

SDA

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Practicing Company Secretaries

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Compounding of offences under the Companies Act, 2013



About Us

Siddhant Dhyani & Associates (“SDA”) is a firm of Company Secretaries based out of Delhi specialising in providing corporate secretarial compliance and advisory services in relation to Corporate Laws & Listing Regulations.

We are a team of professionals with extensive experience across various domains of corporate secretarial and listing laws. With the vision and mission of providing the highest quality of unmatched client experience, our firm provides all kinds of corporate secretarial compliance services ranging from incorporation, due diligence, transaction advisory, compliance health checks, remedial services, compliance retainer services and representation services to Companies, Limited Liability Partnerships (LLP's), Foreign entities, Startups & other forms of business organisation in India.

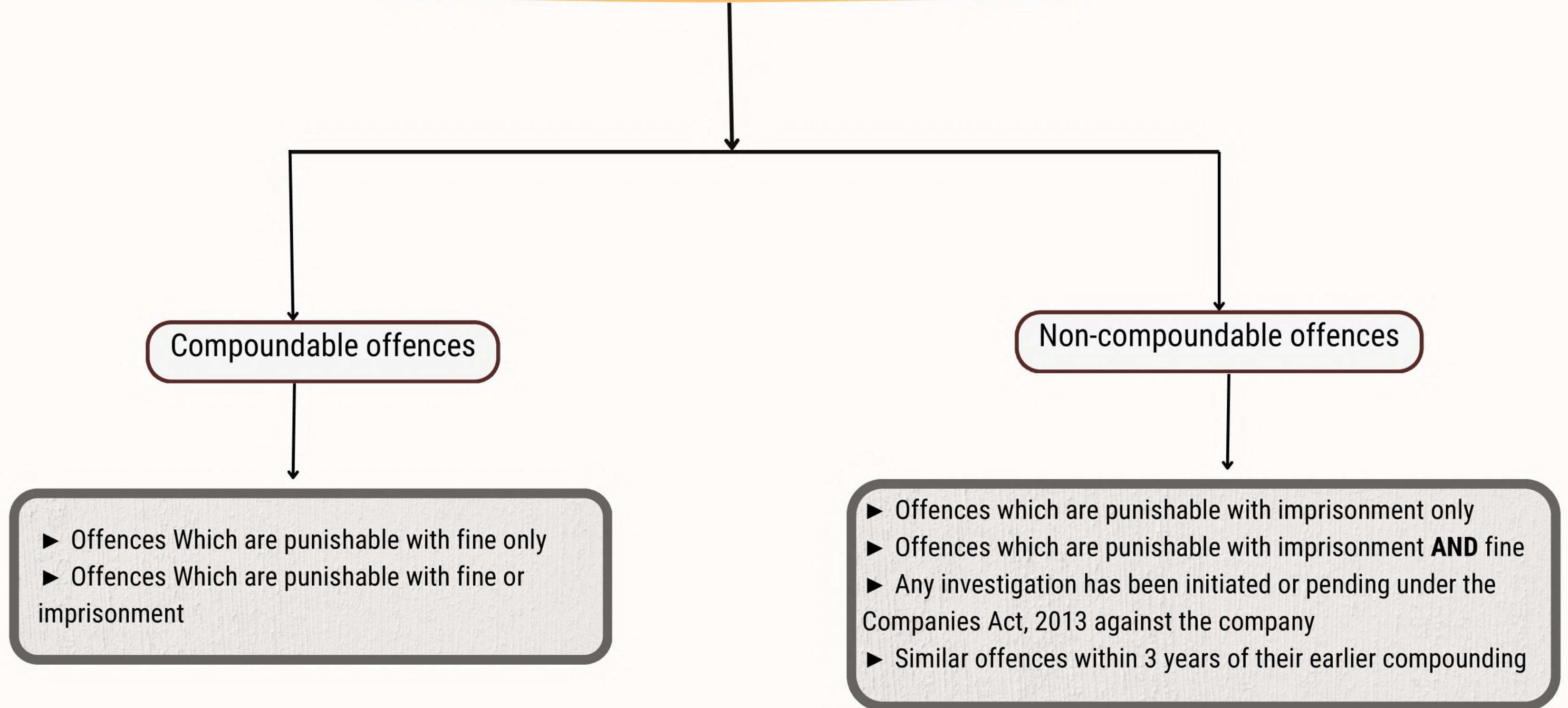


Simplifying Compliance

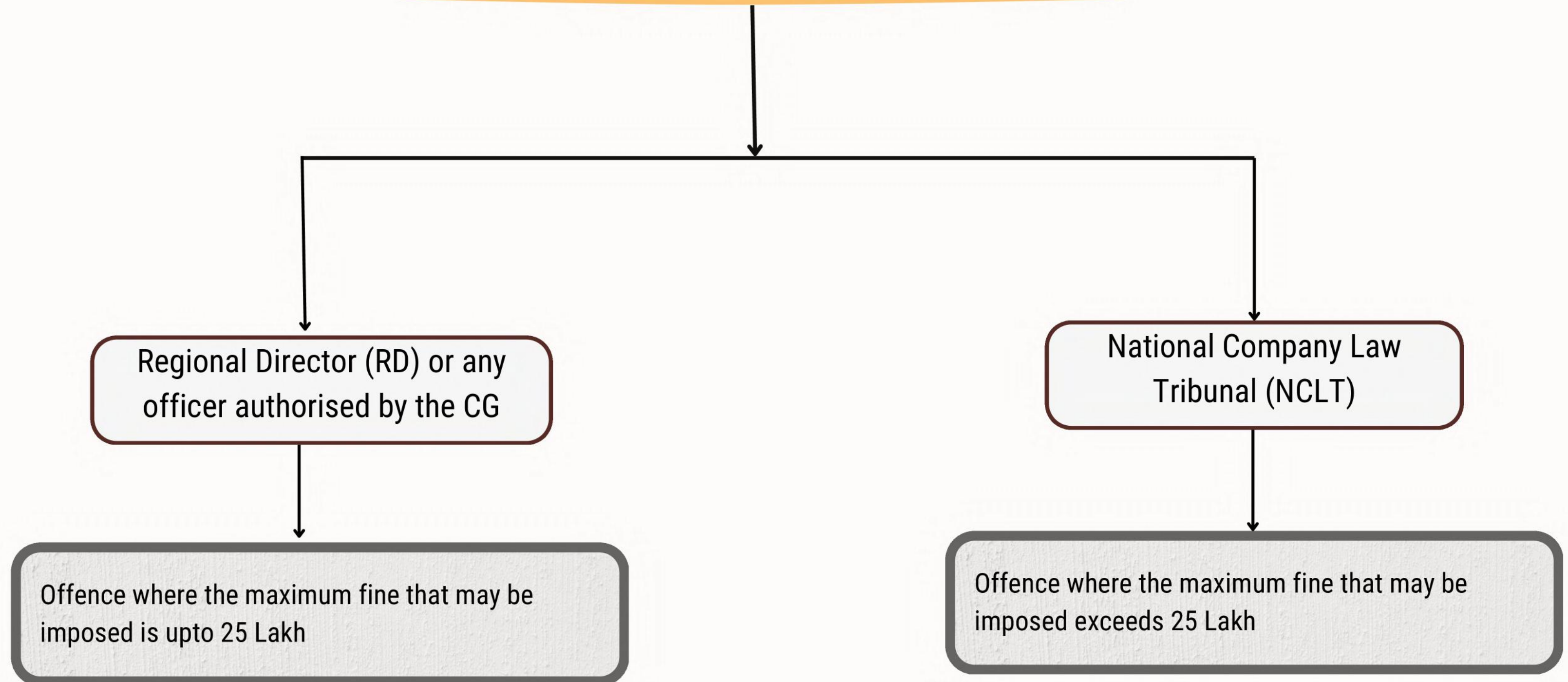
Introduction

Compounding of an offence is a mechanism provided under the Companies Act, 2013, which allows pardoning off of certain offences committed by companies and their officers without resorting to prosecution. This process involves payment of a fee (Compounding Fee), enabling the defaulter to pay the same and avoid legal proceedings. Compounding helps in reducing the litigation burden on authorities & promotes a more efficient settlement process by allowing companies & their officers to settle non-compliances swiftly.

