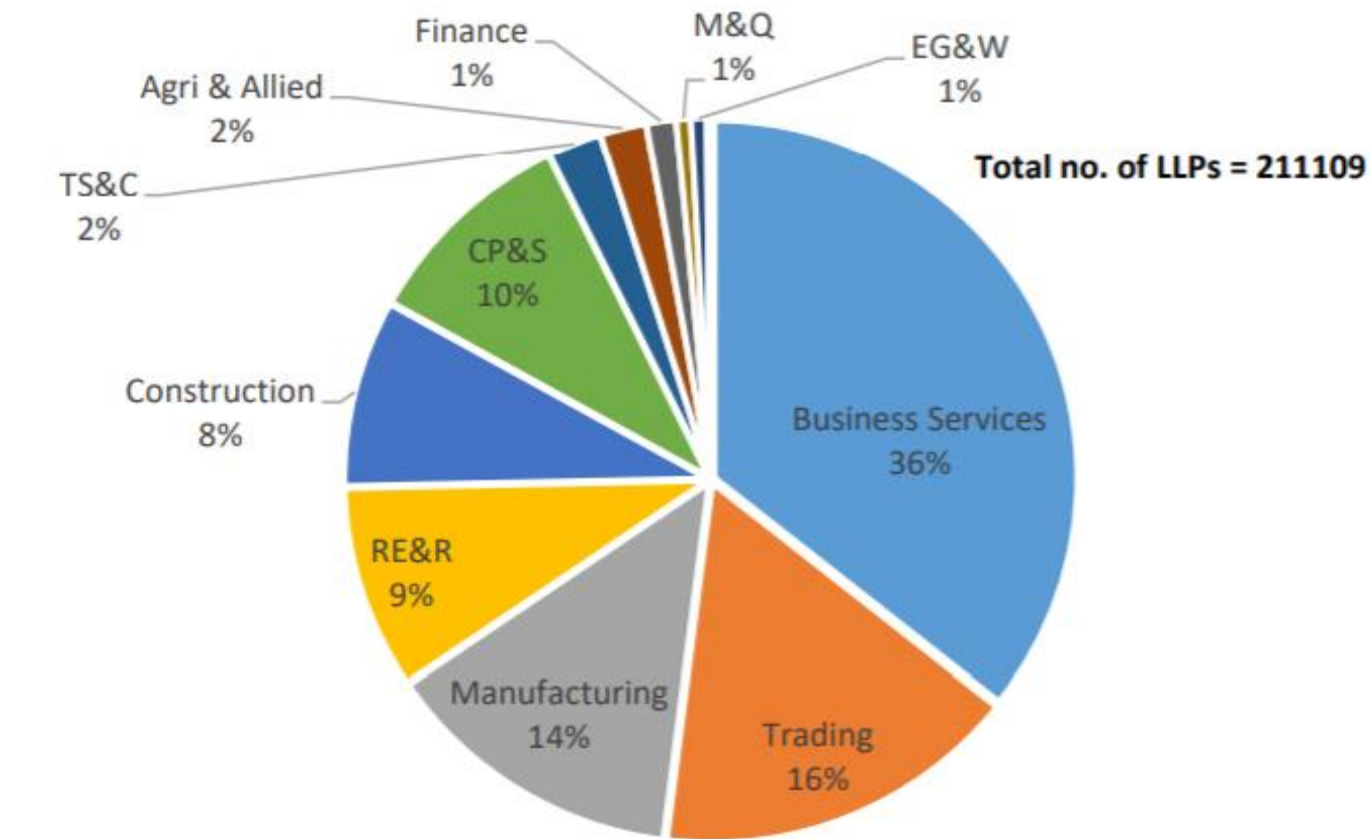


Manufacturing Industry: 14%

Source: MCA



Sector wise LLPs as on 30th June, 2021



Source: MCA



Recent increase in registration of LLPs

42,186 LLPs incorporates in 2020-21



Period	Number of LLPs
2019-20	36,176
2020-21	42,186

36,176 LLPs incorporates in 2019-20



**Increase of
about 17%**

Source: MCA



As on date, a total number of
1,02,28,792 MSMEs are registered
in India, out of which 23,00,000 in
form of Company & LLP

