



Join Us On Telegram

Telegram Groups for Discussions & Clearing Doubts :- (Click on the Links)

Join in Cloud CA Telegram Group :- https://t.me/cloudca_group

CA Students Group :- https://t.me/ca_students

CA Final Queries Group :- https://t.me/cafinal_group

CA Inter Queries Group :- https://t.me/cainter_group

Income tax Updates & Queries : <https://t.me/FinMinIndia>

GST Updates & Queries : https://t.me/askGST_Gol

Taxup India Telegram Group : https://t.me/taxup_group

Telegram Channels For Sharing CA Updates, Notes, Amendments, Announcements.

Cloud CA Telegram Channel : https://t.me/cloudca_channel

CA Final MCQ's & Updates :- https://t.me/cafinal_channel

CA Inter MCQ's & Updates :- https://t.me/cainter_channel

Taxup India Telegram Channel : https://t.me/taxup_channel

Get CA Updates, Announcements on WhatsApp :-

CA Updates WhatsApp :- <https://goo.gl/pwwoHF>

Follow India's One of the Largest CA Community "Cloud CA" on Social Media :-

Follow Cloud CA on Insta :- <https://www.instagram.com/cloud.ca>

Like our Facebook Page : <https://www.facebook.com/cloud.ca>

Subscribe YouTube Channel : <https://youtube.com/channel/UCdNEwef5AcoUKoxalu5gYgg>

Follow Taxup India, a Online Education Media Website to Get all Latest Income tax, GST, Accounting Updates Including CA CS CMA Updates.



Follow on Instagram : <https://www.instagram.com/TaxupIndia>

Like our page on FB : <https://www.facebook.com/TaxupIndia>

Follow us on Twitter : <https://twitter.com/TaxupIndia>

Subscribe Youtube Channel : <https://www.youtube.com/c/TaxupIndia>

Follow in LinkedIn : <https://www.linkedin.com/company/taxupindia>



Important Disclaimer:

All the Notes, Handbooks, Ammendment Notes, Handwritten Notes or whatever type of Notes and Information Shared by **Cloud CA** is owned by other authors who has copyright on this information and others and any notes & Information. If any author and others have any problem to sharing of these notes so inform the first to Admin of the **Cloud CA**. If any author have any problem regarding Notes then we will delete these notes within a reasonable time but he will notify first to **Cloud CA** or Admin without doing further proceeding. **Cloud CA** and Team not having any intention to get personal benefits from these Notes, Handbooks, Ammendment Notes, Handwritten Notes. **Cloud CA** don't know from what sources these notes are coming so we are not liable.

Any Information is shared by **Cloud CA** or authorised person is not liable for any infringement of copyright. All the information shared only for educational purposes.

Thank You
Cloud CA & Team.

To Contact Admin or Submit your Notes to Us Here

:- <https://t.me/cloudca>

Hope This Notes Helpful to you.

“Don't compare yourself with anyone in this world. If you do so, you are insulting yourself.”

— Bill Gates

KGMA

CA Final Audit and Law Amendments Notes for May 2019 Examination

CA Kamal Garg [B. Com (H), FCA, DISA (ICAI)]

For Upcoming Batches of CA Final Audit and Law May/ Nov 2019 Examination:

Email at: llp.kgma@gmail.com, admin@kgma.in

Visit at: www.kgma.in

Phone: 9899954015, 9953590104

No part of this booklet should be reproduced or altered, in any manner whatsoever, without permission in writing from CA Kamal Garg. Any infringement would be liable to strict legal action

Join @cloudca_channel in Telegram for more Notes

Corporate Laws Amendments for CA Final May 2019 Examination

(A). Companies Act

S. No.	Topic	Amendment(s)
1.	Associate Company – Section 2(6)	"associate company", in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company: Explanation.— <i>For the purpose of this clause,—</i> (a) <i>the expression "significant influence" means control of at least 20% of total voting power, or control of or participation in business decisions under an agreement;</i> (b) <i>the expression "joint venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement</i>
2.	Subsidiary – Section 2(87)	"subsidiary company" or "subsidiary" ² , in relation to any other company (that is to say the holding company), means a company in which the holding company— (i) controls the composition of the Board of Directors; or (ii) exercises or controls more than one-half of the <i>total voting power</i> either at its own or together with one or more of its subsidiary companies
3.	Resolutions and agreements to be filed	<ul style="list-style-type: none"> ▪ <i>If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of twenty-five lakh rupees and every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees – Section 117(2);</i> ▪ <i>In terms of Section 117(3)(g), the filing of resolution with the Registrar within thirty days of the passing or making thereof is also required for the resolutions passed in pursuance of sub-section (3) of section 179. However, nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business – proviso to Section 117(3)(g).</i>
4.	Financial statement – Section 129(3)	<ul style="list-style-type: none"> ▪ <i>Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2)</i> ▪ <i>The company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries and associate company or companies in such form as</i>

		<p><i>may be prescribed i.e. Form No. AOC-1;</i></p> <ul style="list-style-type: none"> ▪ <i>Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed i.e. rule 6 of the Companies (Accounts) Rules, 2014</i>
5.	Copy of financial statement to be filed with Registrar	<ul style="list-style-type: none"> ▪ A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403 – section 137(1); ▪ The financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403 – second proviso to section 137(1); ▪ a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India – fourth proviso to section 137(1); ▪ <i>in the case of a subsidiary which has been incorporated outside India (herein referred to as "foreign subsidiary"), which is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso shall be met if the holding Indian company files such unaudited financial statement along with a declaration to this effect and where such financial statement is in a language other than English, along with a translated copy of the financial statement in English – fifth proviso to section 137(1).</i>
6.	Matters to be included in Board's report	<ul style="list-style-type: none"> ▪ <i>a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained – Rule 8(5)(ix) of Companies (Accounts) Rules, 2014;</i> ▪ <i>a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 – Rule 8(5)(x) of Companies (Accounts) Rules, 2014;</i> ▪ <i>Rule 8 regarding matters to be included in Board's report shall not apply to One Person Company or Small Company - Rule 8(6) of Companies (Accounts) Rules, 2014</i>
7.	Matters to be included in Board's Report for One Person Company and Small Company	<p><i>Rule 8A of Companies (Accounts) Rules, 2014 provides as under:</i></p> <p><i>(1) The Board's Report of One Person Company and Small Company shall be prepared based on the stand alone financial statement of the company, which shall be in abridged form and contain the following :—</i></p> <ul style="list-style-type: none"> <i>(a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;</i> <i>(b) number of meetings of the Board;</i> <i>(c) Director's Responsibility Statement as referred to in sub-section (5) of section 134;</i>

		<p>(d) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;</p> <p>(e) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report;</p> <p>(f) the state of the company's affairs;</p> <p>(g) the financial summary or highlights;</p> <p>(h) material changes from the date of closure of the financial year in the nature of business and their effect on the financial position of the company;</p> <p>(i) the details of directors who were appointed or have resigned during the year;</p> <p>(j) the details or significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future.</p> <p>(2) The Report of the Board shall contain the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.</p>
8.	Approval and signing of Financial Statements, Board's Report, etc.	<ul style="list-style-type: none"> ▪ The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon – Section 134(1); ▪ There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include: <ul style="list-style-type: none"> ♦ the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed – Section 134(3)(a); ♦ in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal annual evaluation of the performance of the Board, its Committees and of individual directors has been made – Section 134(3)(p); ▪ Where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report – first proviso to section 134(3); ▪ Where the policy referred to in clause (e)¹ or clause (o)² is made available on company's website, if any, it shall be sufficient compliance of the requirements under such clauses if the salient features of the policy and any change therein are

¹ company's policy on directors' appointment and remuneration including criteria for determining qualifications

² policy developed and implemented by the company on corporate social responsibility initiatives taken during the year

		<p><i>specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available – second proviso to section 134(3);</i></p> <ul style="list-style-type: none"> ▪ <i>The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by One Person Company or small company – Section 134(3A).</i>
9.	<p>Preparation and furnishing of the Annual Report by IEPF Authority – Rule 3 of Investor Education and Protection Fund Authority (Form and Time of Preparation of Annual Report) Rules, 2018.</p>	<p><i>(1) The Authority shall prepare once in every year an Annual Report in the prescribed form, giving a true and full account of its activities performed in the year.</i></p> <p><i>(2) The Authority may also include in the Annual Report any other item, not included in such prescribed form, with the prior permission of the Central Government.</i></p> <p><i>(3) The Authority, shall forward the annual report to the Central Government within a period of 180 days immediately following the close of the year for which it has been prepared.</i></p> <p><i>(4) The matters relating to form and time of preparation of Annual Report, with respect to which no express provision has been made in these rules, shall be referred in each case to the Central Government for its decision and the decision of the Central Government shall be final.</i></p> <p><i>Broadly the annual report contains the following information to be forwarded to the Central Government:</i></p> <ul style="list-style-type: none"> ▪ <i>Introduction such as Chairperson's statement, objectives and important achievements;</i> ▪ <i>Refund application(s) received by the Authority;</i> ▪ <i>Investor awareness advocacy;</i> ▪ <i>Administration and establishment matters such as composition of the Authority, meetings of the Authority, details Chairperson or Members appointed in the year and Members who demitted office, organizational structure, etc.;</i> ▪ <i>Transfer of amounts to IEPF;</i> ▪ <i>Transfer of amounts lying in IEPF to Senior Citizen Welfare Fund;</i> ▪ <i>Transfer of shares by Companies to the IEPF Authority;</i> ▪ <i>Budget and accounts;</i> ▪ <i>RTI Act</i>
10.	<p>Annual Statement of Accounts – Rule 5 read with Rule 6 of Investor Education and Protection Fund Authority (Form of Annual Statement of Accounts) Rules, 2018</p>	<p><i>At the end of a period of twelve months ending with 31st March of every year, the Authority shall prepare the following financial statements along with Schedules, as required, notes on accounts and significant accounting policies in accordance with the notes and instructions for compilation of financial statements prescribed by Government of India, Ministry of Finance, Controller-General of Accounts as modified and annexed to these rules:</i></p> <ul style="list-style-type: none"> <i>(i) balance sheet,</i> <i>(ii) income and expenditure Account,</i> <i>(iii) receipt and payment Account.</i> <p><i>The balance sheet, income and expenditure account and receipt and payment account and the Schedules, shall be approved and adopted by the Authority or a Committee authorised by the Authority on its behalf and for the purpose of</i></p>