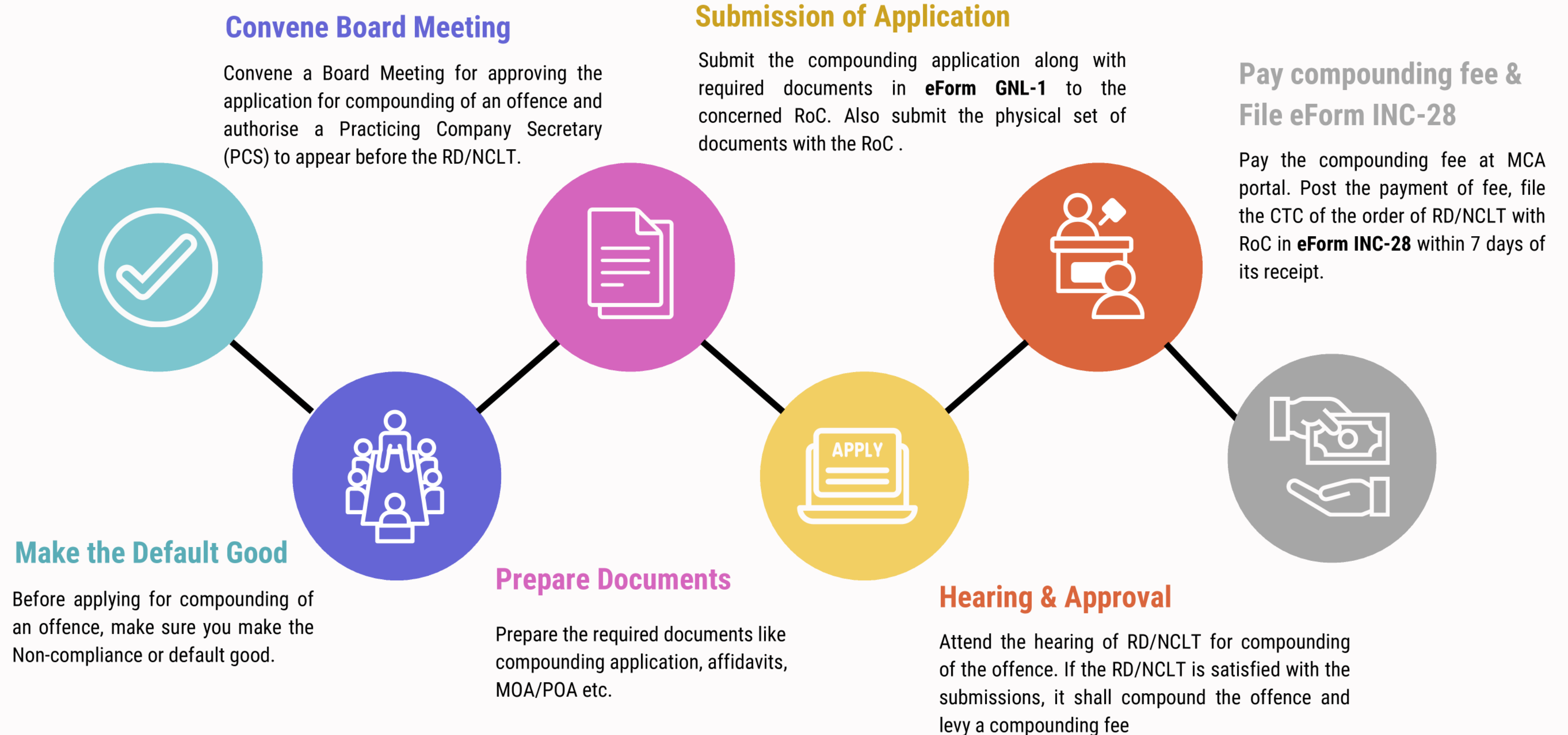
Types of offences



Authorities for compounding of offences



Procedure



List of compoundable offences (RD)

Section/Rule	Nature of Offences
Section 26(9)	Contravention of provisions relating to issue of a prospectus
Section 46(5)	Fraudulently issuing of duplicate share certificates by a company
Section 68(11)	Power of company to purchase its own securities
Section 99	Default in holding a meeting of the company in accordance with section 96 to 98 or in complying with any directions of the Tribunal
Section 128(6)	Failure to keep proper books of account
Section 129(7)	Failure to keep proper financial statement
Section 147(1)	Failure of company to comply with the provisions of sections 139 to 146 with regard to auditors
Section 166(7)	Default in complying with the provisions of this section relating to duties of directors
Section 167(2)	Functioning as a director after vacation of office
Section 185(4)	Contravention of the provision of this section relating to loans to directors

List of compoundable offences (RD)