Source: MSME



Why unorganized sector is flourishing

Easy to open and close business

Free from regulatory oversight

Minimum compliance and audit related issues

Easy to invest, lend and withdraw funds

Cash transactions is allowed





When going gets tough



Business credibility

Access to higher credit

Growth beyond a particular size

Funds mobilization





Structure of Limited Liability Partnership (LLP)

Benefits of limited liability





Structure of Limited Liability Partnership (LLP)

LLP structure is popular in many
jurisdiction particularly on Small
Business and Professional Firms



Why LLP is still better than company

Flexible arrangements can be defined between partners

Partnerships can directly convert into LLP

No tax on profit in hands of partners



Why LLP is still better than company

No audit and requirement for statutory record keeping like minutes, register etc.

Investment and lending of funds is easily possible

No requirement of Board and shareholders meeting



How Companies can expand using LLP

Investment in LLP's doesn't make them subsidiaries

Restriction on subsidiaries beyond two layers is not applicable on LLPs

Investment in LLPs is out of purview of Section 186



How Companies can expand using LLP

Lending to LLPs will not be subject to Section 185

LLPs may not be treated as related party under Cos Act, 2013

Investment in LLPs is out of purview of Section 186



Inorganic growth through LLP

LLPs can invest in another businesses including both Indian and foreign companies

One LLP can merge with another, merger with company needs clarity

LLP can also be converted into a company any time



Taxation aspects of LLP vis-à-vis Company

BASIS	COMPANY	LLP
Income Tax Rate	<ul style="list-style-type: none">• Companies turnover upto Rs. 400 crore: 25%;• In case of manufacturing company commences manufacture before 31/03/2023: 15%;• Company exercising option u/s 115BAA: 22%;• Any other case: 30%	30% standard
Dividend Distribution Tax	Yes (15%) in hands of shareholders	Not applicable