		<p><i>authentication, the same shall be signed by the Chairperson and one Member of the Authority.</i></p> <p><i>The approved accounts of the Authority shall be forwarded to the Comptroller and Auditor-General of India or any other person appointed by him on his behalf within the period of three months after the expiry of the year for the purposes of audit.</i></p> <p><i>The annual accounts of the Authority, as certified by the Comptroller and Auditor General of India or any other person appointed by him on his behalf, alongwith the audit report thereon after adoption by the Authority shall be forwarded to the Central Government for laying before both the Houses of Parliament.</i></p> <p><i>The Authority shall preserve the balance sheet, income and expenditure account, Schedules to the above statements and the receipt and payment account referred to above for a minimum period of eight years, following the year to which they relate.</i></p> <p><i>The financial statements shall give a true and fair view of the State of affairs of the Authority and shall comply with the Accounting Standards notified under section 133 of the Act – Rule 3.</i></p> <p><i>The officer of the Authority incurring or authorising expenditure from the Fund shall follow the Standards of financial propriety and the General Financial Rules, 2017 – Rule 4.</i></p>
11.	Centralized Scrutiny and Prosecution Mechanism	<p><i>Centralized Scrutiny and Prosecution Mechanism (CSPM) has been established in the Ministry and certain officers are appointed as Inspectors for compliance of Investor Education and Protection Fund (Sections 124 & 125 of Companies Act, 2013) provisions conferred under first proviso to sub-section 4 of section 206 of the Companies Act, 2013.</i></p> <p><i>Accordingly, all the RDs, RoCs have been directed not to scrutinize any company with regard to non-compliance under sections 124 & 125 of the Companies Act. Further all pending and closed scrutiny are required to be forwarded to the Inspectors named above within 14 days on their email ids mentioned above along with the present status.</i></p> <p><i>[MCA Letter No.05/27/2013-IEPF, Dated 11-7-2018]</i></p>
12.	Ratification of auditors - Omitted by the Companies (Amendment) Act, 2017, with effect from 7-5-2018	<p><i>Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting – first proviso to Section 139(1);</i></p> <p><i>Provided that such appointment shall be subject to ratification in every annual general meeting till the sixth such meeting by way of passing of an ordinary resolution – proviso to Rule 3(7) of Companies (Audit and Auditors) Rules, 2014;</i></p> <p><i>For the purposes of this rule, it is hereby clarified that, if the appointment is not ratified by the members of the company, the Board of Directors shall appoint another individual or firm as its auditor or auditors after following the procedure laid down in this behalf under the Act – Explanation to Rule 3(7) of Companies (Audit and Auditors) Rules, 2014</i></p>
13.	Liability to devolve on concerned partners only	<p><i>In case of criminal liability of any audit firm, the liability other than fine, shall devolve only on the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud – Rule 9 of Companies (Audit and Auditors) Rules, 2014</i></p>
14.	Internal financial controls	<p>For the purposes of clause (i) of sub-section (3) of section 143 for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of <i>internal financial controls with reference to financial statements</i> and its</p>

		operating effectiveness – Rule 10A of Companies (Audit and Auditors) Rules, 2014; <i>The auditor of a company may voluntarily include the statement referred to in this rule for the financial year commencing on or after 1st April, 2014 and ending on or before 31st March, 2015 – proviso to Rule 10A of Companies (Audit and Auditors) Rules, 2014</i>
15.	Remuneration of the Cost Auditor	Rule 14 of Companies (Audit and Auditors) Rules, 2014 provides that: For the purpose of sub-section (3) of section 148,- <i>(a) in the case of companies which are required to constitute an audit committee-</i> <i>(i) the Board shall appoint an individual, who is a cost accountant, or a firm of cost accountants in practice, as cost auditor on the recommendations of the Audit committee, which shall also recommend remuneration for such cost auditor;</i> <i>(ii) the remuneration recommended by the Audit Committee under (i) shall be considered and approved by the Board of Directors and ratified subsequently by the shareholders;</i> <i>(b) in the case of other companies which are not required to constitute an audit committee, the Board shall appoint an individual who is a cost accountant or a firm of cost accountants in practice as cost auditor and the remuneration of such cost auditor shall be ratified by shareholders subsequently.</i>
16.	Constitution of National Financial Reporting Authority – Section 132	<i>Constitution: The Central Government may, by notification, constitute a National Financial Reporting Authority to provide for matters relating to accounting and auditing standards under this Act – Section 132(1).</i> <i>The head office of the National Financial Reporting Authority shall be at New Delhi and the National Financial Reporting Authority may, meet at such other places in India as it deems fit – Section 132(12).</i> <i>The National Financial Reporting Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in such manner as may be prescribed – Section 132(10).</i> <i>Powers: Section 132(4) provides that notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—</i> <i>(a) Power to investigate: have the power to investigate, either suo motu or on a reference made to it by the Central Government, for such class of bodies corporate or persons, in such manner as may be prescribed into the matters of professional or other misconduct committed by any member or firm of chartered accountants, registered under the Chartered Accountants Act, 1949:</i> <i>Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section;</i> <i>(b) Powers of civil court: have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—</i>

		<p>(i) <i>discovery and production of books of account and other documents, at such place and at such time as may be specified by the National Financial Reporting Authority;</i></p> <p>(ii) <i>summoning and enforcing the attendance of persons and examining them on oath;</i></p> <p>(iii) <i>inspection of any books, registers and other documents of any person referred to in clause (b) at any place;</i></p> <p>(iv) <i>issuing commissions for examination of witnesses or documents;</i></p> <p>(c) Order making powers: <i>where professional or other misconduct is proved, have the power to make order for—</i></p> <p>(A) imposing penalty of:</p> <p>I. <i>not less than Rs. 1,00,000, but which may extend to five times of the fees received, in case of individuals; and</i></p> <p>II. <i>not less than Rs. 5,00,000, but which may extend to ten times of the fees received, in case of firms;</i></p> <p>(B) debaring the member or the firm from engaging himself or itself from practice: <i>for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority.</i></p> <p><i>Explanation.—For the purposes of this sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949</i></p> <p>Appeal against NFRA Orders: <i>Any person aggrieved by any order of the National Financial Reporting Authority may prefer an appeal before NCLAT – Section 132(5).</i></p> <p>Maintenance of books of account and other books and audit by CAG: <i>The National Financial Reporting Authority shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as the Central Government may, in consultation with the Comptroller and Auditor-General of India prescribe – Section 132(13).</i></p> <p><i>The accounts of the National Financial Reporting Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such accounts as certified by the Comptroller and Auditor-General of India together with the audit report thereon shall be forwarded annually to the Central Government by the National Financial Reporting Authority – Section 132(14).</i></p> <p>Annual Report: <i>The National Financial Reporting Authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament – Section 132(15).</i></p>
17.	Transitional Arrangement	Any person who may be rendering valuation services under the Companies Act, 2013 on the date of commencement of the Companies (Registered Valuers and

	under Companies (Registered Valuers and Valuation) Third Amendment Rules, 2018	Valuation) Rules, 2017 i.e. on 18.10.2017, may continue to render valuation services without a certificate of registration under these rules upto <i>31st January, 2019</i> . If a company has appointed any valuer before such date and the valuation or any part of it has not been completed before <i>31st January, 2019</i> , the valuer shall complete such valuation or such part within three months thereafter – Rule 11.
18.	Directors KYC – Rule 12A of Companies (Appointment and Qualification of Directors) Rules, 2014	Every individual who has been allotted a 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: Provided that every individual who has already been allotted a Director Identification Number (DIN) as at 31st March, 2018, shall submit e-form DIR-3 KYC on or before <i>5th October, 2018</i> . <i>During the financial year (2018-19), fee of Rs. 500 shall be payable from 21-9-2018 to 5-10-2018 and fee of Rs. 5,000 shall be payable on or after 6-10-2018 – Note to serial number VII of Companies (Registration Offices and Fees) Rules, 2014.</i>
19.	Resident director	<i>Every company shall have at least one director who stays in India for a total period of not less than one hundred and eighty-two days during the financial year – Section 149(3);</i> <i>In case of a newly incorporated company the requirement under this sub-section shall apply proportionately at the end of the financial year in which it is incorporated – proviso to Section 149(3)</i>
20.	Pecuniary relationship of Independent Director	An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director, who has or had no <i>pecuniary relationship, other than remuneration as such director or having transaction not exceeding ten per cent of his total income or such amount as may be prescribed</i> , with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year – section 149(6)(c).
21.	Relatives vis-à-vis Independent Director	An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director, <i>none of whose relatives—</i> <i>(i) is holding any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year:</i> <i>Provided that the relative may hold security or interest in the company of face value not exceeding fifty lakh rupees or two per cent of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;</i> <i>(ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;</i> <i>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be</i>