Section/Rule	Nature of Offences
Section 206(7)	If a company fails to furnish any information or explanation or produce any document required under this section
Section 221(2)	Freezing of assets of company on inquiry and investigation
Section 222(2)	Imposition of restrictions upon securities
Section 242(8)	Contravention of the order of Tribunal relating to alterations in MoA or AoA
Section 249(2)	Filing of strike off application in restricted cases for removal of name
Section 344(2)	Failure to give statement that the company is being wound up
Section 347(4)	Contravention of any rule framed or an order made under sub- section (3) regarding disposal of books
Section 392	Contravention of the provisions of Chapter XXII by a foreign company
Section 441(5)	Failure to comply with the order made by Tribunal or Regional Director in relation to Compounding of offences
Section 447	Punishment for fraud involves an amount less Rs.10 lakh or 1%of the turnover of the company, whichever is less and does not involve public interest

List of compoundable offences (RD)

Section/Rule	Nature of Offences
Section 451	Repeated default within 3 years
Section 452(1)	Punishment for wrongful withholding of property
Section 453	Improper use of the words “limited” and “private limited”
Section 454(8)	Failure to pay the penalty imposed by the adjudicating officer or Regional Director
Section 464(3)	Prohibition of association or partnership of persons exceeding a certain number
Section 469(3)	Contravention of the Rules framed by Central Government

List of compoundable offences (NCLT)

Section/Rule	Nature of Offences
Section 8(11)	Committing default in complying with the requirements relating to formation of companies with charitable objects, etc.
Section 40(5)	Committing default in complying with the provisions of this section relation to securities to be dealt with in stock exchanges
Section 46(5)	Fraudulently issuing of duplicate share certificates by a company
Section 74(3)	Repayment of deposits, etc., accepted before commencement of this Act
Section 221(2)	In case of any removal, transfer or disposal of funds, assets, or properties of the company in contravention of the order of the Tribunal under sub-section (1)
Section 222(2)	Where securities in any company are issued or transferred or acted upon in contravention of an order of the Tribunal under sub-section (1)
Section 242(8)	Contravention of the order of Tribunal relating to alterations in MoA or AoA
Section 447	Punishment for fraud involves an amount less Rs.10 lakh or 1% of the turnover of the company, whichever is less and does not involve public interest
Section 453	Improper use of the words “limited” and “private limited”

List of compoundable offences (NCLT)

Section/Rule	Nature of Offences
Section 464(3)	Prohibition of association or partnership of persons exceeding certain number
Section 469(3)	Contravention of the Rules framed by Central Government

List of non-compoundable offences

Section/Rule	Nature of Offences
Section 57	Deceitfully personating as an owner of any security or interest in a company
Section 58(6)	Contravention of an order of the Tribunal regarding the refusal of registration and appeal against refusal
Section 67(5)	Contravention of provisions relating to purchase by company or loans by company for purchase of its own shares
Section 118(12)	Tampering with the minutes of the proceedings of a meeting
Section 127	Failure to pay dividend within 30 days
Section 147(2)	Failure of auditor to comply with the provisions of sections 139, 144 and 145, if he contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities
Section 182(4)	Political contribution made in contravention of this section
Section 186(13)	Contravention of the provisions of this section relating to loans and investment
Section 207(4)	Disobeys the direction issued by the Registrar or inspector under this section
Section 217(6)	Disobeys the direction issued by the Registrar or inspector under this section in relation to investigation

List of non-compoundable offences

Section/Rule	Nature of Offences
Section 217(8)	Failure to provide information, books or papers, etc. to inspector during investigation
Section 245(7)	Committing default in complying with the order of Tribunal under this section related to Class Action
Section 247(3) Proviso	Contravention of the provisions of this section by the valuer willfully
Section 336(1)	Offences by officers of companies in liquidation
Section 336(2)	Offences by officers of companies in liquidation covered under sub-section (viii) of Section (d) of sub-section (1)
Section 337	Frauds by officers
Section 338(1)	Failure to keep proper books of account before winding up
Section 447	Punishment for fraud If the fraud involves public interest
Section 449	Intentionally giving false evidence
Section 452(2)	Wrongful withholding of property

How SDA can help you ?

- ✔ Expertise & rich experience in Corporate Secretarial & Governance domain.
- ✔ Offering compliance solutions tailored as per your specific business needs.
- ✔ Helping you stay compliant with all relevant regulations and legal requirements.
- ✔ Simplifying complex compliance procedures to save time, effort & cost.
- ✔ Assisting with the preparation and filing of essential documents & eForms.
- ✔ Dedicated team for keeping your compliances intact.
- ✔ Client centric personalised approach
- ✔ Monitoring and Control to mitigate compliance risk at all times



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THANK YOU



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