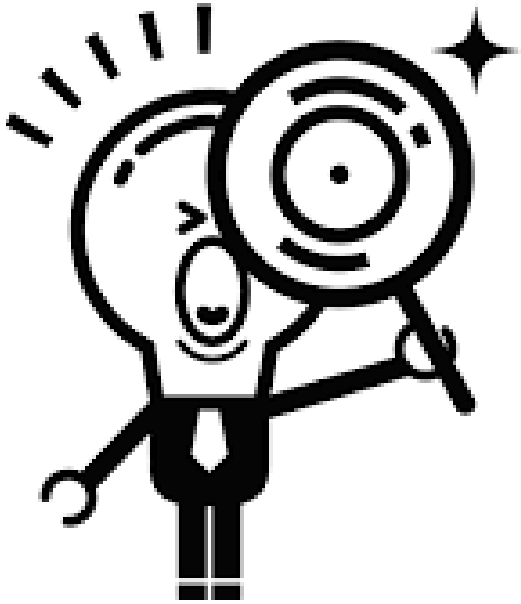




LLP (Amendment) Bill ,2021

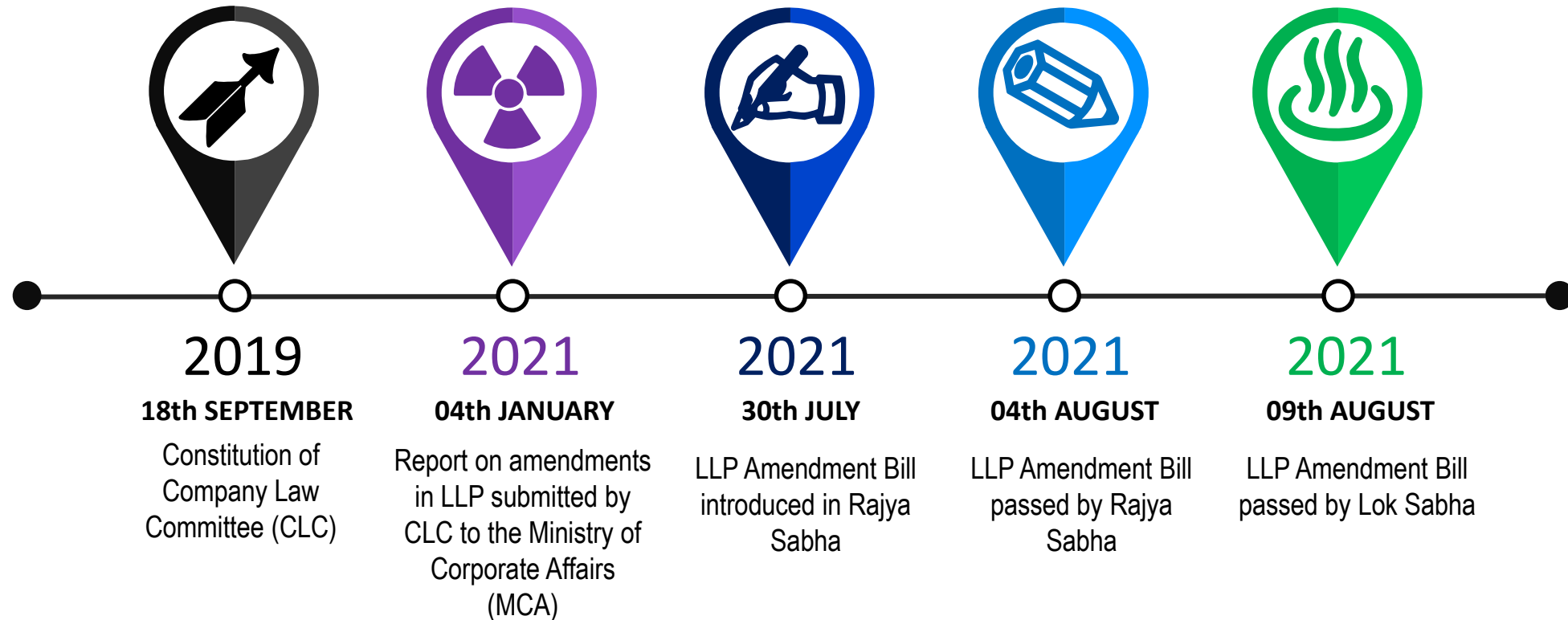


Limited Liability Partnership (Amendment) Bill, 2021



On the basis of the recommendations made by the report of the Company Law Committee (2021), the Limited Liability Partnership (Amendment) Bill, 2021 was introduced in the Parliament

Limited Liability Partnership (Amendment) Bill, 2021



Limited Liability Partnership (Amendment) Bill, 2021



1

To facilitate greater ease of living to law abiding corporates

2

To decriminalize certain provisions of the LLP Act, 2008



Highlights of LLP Amendment Bill, 2021



Reference to the provisions of the Companies Act



**Reference to the provisions of the Companies Act, 1956
wherever they occur, has been substituted with the provisions
of the Companies Act, 2013**

Provisions of Companies Act, 2013 apply to an LLP



Section 67 of the LLP Act, 2008 empowers the Central Government to direct, by notification, that any of the provisions of the Companies Act shall apply to any LLP or shall apply with such exception, modification and adaptation, as may be specified in the notification.



List of provisions of Companies Act, 2013 applicable on LLP

S. No.	Provision of Companies Act, 2013	Date of Applicability
	Section 458: Delegation by Central Government of its powers and functions.	
1.	The Central Government may delegate any of its powers or functions under the Act to any authority or officer.	29 th April, 2015
	Section 460: Condonation of delay in certain cases.	
2.	Where any application or document has not been filed with the Central Government or the Registrar respectively within the prescribed time, the Central Government may, for reasons to be recorded in writing, condone the delay.	30 th January, 2020



Certain provisions of Companies Act, 2013 will be applicable on LLPs soon

MCA has informed through a message on MCA website that the following provisions of the Companies Act, 2013 will be applicable on LLPs soon:

- 1) Section 90(1) to (11) *[Declaration of SBO];*
- 2) Section 164(1) & (2) *[Disqualifications for appointment as designated partner];*
- 3) Section 165(1) & (3) to (6) *[Number of LLPs in which designated partner];*
- 4) Section 167(1) to (3) *[Vacation of office of designated partner];*
- 5) Section 206(5) *[Inspection of books and papers of LLP by an inspector];*
- 6) Section 207(3) *[Applicability of CPC in respect of inspection or inquiry by the Registrar/inspector];*
- 7) Section 252 *[Appeal to NCLT for restoration of name of LLP];*
- 8) Section 439 *[Offences to be non-cognizable].*