		<p><i>prescribed during the two immediately preceding financial years or during the current financial year; or</i></p> <p><i>(iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii) – Section 149(6)(d).</i></p>
22.	Relatives as KMP and Independent Director	<p>An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director, who, neither himself nor any of his relatives holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed:</p> <p><i>Provided that in case of a relative who is an employee, the restriction under this clause shall not apply for his employment during preceding three financial years – Section 149(6)(e)(i).</i></p>
23.	Qualifications of independent director – Rule 5 of Companies (Appointment and Qualification of Directors) Rules, 2014	<p><i>(1) An independent director shall possess appropriate skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business.</i></p> <p><i>(2) None of the relatives of an Independent director, for the purposes of sub-clauses (ii) and (iii) of clause (d) of sub-section (6) of section 149,—</i></p> <p><i>(i) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors; or</i></p> <p><i>(ii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company,</i></p> <p><i>for an amount of fifty lakhs rupees, at any time during the two immediately preceding financial years or during the current financial year.</i></p>
24.	Copy of resignation of director to be forwarded by him – Rule 16 of Companies (Appointment and Qualification of Directors) Rules, 2014	<ul style="list-style-type: none"> ▪ A <i>director may also forward</i> a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed – proviso to section 168; ▪ Where a director resigns from his office, he <i>may</i> within a period of thirty days from the date of resignation, forward to the Registrar a copy of his resignation along with reasons for the resignation in Form DIR-11 along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014; ▪ In case a company has already filed notice of resignation in Form DIR-12 with the Registrar under rule 15, a foreign director of such company resigning from his office may authorise in writing a practising chartered accountant or cost accountant in practice or company secretary in practice or any other resident director of the company to sign Form DIR-11 and file the same on his behalf intimating the reasons for the resignation
25.	Company to inform Director Identification Number to	<ul style="list-style-type: none"> ▪ <i>If any company fails to furnish the Director Identification Number under sub-section (1), such company shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with further penalty of one hundred rupees for each day after the first during which such failure continues, subject to</i>

	Registrar	<i>a maximum of one lakh rupees, and every officer of the company who is in default shall be liable to a penalty of not less than twenty-five thousand rupees and in case of continuing failure, with further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees – Section 157(2)</i>						
26.	Disqualifications for appointment of director	<ul style="list-style-type: none"> ▪ <i>Where a person is appointed as a director of a company which is in default of clause (a) or clause (b), he shall not incur the disqualification for a period of six months from the date of his appointment – proviso to section 164(2);</i> ▪ <i>The disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification – proviso to section 164(3)</i> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">▪</td> <td>(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence: Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company</td> </tr> <tr> <td style="width: 5%; text-align: center;">▪</td> <td>(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;</td> </tr> <tr> <td style="width: 5%; text-align: center;">▪</td> <td>(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years</td> </tr> </table> 	▪	(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence: Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company	▪	(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;	▪	(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years
▪	(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence: Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company							
▪	(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;							
▪	(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years							
27.	Vacation of office of director	<ul style="list-style-type: none"> ▪ <i>Where he incurs disqualification under sub-section (2) of section 164, the office of the director shall become vacant in all the companies, other than the company which is in default under that sub-section – proviso to Section 167(1).</i> ▪ <i>the office shall not be vacated by the director in case of orders referred to in clauses (e) and (f)—</i> <ul style="list-style-type: none"> (i) <i>for thirty days from the date of conviction or order of disqualification;</i> (ii) <i>where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed of; or</i> (iii) <i>where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of</i> <p><i>Clauses (e) and (f) as mentioned above—</i></p> <p>(e) he becomes disqualified by an order of a court or the Tribunal;</p>						

		(f) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months
28.	Quorum in a board meeting	<ul style="list-style-type: none"> ▪ <i>where there is quorum in a meeting through physical presence of directors, any other director may participate through video conferencing or other audio visual means in such meeting on any matter specified under the first proviso – second proviso to section 173(2);</i> ▪ The Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means – first proviso to section 173(2); <div style="border: 1px solid black; padding: 5px;"> <p>Rule 4 of Companies (Meetings of Board and its Powers) Rules, 2014 provides that the following matters shall not be dealt with in any meeting held through video conferencing or other audio visual means.—</p> <ul style="list-style-type: none"> (i) the approval of the annual financial statements; (ii) the approval of the Board's report; (iii) the approval of the prospectus; (iv) the Audit Committee Meetings for ²<i>[consideration of financial statement including consolidated financial statement, if any, to be approved by the Board under sub-section (1) of section 134 of the Act]</i>and (v) the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover: <p><i>Provided that where there is quorum in a meeting through physical presence of directors, any other director may participate through video conferencing or other audio visual means.</i></p> </div>
29.	Audit Committee	<p>The Board of Directors of <i>every listed public company</i> and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee – section 177(1).</p> <p>As per Rule 6 of the Companies (Meetings of Board and its Powers) Rules, 2014, <i>the Board of directors of every listed public company and a company covered under rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014 shall constitute an 'Audit Committee' and a 'Nomination and Remuneration Committee of the Board'</i></p> <div style="border: 1px solid black; padding: 5px;"> <p>The following class or classes of companies shall have at least two directors as independent directors -</p> <ul style="list-style-type: none"> (i) the Public Companies having paid-up share capital of ten crore rupees or more; or (ii) the Public Companies having turnover of one hundred crore rupees or more; or (iii) the Public Companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding fifty crore rupees – Rule 4(1) <i>supra</i>. </div>

		<p><i>The following classes of unlisted public company shall not be covered under sub-rule (1), namely :—</i></p> <ul style="list-style-type: none"> <i>(a) a joint venture;</i> <i>(b) a wholly owned subsidiary; and</i> <i>(c) a dormant company as defined under section 455 of the Act – Rule 4(2) supra.</i> <p>Role of audit committee: Section 177(4) provides that Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall <i>inter alia</i>, include,—</p> <ul style="list-style-type: none"> <i>(i) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;</i> <i>(ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;</i> <i>(iii) examination of the financial statement and the auditors' report thereon;</i> <i>(iv) approval or any subsequent modification of transactions of the company with related parties:</i> <p>Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed:</p> <p>Provided further <i>that in case of transaction, other than transactions referred to in section 188, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board:</i></p> <p>Provided also <i>that in case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it:</i></p> <p>Provided also <i>that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company;</i></p> <ul style="list-style-type: none"> <i>(v) scrutiny of inter-corporate loans and investments;</i> <i>(vi) valuation of undertakings or assets of the company, wherever it is necessary;</i> <i>(vii) evaluation of internal financial controls and risk management systems;</i> <i>(viii) monitoring the end use of funds raised through public offers and related matters.</i>
30.	Nomination and	The Board of Directors of <i>every listed public company</i>] and such other class or

	Remuneration Committee and Stakeholders Relationship Committee	<p>classes of companies, as may be prescribed shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one half shall be independent directors – Section 178(1)</p> <p>The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and <i>shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency and review its implementation and compliance</i> – Section 178(2).</p> <p>The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees – Section 178(3).</p> <p><i>Such policy shall be placed on the website of the company, if any, and the salient features of the policy and changes therein, if any, along with the web address of the policy, if any, shall be disclosed in the Board's report</i> – Proviso to Section 178(4).</p> <p><i>Inability to resolve or consider any grievance</i> by the Stakeholders Relationship Committee in good faith shall not constitute a contravention of this section – Proviso to Section 178(8)</p>
31.	Loans to directors, etc.	<p>The amended Section 185 provides as follows:</p> <p><i>(1) No company shall, directly or indirectly, advance any loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by,—</i></p> <p style="padding-left: 40px;"><i>(a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or</i></p> <p style="padding-left: 40px;"><i>(b) any firm in which any such director or relative is a partner.</i></p> <p><i>(2) A company may advance any loan including any loan represented by a book debt, or give any guarantee or provide any security in connection with any loan taken by any person in whom any of the director of the company is interested, subject to the condition that—</i></p> <p style="padding-left: 40px;"><i>(a) a special resolution is passed by the company in general meeting:</i></p> <p style="padding-left: 80px;"><i>Provided that the explanatory statement to the notice for the relevant general meeting shall disclose the full particulars of the loans given, or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security and any other relevant fact; and</i></p> <p style="padding-left: 40px;"><i>(b) the loans are utilised by the borrowing company for its principal business activities.</i></p> <p>Explanation.—<i>For the purposes of this sub-section, the expression "any person in whom any of the director of the company is interested" means—</i></p> <p style="padding-left: 40px;"><i>(a) any private company of which any such director is a director or member;</i></p> <p style="padding-left: 40px;"><i>(b) any body corporate at a general meeting of which not less than twenty-five per cent of the total voting power may be exercised or controlled by</i></p>

		<p><i>any such director, or by two or more such directors, together; or</i></p> <p><i>(c) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.</i></p> <p><i>(3) Nothing contained in sub-sections (1) and (2) shall apply to—</i></p> <p><i>(a) the giving of any loan to a managing or whole-time director—</i></p> <p style="padding-left: 40px;"><i>(i) as a part of the conditions of service extended by the company to all its employees; or</i></p> <p style="padding-left: 40px;"><i>(ii) pursuant to any scheme approved by the members by a special resolution; or</i></p> <p><i>(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the rate of prevailing yield of one year, three years, five years or ten years Government security closest to the tenor of the loan; or</i></p> <p><i>(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or</i></p> <p><i>(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:</i></p> <p><i>Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.</i></p> <p><i>(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section,—</i></p> <p style="padding-left: 40px;"><i>(i) the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees;</i></p> <p style="padding-left: 40px;"><i>(ii) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees; and</i></p> <p style="padding-left: 40px;"><i>(iii) the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.</i></p>
32.	Loan investment and by company	<p>Meaning of word “person”: The word "person" does not include any individual who is in the employment of the company – Explanation to Section 186(2)</p> <p>Requirement to pass SR: Section 186(3) provides that <i>where the aggregate of the loans and investment so far made, the amount for which guarantee or security so far</i></p>

provided to or in all other bodies corporate along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceed the limits specified under sub-section (2), no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided that where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company, the requirement of this sub-section shall not apply:

Provided further that the company shall disclose the details of such loans or guarantee or security or acquisition in the financial statement as provided under sub-section (4).

A resolution passed at a general meeting in terms of sub-section (3) of section 186 to give any loan or guarantee or investment or providing any security or the acquisition under sub-section (2) of section 186 shall specify the total amount up to which the Board of Directors are authorised to give such loan or guarantee, to provide such security or make such acquisition – Rule 13 of Companies (Meetings of the Board and its Powers) Rules, 2014

Disclosures in Financial Statement: The company shall disclose to the members in the financial statement the full particulars of the loans given, investment made or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security – Section 186(4)

Non-applicability: Section 186(11) provides that:

Nothing contained in this section, except sub-section (1), shall apply—

- (a) to any loan made, any guarantee given or any security provided or any investment made by a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities;*
- (b) to any investment—*
 - (i) made by an investment company;*
 - (ii) made in shares allotted in pursuance of clause (a) of sub-section (1) of section 62 or in shares allotted in pursuance of rights issues made by a body corporate;*
 - (iii) made, in respect of investment or lending activities, by a non-banking financial company registered under Chapter III-B of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities.*

Meaning of investment company: the expression "investment company" means a company whose principal business is the acquisition of shares, debentures or other securities *and a company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities, if its assets in the form of investment in shares, debentures or other securities constitute not less than fifty per cent of its total assets, or if its income derived from investment business constitutes not less than fifty per cent as a proportion of its gross income – Explanation (a)*

		below Section 186
33.	Corporate Social Responsibility	<p>Cut off parameters to be examined in immediately preceding financial year: Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during <i>the immediately preceding financial year</i> shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director – Section 135(1).</p> <p>Independent director: <i>Where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors</i> – Proviso to Section 135(1).</p> <p>A company being an unlisted company or a private company which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director – Rule 5(1)(i) of Companies (Corporate Social Responsibility Policy) Rules, 2014 (as amended).</p> <p>Net profit: <i>For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198</i> – Explanation below Section 135(5).</p> <p>CSR – meaning thereof: Rule 2(1)(c) of Companies (Corporate Social Responsibility Policy) Rules, 2014 (as amended) states that "Corporate Social Responsibility (CSR)" means and includes but is not limited to:—</p> <ul style="list-style-type: none"> (i) Projects or programs relating to activities, <i>areas or subjects</i> specified in Schedule VII to the Act; or (ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will <i>include activities, areas or subjects specified</i> in Schedule VII of the Act. <p>CSR Policy – meaning thereof: Rule 2(1)(e) states that “CSR Policy” relates to the activities to be undertaken by the <i>company in areas or subjects</i> specified in Schedule VII to the Act and act the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company.</p>
34.	Appointment of a person who has attained the age of 70 years as MD/ WTD/ Manager	<ul style="list-style-type: none"> ▪ The appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person – first proviso to Section 196(3)(a). ▪ <i>Where no such special resolution is passed but votes cast in favour of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made</i> – second proviso to Section 196(3)(a)
35.	Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits	<ul style="list-style-type: none"> ▪ The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed 11% of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits – Section 197(1); ▪ The company in general meeting may, with the approval of the Central Government, authorise the payment of remuneration exceeding 11% of the net

		<p>profits of the company, subject to the provisions of Schedule V – first proviso to Section 197(1);</p> <ul style="list-style-type: none"> ▪ Second proviso states that except with the approval of the company in general meeting, <i>by a special resolution</i>— <ul style="list-style-type: none"> (i) the remuneration payable to any one managing director or whole-time director or manager shall not exceed 5% of the net profits of the company and if there is more than one such director remuneration shall not exceed 10% of the net profits to all such directors and manager taken together; (ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,— <ul style="list-style-type: none"> (A) 1% of the net profits of the company, if there is a managing or whole-time director or manager; (B) 3% of the net profits in any other case. ▪ <i>Where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting</i> – third proviso to Section 197(1); ▪ Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) (i.e. sitting fees) hereunder except in accordance with the provisions of Schedule V and if it is not able to comply with such provisions, with the previous approval of the Central Government – Section 197(3); ▪ <i>If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years or such lesser period as may be allowed by the company, and until such sum is refunded, hold it in trust for the company</i> – Section 197(9); ▪ The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless <i>approved by the company by special resolution within two years from the date the sum becomes refundable</i> – Section 197(10); ▪ <i>Where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver</i> – proviso to Section 197(10); ▪ In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been
--	--	--

		<p>obtained – Section 197(11);</p> <ul style="list-style-type: none"> ▪ <i>The auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details as may be prescribed – Section 197(16);</i> ▪ <i>On and from the commencement of the Companies (Amendment) Act, 2017, i.e. 12.9.2018, any application made to the Central Government under the provisions of this section [as it stood before such commencement], which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended – Section 197(17).</i>
36.	Calculation of profits	<ul style="list-style-type: none"> ▪ In making the computation aforesaid, credit shall not be given for the following sums, namely: <ul style="list-style-type: none"> ♦ profits, by way of premium on shares or debentures of the company, which are issued or sold by the company <i>unless the company is an investment company as referred to in clause (a) of the Explanation to section 186</i> – Section 198(3)(a); ♦ <i>any amount representing unrealised gains, notional gains or revaluation of assets</i> – Section 198(3)(f)
37.	Central Government or company to fix limit with regard to remuneration	<p>Notwithstanding anything contained in this Chapter, the Central Government or a company may, while according its approval under section 196, to any appointment or to any remuneration under section 197 in respect of cases where the company has inadequate or no profits, fix the remuneration within the limits specified in this Act, at such amount or percentage of profits of the company, as it may deem fit and while fixing the remuneration, the Central Government or the company shall have regard to—</p> <ul style="list-style-type: none"> (a) the financial position of the company; (b) the remuneration or commission drawn by the individual concerned in any other capacity; (c) the remuneration or commission drawn by him from any other company; (d) professional qualifications and experience of the individual concerned; (e) such other matters as may be prescribed under Rule 6 of the Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014 – Section 200
38.	Schedule V amendments – MCA Notification Dated 12-9-2018	<p><i>Specified Acts now stand at a count of 19 – Part I:</i> No person shall be eligible for appointment as a managing or whole-time director or a manager (hereinafter referred to as managerial person) of a company unless he had not been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under any of the following Acts, namely:—</p> <ul style="list-style-type: none"> (xvii) <i>the Insolvency and Bankruptcy Code, 2016</i> (xviii) <i>the Goods and Services Tax Act, 2017</i>) (xix) <i>the Fugitive Economic Offenders Act, 2018</i> <p><i>Remuneration payable by companies having no profit or inadequate profit without Central Government approval – Part II Section II:</i> Where in any financial year</p>

	<p>during the currency of tenure of a managerial person, a company has no profits or its profits are inadequate, it may, without Central Government approval, pay remuneration to the managerial person not exceeding the limits under (A) and (B) given below:</p> <p>(A) :</p> <table border="1"> <thead> <tr> <th style="text-align: center;">(1)</th> <th style="text-align: center;">(2)</th> </tr> <tr> <th style="text-align: center;"><i>Where the effective capital is</i></th> <th style="text-align: center;"><i>Limit of yearly remuneration payable shall exceed (Rupees)</i></th> </tr> </thead> <tbody> <tr> <td>(i) Negative or less than 5 crores</td> <td>60 lakhs</td> </tr> <tr> <td>(ii) 5 crores and above but less than 100 crores</td> <td>84 lakhs</td> </tr> <tr> <td>(iii) 100 crores and above but less than 250 crores</td> <td>120 lakhs</td> </tr> <tr> <td>(iv) 250 crores and above</td> <td>120 lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores :</td> </tr> </tbody> </table> <p>Provided <i>that the remuneration in excess of above limits may be paid</i> if the resolution passed by the shareholders is a special resolution.</p> <p><i>Explanation.</i>—It is hereby clarified that for a period less than one year, the limits shall be pro-rated.</p> <p>(B) In case of a managerial person who is functioning in a professional capacity, <i>remuneration as per item (A) may be paid</i>, if such managerial person is not having any interest in the capital of the company or its holding company or any of its subsidiaries directly or indirectly or through any other statutory structures and not having any direct or indirect interest or related to the directors or promoters of the company or its holding company or any of its subsidiaries at any time during the last two years before or on or after the date of appointment and possesses graduate level qualification with expertise and specialised knowledge in the field in which the company operates:</p> <p>Provided that any employee of a company holding shares of the company not exceeding 0.5% of its paid up share capital under any scheme formulated for allotment of shares to such employees including Employees Stock Option Plan or by way of qualification shall be deemed to be a person not having any interest in the capital of the company:</p> <p>Provided further that the limits specified under items (A) and (B) of this section shall apply, if—</p> <p>(i) payment of remuneration is approved by a resolution passed by the Board and, in the case of a company covered under sub-section (1) of section 178 also by the Nomination and Remuneration Committee;</p> <p>(ii) <i>the company has not committed any default in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, and in case of default, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the</i></p>	(1)	(2)	<i>Where the effective capital is</i>	<i>Limit of yearly remuneration payable shall exceed (Rupees)</i>	(i) Negative or less than 5 crores	60 lakhs	(ii) 5 crores and above but less than 100 crores	84 lakhs	(iii) 100 crores and above but less than 250 crores	120 lakhs	(iv) 250 crores and above	120 lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores :
(1)	(2)												
<i>Where the effective capital is</i>	<i>Limit of yearly remuneration payable shall exceed (Rupees)</i>												
(i) Negative or less than 5 crores	60 lakhs												
(ii) 5 crores and above but less than 100 crores	84 lakhs												
(iii) 100 crores and above but less than 250 crores	120 lakhs												
(iv) 250 crores and above	120 lakhs plus 0.01% of the effective capital in excess of Rs. 250 crores :												

general meeting.