New concept of 'small LLP'



The concept of “small LLP” in line with the concept of “small company” under the Companies Act, 2013 has been inserted

New concept of 'small LLP'

Current Status	Threshold limits for Small LLPs
No concept of Small LLP	Contribution: Upto Rs. 25 lakh; Turnover: Upto Rs. 25 lakh;

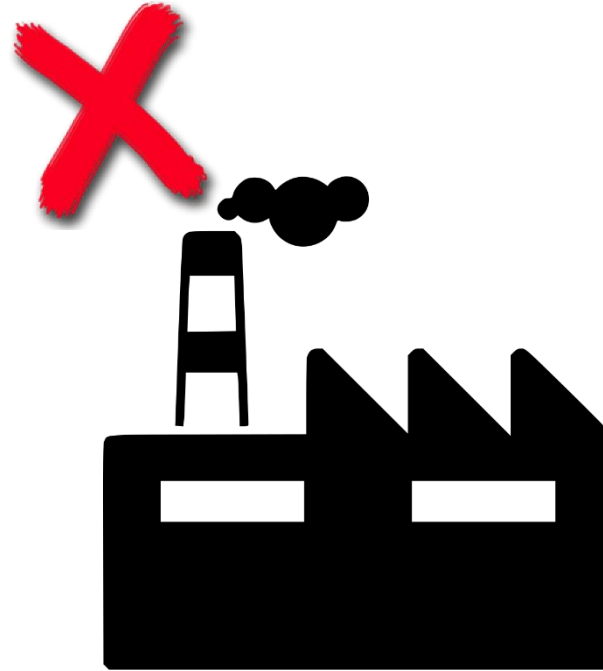


Change in the definition of 'resident in India'



- ✍ Every LLP should have *at least two designated partners* who are individuals and *at least one of them* should be a resident in India.
- ✍ For the purpose of this, the concept of 'resident in India' has been changed as 'a person will be treated as resident in India, if he has stayed in India for a period of *120 days (instead of 182 days)* during the immediately preceding financial year'.

Prohibited Activities in LLP



Now, the Central Government may prescribe the list of activities which cannot be done through LLP Structure

Relief in availability of name of LLP



Now, an applicant can apply for the name for incorporation of an LLP which is identical or too nearly resembles to other partnership firm

Rectification of name of LLP



- ✍ **Align the provisions for rectification of names with that of provisions of Section 16 of the Companies Act, 2013.**
- ✍ **If LLP is in default in complying with any direction given by the Central Government to rectify the name of LLP, the Central Government shall allot a new name to the LLP and the Registrar shall enter the new name in the register of LLPs in place of the old name and issue a fresh COI with new name, which the LLP shall use thereafter.**

Introduced new section on Accounting Standards and Auditing Standards



New section 34A so as to empower the Central Government to prescribe the “Accounting Standards” or “Auditing Standards” for a class or classes of LLPs has been inserted.



Compounding of offences



Section 39 of the Act has been amended so as to authorize the Regional Director to compound any offence under this Act which is punishable with fine only.

Establishment of Special Courts



New section 67A empowering the Central Government to establish or designate as many “Special Courts” as may be necessary for the purpose of providing speedy trial of offences under the Act has been inserted.

Establishing of registration offices



New section 68A for establishing registration offices with specified jurisdiction has been inserted.

Relaxation in payment of additional fee



Relaxing the provisions relating to payment of additional fee under section 69 by removal the provision of payment of additional fee of Rs. 100 for every day in case of delay filing of any document or return.



Adjudication of penalties



New section 77A for adjudication of penalties under In-house Adjudication Mechanism (IAM) has been inserted.

Decriminalization of Offences



1

Twelve (12) offences have been shifted from compoundable offences to an In-house Adjudication mechanism

2

Removal of penal provisions in two (2) offence

List of offences have been shifted from compoundable offences to an In-house Adjudication mechanism

S. No.	Section of the LLP Act, 2008	Offences
1.	Section 10: Punishment for contravention of sections 7 and 9	If the LLP does not have at least two designated partners and at least one of them a resident in India.
2.	Section 10: Punishment for contravention of sections 7 and 9	If the LLP fails to file with the Registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within 30 days of his appointment.
3.	Section 10: Punishment for contravention of sections 7 and 9	If the LLP fails to appoint designated partner within 30 days of a vacancy arising for any reason or appoint an individual as a designated partner who is not eligible as per the prescribed conditions and requirements.