(iii) an ordinary resolution or a special resolution, as the case may be, has been passed for payment of remuneration as per ~~the limits laid down~~ ~~##~~ item (A) or a special resolution has been passed for payment of remuneration as per item (B), at the general meeting of the company for a period not exceeding three years;

(iv) a statement along with a notice calling the general meeting referred to in clause (iii) is given to the shareholders containing the following information, namely:—

I. General information:

- (1) Nature of industry
- (2) Date or expected date of commencement of commercial production
- (3) In case of new companies, expected date of commencement of activities as per project approved by financial institutions appearing in the prospectus
- (4) Financial performance based on given indicators
- (5) Foreign investments or collaborations, if any.

II. Information about the appointee:

- (1) Background details
- (2) Past remuneration
- (3) Recognition or awards
- (4) Job profile and his suitability
- (5) Remuneration proposed
- (6) Comparative remuneration profile with respect to industry, size of the company, profile of the position and person (in case of expatriates the relevant details would be with respect to the country of his origin)
- (7) Pecuniary relationship directly or indirectly with the company, or relationship with the managerial personnel, if any.

III. Other information:

- (1) Reasons of loss or inadequate profits
- (2) Steps taken or proposed to be taken for improvement
- (3) Expected increase in productivity and profits in measurable terms

IV. Disclosures

The following disclosures shall be mentioned in the Board of Director's report under the heading "Corporate Governance", if any, attached to the financial statement:

- (i) all elements of remuneration package such as salary, benefits, bonuses, stock options, pension, etc., of all the directors;
- (ii) details of fixed component and performance linked incentives along with the performance criteria;
- (iii) service contracts, notice period, severance fees; and
- (iv) stock option details, if any, and whether the same has been issued at a discount as well as the period over which accrued and over which exercisable.

Explanation.—For the purposes of Section II of this part, "Statutory Structure" means any entity which is entitled to hold shares in any company formed under any statute.

Remuneration payable by companies having no profit or inadequate profit ~~without Central Government approval in certain special circumstances - Part II Section III:~~ In the following circumstances a company may, ~~without the Central Government approval~~, pay remuneration to a managerial person in excess of the amounts provided in Section II above:—

- (a) where the remuneration in excess of the limits specified in Section I or Section II is paid by any other company and that other company is either a foreign company or has got the approval of its shareholders in general meeting to make such payment, and treats this amount as managerial remuneration for the purpose of section 197 and the total managerial remuneration payable by such other company to its managerial persons including such amount or amounts is within permissible limits under section 197.
- (b) where the company—
 - (i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or
 - (ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival, or
 - (iii) is a company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 for a period of five years from the date of such approval,

it may pay *any remuneration to its managerial persons.*

- (c) where remuneration of a managerial person exceeds the limits in Section II but the remuneration has been fixed by the Board for Industrial and Financial Reconstruction or the National Company Law Tribunal:

		<p>Provided that the limits under this section shall be applicable subject to meeting all the conditions specified under Section II and the following additional conditions:—</p> <p>(i) except as provided in para (a) of this section, the managerial person is not receiving remuneration from any other company;</p> <p>(ii) the auditor or Company Secretary of the company or where the company has not appointed a Secretary, a Secretary in whole-time practice, certifies that all secured creditors and term lenders have stated in writing that they have no objection for the appointment of the managerial person as well as the quantum of remuneration and such certificate is filed along with the return as prescribed under sub-section (4) of section 196.</p> <p>(iii) the auditor or Company Secretary or where the company has not appointed a secretary, a secretary in whole-time practice certifies that there is no default on payments to any creditors, and all dues to deposit holders are being settled on time.</p> <p>(d) a company in a Special Economic Zone as notified by Department of Commerce from time to time which has not raised any money by public issue of shares or debentures in India, and has not made any default in India in repayment of any of its debts (including public deposits) or debentures or interest payable thereon for a continuous period of thirty days in any financial year, may pay remuneration up to Rs. 2,40,00,000 per annum</p> <p>Definition of current relevant profits: (A) “current relevant profit” means the profit as calculated under section 198 but without deducting the excess of expenditure over income referred to in sub-section 4 (1) thereof in respect of those years during which the managerial person was not an employee, director or shareholder of the company or its holding or subsidiary companies.</p>
39.	Investigation of ownership of company	<p>Where it appears to the Central Government that there is a reason so to do, it may appoint one or more inspectors to investigate and report on matters relating to the company, and its membership for the purpose of determining the true persons—</p> <p>(a) who are or have been financially interested in the success or failure, whether real or apparent, of the company; or</p> <p>(b) who are or have been able to control or to materially influence the policy of the <i>company; or</i></p> <p>(c) <i>who have or had beneficial interest in shares of a company or who are or have been beneficial owners or significant beneficial owner of a company</i> – Section 216(1).</p>
40.	Inspector's report	<p>A copy of the report made under sub-section (1) may be obtained <i>by members, creditors or any other person whose interest is likely to be affected</i> by making an application in this regard to the Central Government – Section 223(3).</p>
41.	Companies capable of being registered	<p>With the exceptions and subject to the provisions contained in this section, any company formed, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act or of any other law for the time being in force or being otherwise duly constituted according to law, and consisting of <i>two or more members</i>, may at any time register under this Act as an</p>

		<p>unlimited company, or as a company limited by shares, or as a company limited by guarantee, in such manner as may be prescribed (<i>See</i> rule 3 and Form No. URC 1 of the Companies (Authorised to Register) Rules, 2014) and the registration shall not be invalid by reason only that it has taken place with a view to the company's being wound up – Section 366(2).</p> <p>Provided that <i>a company with less than seven members shall register as a private company</i> – Clause (vii) of proviso to Section 366(2).</p> <p><i>Upon registration as a company under this Part (i.e. Part I of Chapter XXI) a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 shall be deemed to have been dissolved under that Act without any further act or deed</i> – proviso to Section 374.</p>
42.	Fee for filing, etc.	<p><i>Where any document, fact or information required to be submitted, filed, registered or recorded, as the case may be, under section 92 or 137 is not submitted, filed, registered or recorded, as the case may be, within the period provided in those sections, without prejudice to any other legal action or liability under this Act, it may be submitted, filed, registered or recorded, as the case may be, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed, which shall not be less than Rs. 100 per day and different amounts may be prescribed for different classes of companies</i> – first proviso to Section 403(1).</p> <p><i>Where a company fails or commits any default to submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the relevant section, the company and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default</i> – Section 403(2).</p>
43.	Constitution of Appellate Tribunal	<p>The Central Government shall, by notification constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, <i>for hearing appeals against,—</i></p> <p>(a) <i>the order of the Tribunal or of the National Financial Reporting Authority under this Act; and</i></p> <p>(b) <i>any direction, decision or order referred to in section 53N of the Competition Act, 2002 in accordance with the provisions of that Act</i> – Section 410.</p>
44.	Establishment of Special Courts – Section 435	<p>(1) <i>The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.</i></p> <p>(2) <i>A Special Court shall consist of—</i></p> <p>(a) <i>a single judge holding office as Session Judge or Additional Session Judge, in case of offences punishable under this Act with imprisonment of two years or more; and</i></p> <p>(b) <i>a Metropolitan Magistrate or a Judicial Magistrate of the First Class, in the case of other offences,</i></p> <p><i>who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed</i></p>

		<i>is working.</i>
45.	Application of Code to proceedings before Special Court	Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be <i>deemed to be a Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be</i> , and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor – Section 438.
46.	Offences to be non-cognizable	No court shall take cognizance of any offence under this Act which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, a shareholder <i>or a member</i> of the company, or of a person authorised by the Central Government in that behalf – Section 439(2).
47.	Transitional provisions regarding Special Courts – Section 440	Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a <i>Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be</i> , exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a <i>Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be</i> , under this section.
48.	Compounding of certain offences	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by a company or any officer thereof) <i>not being an offence punishable with imprisonment only, or punishable with imprisonment and also with fine</i> , may, either before or after the institution of any prosecution, be compounded by— (a) the Tribunal; or (b) where the maximum amount of fine which may be imposed for such offence does not exceed Rs. 5,00,000, by the Regional Director or any officer authorised by the Central Government, on payment or credit, by the company or, as the case may be, the officer, to the Central Government of such sum as that Tribunal or the Regional Director or any officer authorised by the Central Government, as the case may be, may specify – Section 441(1).

(B). SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015³

S. No.	Topic	Amendment(s)
1.	Financial results – Regulation 34	<p>(1) While preparing financial results, the listed entity shall comply with the following:</p> <p>(a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.</p> <p>(b) The quarterly and year to date results shall be prepared in accordance with the recognition and measurement principles laid down in Accounting Standard 25 or Indian Accounting Standard 31 (AS 25/Ind AS 34 – Interim Financial Reporting), as applicable, specified in section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or as specified by the Institute of Chartered Accountants of India, whichever is applicable.</p> <p>(c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India :</p> <p>Provided that in addition to the above, the listed entity may also submit the financial results, as per the International Financial Reporting Standards notified by the International Accounting Standards Board.</p> <p>(d) The listed entity shall ensure that the limited review or audit reports submitted to the stock exchange(s) on a quarterly or annual basis are to be given only by an auditor who has subjected himself to the peer review process of Institute of Chartered Accountants of India and holds a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India.</p> <p>(e) The listed entity shall make the disclosures specified in Part A of Schedule IV.</p> <p>(2) The approval and authentication of the financial results shall be done by listed entity in the following manner :</p> <p>(a) The quarterly financial results submitted shall be approved by the board of directors:</p> <p>Provided that while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.</p> <p>(b) The financial results submitted to the stock exchange shall be signed by the chairperson or managing director, or a whole time director or in the absence of all of them; it shall be signed by any other director of the listed entity who is duly authorized by the board of directors to sign the financial results.</p> <p>(c) The limited review report shall be placed before the board of directors, at its meeting which approves the financial results, before being submitted to the stock exchange(s).</p> <p>(d) The annual audited financial results shall be approved by the board of directors</p>

³ SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1-4-2019

		<p>of the listed entity and shall be signed in the manner specified in clause (b) of sub-regulation (2).</p> <p>(3) The listed entity shall submit the financial results in the following manner :</p> <p>(a) The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange within forty-five days of end of each quarter, other than the last quarter.</p> <p>(b) In case the listed entity has subsidiaries, in addition to the requirement at clause (a) of sub-regulation (3), the listed entity <i>shall</i> also submit quarterly/year-to-date consolidated financial results subject to following:</p> <p>(i) the listed entity shall intimate to the stock exchange, whether or not listed entity opts to additionally submit quarterly/year to date consolidated financial results in the first quarter of the financial year and this option shall not be changed during the financial year Provided that this option shall also be applicable to listed entity that is required to prepare consolidated financial results for the first time at the end of a financial year in respect of the quarter during the financial year in which the listed entity first acquires the subsidiary</p> <p>(ii) in case the listed entity changes its option in any subsequent year, it shall furnish comparable figures for the previous year in accordance with the option exercised for the current financial year</p> <p>(c) The quarterly and year-to-date financial results may be either audited or unaudited subject to the following :</p> <p>(i) In case the listed entity opts to submit unaudited financial results, they shall be subject to limited review by the statutory auditors of the listed entity and shall be accompanied by the limited review report :</p> <p>Provided that in case of public sector undertakings this limited review may be undertaken by any practicing Chartered Accountant.</p> <p>(ii) In case the listed entity opts to submit audited financial results, they shall be accompanied by the audit report.</p> <p>(d) The listed entity shall submit annual audited standalone financial results for the financial year, within sixty days from the end of the financial year along with the audit report and Statement on Impact of Audit Qualifications (applicable only for audit report with modified opinion) :</p> <p>Provided that if the listed entity has subsidiaries, it shall, while submitting annual audited standalone financial results also submit annual audited consolidated financial results along with the audit report and Statement on Impact of Audit Qualifications (applicable only] for audit report with modified opinion) :</p> <p>Provided further that, in case of audit reports with unmodified opinion(s), the listed entity shall furnish a declaration to that effect to the Stock Exchange(s) while publishing the annual audited financial results.</p>
--	--	--

		<p>(e) The listed entity shall also submit the audited <i>or limited reviewed</i> financial results in respect of the last quarter along-with the results for the entire financial year, with a note stating that the figures of last quarter are the balancing figures between audited figures in respect of the full financial year and the published year-to-date figures up to the third quarter of the current financial year.</p> <p>(f) The listed entity shall also submit as part of its standalone or consolidated financial results for the half year, by way of a note, a statement of assets and liabilities as at the end of the half-year.</p> <p>(g) <i>The listed entity shall also submit as part of its standalone and consolidated financial results for the half year, by way of a note, statement of cash flows for the half year.</i></p> <p>(h) <i>The listed entity shall ensure that, for the purposes of quarterly consolidated financial results, at least eighty per cent of each of the consolidated revenue, assets and profits, respectively, shall have been subject to audit or in case of unaudited results, subjected to limited review.</i></p> <p>(i) <i>The listed entity shall disclose, in the results for the last quarter in the financial year, by way of a note, the aggregate effect of material adjustments made in the results of that quarter which pertain to earlier periods.</i></p> <p>(4) The applicable formats of the financial results and Statement on Impact of Audit Qualifications (for audit report with modified opinion)] shall be in the manner as specified by the Board from time to time.</p> <p>(5) For the purpose of this regulation, any reference to "quarterly/quarter" in case of listed entity which has listed their specified securities on SME Exchange shall be respectively read as "half yearly/half year" and the requirement of submitting 'year-to-date' financial results shall not be applicable for a listed entity which has listed their specified securities on SME Exchange.</p> <p>(6) The Statement on Impact of Audit Qualifications (for audit report with modified opinion) and the accompanying annual audit report submitted in terms of clause (d) of sub-regulation (3) shall be reviewed by the stock exchange(s) and Qualified Audit Report Review Committee in manner as specified in Schedule VIII.</p> <p>(7) The listed entity shall on the direction issued by the Board, carry out the necessary steps, for rectification of modified opinion and/or submission of revised proforma financial results, in the manner specified in Schedule VIII</p> <p>(8) <i>The statutory auditor of a listed entity shall undertake a limited review of the audit of all the entities/companies whose accounts are to be consolidated with the listed entity as per AS 21 in accordance with guidelines issued by the Board on this matter.</i></p>
2.	Nomination and remuneration committee Regulation 19	<ul style="list-style-type: none"> <i>The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance;</i> <i>The nomination and remuneration committee shall meet at least once in a year</i>
3.	Stakeholders Relationship Committee Regulation 20	<p>(1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into <i>various aspects of interest</i> of shareholders, debenture holders and other security holders.</p> <p>(2) The chairperson of this committee shall be a non-executive director.</p>

		<p><i>(2A) At least three directors, with at least one being an independent director, shall be members of the Committee.</i></p> <p><i>(3) The Chairperson of the Stakeholders Relationship Committee shall be present at the annual general meetings to answer queries of the security holders.</i></p> <p><i>(3A) The stakeholders relationship committee shall meet at least once in a year.</i></p> <p>(4) The role of the Stakeholders Relationship Committee shall be as specified as in Part D of the Schedule II</p>
4.	Risk Management Committee Regulation 21	<ul style="list-style-type: none"> • <i>The risk management committee shall meet at least once in a year;</i> • The board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit <i>such function shall specifically cover cyber security;</i> • The provisions of this regulation shall be applicable to top 500 listed entities, determined on the basis of market capitalisation, as at the end of the immediate previous financial year.
5.	Related party transactions Regulation 23	<ul style="list-style-type: none"> • The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions <i>including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly;</i> • A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity; • <i>Notwithstanding the above, a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed two per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity;</i> • All related party transactions shall require prior approval of the audit committee; • All material related party transactions shall require approval of the shareholders through resolution and <i>no related party shall vote to approve</i> such resolutions whether the entity is a related party to the particular transaction or not. <i>This requirement shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to the event being disclosed to the recognized stock exchanges within one day of the resolution plan being approved</i> • For the purpose of this regulation, all entities falling under the definition of related parties shall <i>not vote to approve the relevant transaction</i> irrespective of whether the entity is a party to the particular transaction or not; • <i>The listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website</i>

6.	Corporate governance requirements with respect to subsidiary of listed entity – Regulation 24	<ul style="list-style-type: none"> • <i>At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.</i> • <i>For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty per cent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year;</i> • The management of the unlisted subsidiary shall periodically bring to the notice of the board of directors of the listed entity, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary; • For the purpose of this regulation, the term "significant transaction or arrangement" shall mean any individual transaction or arrangement that exceeds or is likely to exceed ten per cent of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the unlisted material subsidiary for the immediately preceding accounting year; • A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than fifty per cent or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal, <i>or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved;</i> • Selling, disposing and leasing of assets amounting to more than twenty per cent of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal, <i>or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved;</i> • Where a listed entity has a listed subsidiary, which is itself a holding company, the provisions of this regulation shall apply to the listed subsidiary in so far as its subsidiaries are concerned.
7.	Secretarial Audit – Regulation 24A	<i>Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex with its annual report, a secretarial audit report, given by a company secretary in practice, in such form as may be specified with effect from the year ended March 31, 2019.</i>
8.	Obligations with respect to independent directors – Regulation 25	<ul style="list-style-type: none"> • <i>No person shall be appointed or continue as an alternate director for an independent director of a listed entity with effect from October 1, 2018;</i> • <i>Every independent director shall, at the first meeting of the board in which he participates as a director and thereafter at the first meeting of the board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, submit a declaration that he meets the criteria of independence as provided in clause (b) of sub-regulation (1) of regulation 16 and that he is not aware of any circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact his ability to</i>