List of offences have been shifted from compoundable offences to an In-house Adjudication mechanism

S. No.	Section of the LLP Act, 2008	Offences
4.	Section 13: Registered office of LLP and change therein	<p>If the LLP:</p> <ul style="list-style-type: none">• Fails to maintain the registered office;• Documents relating to LLP/ partner/ designated partner cannot be served at the registered office or any other address declared by LLP; or• Fails to file the notice of any change in the address of the registered office with the Registrar.
5.	Section 21: Publication of name and limited liability	<p>If the LLP is not mentioning the following on its invoices, official correspondence and publications:</p> <ul style="list-style-type: none">• Name, address of its registered office and registration number of LLP; and• A statement that it is registered with limited liability.



List of offences have been shifted from compoundable offences to an In-house Adjudication mechanism

S. No.	Section of the LLP Act, 2008	Offences
6.	Section 25: Registration of changes in partners	If the LLP fails to: <ul style="list-style-type: none">• File a notice with the Registrar within 30 days from the date of cessation of a partner; or• File a notice with the Registrar within 30 days of any change in the name or address of a partner.
7.	Section 25: Registration of changes in partners	If any partner fails to inform the LLP of any change in his name or address within a period of 15 days of such change.
8.	Section 34: Maintenance of books of accounts, other records and audit, etc.	If the LLP fails to file the Statement of Account and Solvency with the Registrar within the prescribed time.
9.	Section 35: Annual return	If the LLP fails to file its annual return before the expiry of the period specified therein.



List of offences have been shifted from compoundable offences to an In-house Adjudication mechanism

S. No.	Section of the LLP Act, 2008	Offences
10.	Section 60: Compromise, or arrangement of limited liability partnerships	If the LLP fails to file the order made by the Tribunal with the Registrar within 30 days after making such order.
11.	Section 62: Provisions for facilitating reconstruction or amalgamation of LLPs	If the LLP fails to file the order with the Registrar within 30 days after making such order.
12.	Section 74: General penalties	If an LLP or any partner or any designated partner or any other person contravenes any of the provisions of LLP Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act.



Increase in punishment in case of carrying fraudulent business



Now where any business is carried on with intent to defraud creditors or any other person, then every person who is knowing such thing shall be punishable for a term which may extend to five years (previously it was two years)



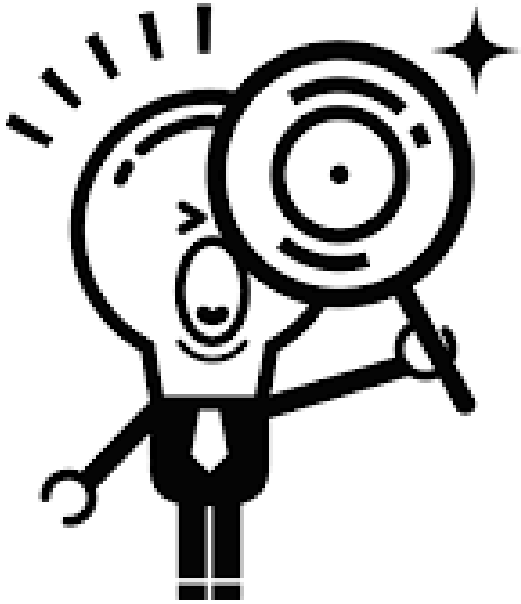
LLP is preferable for following businesses

Businesses where owners aims to cash out profits

Service sector and more specifically for professionals

Businesses which are less capital intensive





Whether LLP is preferable for Start-ups?

Key issues in LLP emerging as choice of business



01

Lack of popularity of the concept



02

Tax related issues



03

Limited options to raise funds

Key issues in LLP emerging as choice of business



04

Not allowed to
issue
instruments
like debentures



05

Business like
NBFC etc.,
can't be carried
in LLP



06

Businesss
consolidation &
inorganic
growth

Key issues in LLP emerging as choice of business



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