		<p><i>discharge his duties with an objective independent judgment and without any external influence.</i></p> <ul style="list-style-type: none"> <i>The board of directors of the listed entity shall take on record the declaration and confirmation submitted by the independent director under sub-regulation (8) after undertaking due assessment of the veracity of the same.</i> <i>With effect from October 1, 2018, the top 500 listed entities by market capitalization calculated as on March 31 of the preceding financial year, shall undertake Directors and Officers insurance ('D and O insurance') for all their independent directors of such quantum and for such risks as may be determined by its board of directors.</i>
9.	Annual Report – Regulation 34	<p><i>The listed entity shall submit to the stock exchange and publish on its website—</i></p> <p>(a) <i>a copy of the annual report sent to the shareholders along with the notice of the annual general meeting not later than the day of commencement of dispatch to its shareholders;</i></p> <p>(b) <i>in the event of any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent not later than 48 hours after the annual general meeting.</i></p> <p>Note: The amendment shall be applicable in respect of the Annual report filed for the year ended March 31, 2019 and thereafter</p>
10.	Statement of deviation(s) or variation(s) – Regulation 32	<ul style="list-style-type: none"> The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc., - <ul style="list-style-type: none"> (a) indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable; (b) indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds. <i>Where an entity has raised funds through preferential allotment or qualified institutions placement, the listed entity shall disclose every year, the utilization of such funds during that year in its Annual Report until such funds are fully utilized</i>

(B). Prevention Of Money-Laundering Act, 2002⁴

S. No.	Topic	Amendment(s)
1.	Proceeds of crime – Section 2(1)(u)	"proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country <i>or abroad</i>
2.	Attachment of property involved in money-laundering – Section 5	<i>for the purposes of computing the period of one hundred and eighty days, the period during which the proceedings under this section is stayed by the High Court, shall be excluded and a further period not exceeding thirty days from the date or order of vacation of such stay order shall be counted</i> – third proviso to Section 5(1).
3.	Adjudication – Section 8	<p>Section 8(3) provides that where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of section 5 or retention of property or record seized or frozen under section 17 or section 18 and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property or record shall—</p> <p>(a) continue during <i>investigation for a period not exceeding ninety days</i> or the pendency of the proceedings relating to any offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and</p> <p>(b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60 by the <i>Special Court</i></p> <p><i>the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such manner as may be prescribed</i> – third proviso to Section 8(8).</p>
4.	Power to arrest – Section 19	<p>Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a <i>Special Court</i> or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction.</p> <p>Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the <i>Special Court</i> or Magistrate's Court</p>
5.	Offences to be cognizable and non-bailable – Section 45	<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence <i>under this Act</i> shall be released on bail or on his own bond unless—</p> <p>(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and</p> <p>(ii) where the Public Prosecutor opposes the application, the court is satisfied there are reasonable grounds for believing that he is not guilty of such offence and is not likely to commit any offence while on bail :</p> <p>Provided that a person, who, is under the age of sixteen years, or is a woman who is sick or infirm, <i>or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees</i> may be released on bail</p>

⁴ Amendments brought in by the Finance Act, 2018. Enforced w.e.f. 19-4-2018.

		<p>Special Court so directs:</p> <p>Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by—</p> <p>(i) the Director; or</p> <p>(ii) any officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government by a general or special order made in this behalf by that Government.</p> <p>(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed.</p> <p>(2) The limitation on granting of bail specified in sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.</p>				
6.	Powers of authorities regarding summons, production of documents and to give evidence, etc. – Section 50	<p>An Assistant Director or a Deputy Director shall not—</p> <p>(a) impound any records without recording his reasons for so doing; or</p> <p>(b) retain in his custody any such records for a period exceeding three months, obtaining the previous approval of the <i>Joint Director</i>.</p>				
7.	Disclosure of information – Section 66	<p><i>If the Director or other authority specified under sub-section (1) is of the opinion, on the basis of information or material in his possession, that the provisions of any other law for the time being in force are contravened, then the Director or such other authority shall share the information with the concerned agency for necessary action – Section 66(2).</i></p>				
8.	Schedule in Part A	<p style="text-align: center;">PARAGRAPH 29</p> <p style="text-align: center;">OFFENCE UNDER THE COMPANIES ACT, 2013 (18 OF 2013)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;"><i>Section</i></th> <th style="text-align: left;"><i>Description of offence</i></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><i>447</i></td> <td style="text-align: center;"><i>Punishment for fraud.</i></td> </tr> </tbody> </table>	<i>Section</i>	<i>Description of offence</i>	<i>447</i>	<i>Punishment for fraud.</i>
<i>Section</i>	<i>Description of offence</i>					
<i>447</i>	<i>Punishment for fraud.</i>					

Cloud CA

Announcement

Sub. : Internal Auditor not to undertake Goods and Service Tax (GST) Audit simultaneously

We have received enquiries from the members at large and other stakeholders as to whether an internal auditor of an entity can also undertake GST Audit of the same entity as required under the Central Goods and Service Act, 2017.

The Council of the Institute, while considering the issue at its 378th Meeting held on 26th and 27th September, 2018, noted its earlier decision taken at its 281st Meeting held from 3rd to 5th October, 2008, that internal auditor of an assessee, whether working with the organization or independently practising Chartered Accountant being an individual chartered accountant or a firm of chartered accountants, cannot be appointed as his Tax auditor (under the Income Tax Act, 1961).

Upon consideration, the Council has decided that based on the conflict in roles as statutory and internal auditor simultaneously, the bar on internal auditor of an entity to accept tax audit (under Income Tax Act, 1961) will also be applicable to GST Audit (under the Central Goods and Service Act, 2017).

Accordingly, it is clarified that an Internal Auditor of an entity cannot undertake GST Audit of the same entity.

28.9.2018

ANNOUNCEMENT

Modification in the Council Guidelines No. 1-CA(7)/02/2008 dated 8th August, 2008 as contained in Appendix No. (34) to the Chartered Accountants Act, 1949

In furtherance of the Announcement dated 11th February 2014 and 2nd July, 2014 informing the members of the modification in the Council Guidelines No. 1-CA(7)/02/2008 dated 8th August, 2008 pertaining to Chapter VI regarding increase in tax audit limit from 45 to 60 and change in applicability of limit from 'financial year' to 'assessment year' respectively, it is hereby informed that the Council of the Institute at its 368th meeting held in August, 2017 decided to exclude the audit conducted under section 44ADA of the Income-tax Act, 1961 for the purpose of reckoning the "specified number of tax audit assignments" under Chapter VI of the Council Guidelines as section 44ADA of the Income-tax Act, 1961 also contains special provision for computing profits and gains of profession on presumptive basis.

In view of the aforesaid decision of the Council, the fourth proviso to para 6.0 of Chapter VI of the Council Guidelines No. 1-CA(7)/02/2008 dated 8th August, 2008 as contained in Appendix No. (34) to the Chartered Accountants Act, 1949 stands modified as under:-

1. In the fourth proviso to para 6.0, after the words "44AD," words "44ADA and" has been inserted.
2. In the fourth proviso to para 6.0, after the words "44AE," words "and 44AF" has been deleted.

Accordingly, audits conducted under Section 44AD, 44ADA and 44AE of the Income-tax Act, 1961 shall not be taken into account for the purpose of reckoning the "specified number of tax audit assignments".

The above announcement is published for information of the members at large.

(V. Sagar)
Secretary

Dated: 23rd August, 2018

INCOME-TAX RULES, 1962

FORM NO. 3CD

[See rule 6G(2)]

Statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961

PART - A

1. Name of the assessee
2. Address
3. Permanent Account Number (PAN)
4. Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, *goods and service tax*, customs duty, etc. if yes, please furnish the registration number or *GST number* or any other identification number allotted for the same
5. Status
6. Previous year from.....to.....
7. Assessment year
8. Indicate the relevant clause of section 44AB under which the audit has been conducted

PART - B

9. (a) If firm or association of persons, indicate names of partners/members and their profit sharing ratios.
(b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change
10. (a) Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession)
(b) If there is any change in the nature of business or profession, the particulars of such change.
11. (a) Whether books of account are prescribed under section 44AA, if yes, list of books so prescribed.
(b) List of books of account maintained and the address at which the books of account are kept.
(In case books of account are maintained in a computer system, mention the books of account generated by such computer system. If the books of account are not kept at one location, please furnish the addresses of locations along with the details of books of account maintained at each location.)
(c) List of books of account and nature of relevant documents examined.
12. Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount and the relevant section (44AD, 44AE, 44AF, 44B, 44BB, 44BBA, 44BBB, Chapter XII-G, First Schedule or any other relevant section.)
13. (a) Method of accounting employed in the previous year
(b) Whether there had been any change in the method of accounting employed vis-a-vis the method employed in the immediately preceding previous year.
(c) If answer to (b) above is in the affirmative, give details of such change, and the effect thereof on the profit or loss.

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

(d) Whether any adjustment is required to be made to the profits or loss for complying with the provisions of income computation and disclosure standards notified under section 145(2)

(e) if answer to (d) above is in the affirmative, give details of such adjustments:

		Increase in profit (Rs.)	Decrease in profit (Rs.)	Net Effect (Rs.)
ICDS I	Accounting Policies			
ICDS II	Valuation of Inventories			
ICDS III	Construction Contracts			
ICDS IV	Revenue Recognition			
ICDS V	Tangible Fixed Assets			
ICDS VI	Changes in Foreign Exchange Rates			
ICDS VII	Governments Grants			
ICDS VIII	Securities			
ICDS IX	Borrowing Costs			
ICDS X	Provisions, Contingent Liabilities and Contingent Assets			
	Total			

(f) Disclosure as per ICDS :

- (i) ICDS I – Accounting Policies
- (ii) ICDS II – Valuation of Inventories
- (iii) ICDS III – Construction Contracts
- (iv) ICDS IV – Revenue Recognition
- (v) ICDS V – Tangible Fixed Assets
- (vi) ICDS VII – Governments Grants
- (vii) ICDS IX – Borrowing Costs
- (viii) ICDS X – Provisions, Contingent Liabilities and Contingent Assets.

14. (a) Method of valuation of closing stock employed in the previous year.

(b) In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish :

Serial number	Particulars	Increase in profit (Rs.)	Decrease in profit (Rs.)

15. Give the following particulars of the capital asset converted into stock-in-trade:—

- (a) Description of capital asset;
- (b) Date of acquisition;
- (c) Cost of acquisition;
- (d) Amount at which the asset is converted into stock-in-trade.

16. Amounts not credited to the profit and loss account, being, -

- (a) the items falling within the scope of section 28;
- (b) the proforma credits, drawbacks, refund of duty of customs or excise or service tax, or refund of sales tax or value added tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned;
- (c) escalation claims accepted during the previous year;
- (d) any other item of income;
- (e) capital receipt, if any.

17. Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish

Details of property	Consideration received or accrued	Value adopted or assessed or assessable

18. Particulars of depreciation allowable as per the Income-tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the following form :—

- (a) Description of asset/block of assets.
- (b) Rate of depreciation.
- (c) Actual cost of written down value, as the case may be.
- (d) Additions/deductions during the year with dates; in the case of any addition of an asset, date put to use; including adjustments on account of -

- (i) Central Value Added Tax credits claimed and allowed under the Central Excise Rules, 1944, in respect of assets acquired on or after 1st March, 1994,
- (ii) change in rate of exchange of currency, and
- (iii) subsidy or grant or reimbursement, by whatever name called.

(e) Depreciation allowable.

(f) Written down value at the end of the year

19. Amounts admissible under sections :

Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income-tax Act, 1961 and also fulfils the conditions, if any specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules, 1962 or any other guidelines, circular, etc., issued in this behalf.
32AC		
<i>32AD</i>		
33AB		
33ABA		
35(1)(i)		
35(1)(ii)		
35(1)(iia)		
35(1)(iii)		
35(1)(iv)		
35(2AA)		
35(2AB)		
35ABB		
35AC		
35AD		
35CCA		
35CCB		
35CCC		
35CCD		
35D		
35DD		
35DDA		
35E		

20. (a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend. [Section 36(1)(ii)]

(b) Details of contributions received from employees for various funds as referred to in section 36(1)(va):

Serial number	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities

21. (a) Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure etc.

Nature	Serial number	Particulars	Amount in Rs.
Capital expenditure			
Personal expenditure			
Advertisement expenditure in any souvenir, brochure, tract, pamphlet or the like published by a political party			
Expenditure incurred at clubs being entrance fees and subscriptions			
Expenditure incurred at clubs being cost for club services and facilities used.			

Expenditure by way of penalty or fine for violation of any law for the time being force			
Expenditure by way of any other penalty or fine not covered above			
Expenditure incurred for any purpose which is an offence or which is prohibited by law			

(b) Amounts inadmissible under section 40(a):-

(i) as payment to non-resident referred to in sub-clause (i)

(A) Details of payment on which tax is not deducted:

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under section 200(1)

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payee
- (V) amount of tax deducted

(ii) as payment referred to in sub-clause (ia)

(A) Details of payment on which tax is not deducted:

- (I) date of payment
- (II) amount of payment
- (III) nature of payment
- (IV) name and address of the payee

(B) Details of payment on which tax has been deducted but has not been paid on or before the due date specified in sub-section (1) of section 139.

- (I) date of payment
- (II) amount of payment

- (III) nature of payment
- (IV) name and address of the payer*
- (V) amount of tax deducted
- (VI) amount out of (V) deposited, if any

(iii) under sub-clause (ic) [Wherever applicable]

(iv) under sub-clause (iia)

(v) under sub-clause (iib)

(vi) under sub-clause (iii)

(A) date of payment

(B) amount of payment

(C) name and address of the payee

(vii) under sub-clause (iv)

(viii) under sub-clause (v)

(c) Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under section 40(b)/40(ba) and computation thereof;

(d) Disallowance/deemed income under section 40A(3):

(A) On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details :

Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

(B) On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details of amount deemed to be the profits and gains of business or profession under section 40A (3A);

Serial number	Date of payment	Nature of payment	Amount	Name and Permanent Account Number of the payee, if available

(e) provision for payment of gratuity not allowable under section 40A(7);

(f) any sum paid by the assessee as an employer not allowable under section 40A(9);

(g) particulars of any liability of a contingent nature;

*Should be read as 'payee'.

(h) amount of deduction inadmissible in terms of section 14A in respect of the expenditure incurred in relation to income which does not form part of the total income;

(i) amount inadmissible under the proviso to section 36(1)(iii).

22. Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

23. Particulars of payments made to persons specified under section 40A(2)(b).

24. Amounts deemed to be profits and gains under section 32AC or 32AD or 33AB or 33ABA or 33AC.

25. Any amount of profit chargeable to tax under section 41 and computation thereof.

26. In respect of any sum referred to in clauses (a), (b), (c), (d), (e), (f) or (g) of section 43B, the liability for which:—

(A) pre-existed on the first day of the previous year but was not allowed in the assessment of any preceding previous year and was

(a) paid during the previous year;

(b) not paid during the previous year;

(B) was incurred in the previous year and was

(a) paid on or before the due date for furnishing the return of income of the previous year under section 139(1);

(b) not paid on or before the aforesaid date.

(State whether sales tax, customs duty, excise duty or any other indirect tax, levy, cess, impost, etc., is passed through the profit and loss account.)

27. (a) Amount of Central Value Added Tax credits availed of or utilised during the previous year and its treatment in the profit and loss account and treatment of outstanding Central Value Added Tax credits in the accounts.

(b) Particulars of income or expenditure of prior period credited or debited to the profit and loss account.

28. Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viiia), if yes, please furnish the details of the same.

29. Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.

29A. (a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56? (Yes/No)

(b) If yes, please furnish the following details:

(i) Nature of income :

(ii) Amount thereof:

29B. (a) Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)

(b) If yes, please furnish the following details:

(i) Nature of income :

30. Details of any amount borrowed on hundi or any amount due thereon (including interest on the amount borrowed) repaid, otherwise than through an account payee cheque. [Section 69D]

30A. (a) Whether primary adjustment to transfer price, as referred to in sub-section 1) of section 92Ce, has been made during the previous year? (Yes/No)

(b) If yes, please furnish the following details:—

(i) Under which clause of sub-section (1) of section 92CE primary adjustment is made?

(ii) Amount (in Rs.) of primary adjustment:

(iii) Whether the excess money available with the associated enterprise is required to be repatriated to India as per the provisions of sub-section (2) of section 92CE? (Yes/No)

(iv) If yes, whether the excess money has been repatriated within the prescribed time (Yes/No)

(v) If no, the amount (in Rs.) of imputed interest income on such excess money which has not been repatriated within the prescribed time:

30B. (a) Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B? (Yes/No.)

(b) If yes, please furnish the following details:—

(i) Amount (in Rs.) of expenditure by way of interest or of similar nature incurred:

(ii) Earnings before interest, tax, depreciation and amortization (EBITDA) during the previous year (in Rs.):

(iii) Amount (in Rs.) of expenditure by way interest or of similar nature as per (i) above which exceeds 30% of EBITDA as per (ii) above :

(iv) Details of interest expenditure brought forward as per sub-section (4) of section 94B:

A.Y.	Amount (in Rs.)

(v) Details of interest expenditure carried forward as per sub-section (4) of section 94B:

A.Y.	Amount (in Rs.)

30C. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

(b) If yes, please specify:—

(i) Nature of impermissible avoidance arrangement:

(ii) Amount (in Rs.) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:

31. (a) Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year : --

(i) name, address and Permanent Account Number (if available with the assessee) of the lender or depositor;

(ii) amount of loan or deposit taken or accepted;

(iii) whether the loan or deposit was squared up during the previous year;

(iv) maximum amount outstanding in the account at any time during the previous year;

(v) whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;

(vi) in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(b) Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year: --

(i) name, address and Permanent Account Number (if available with the assessee) of the person from whom specified sum is received;

(ii) amount of specified sum taken or accepted;

- (iii) *whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;*
- (iv) *in case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.*

(Particulars at (a) and (b) need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

(ba) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person, during the previous year, where such receipt is otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account :—

- (i) Name, address and Permanent Account Number (if available with the assessee) of the payer;*
- (ii) Nature of transaction;*
- (iii) Amount of receipt (in Rs.);*
- (iv) Date of receipt;*

(bb) Particulars of each receipt in an amount exceeding the limit specified in section 269ST, in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions from a person, received by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year;—

- (i) Name, address and Permanent Account Number (if available with the assessee) of the payer;*
- (ii) Amount of receipt (in Rs.);*

(bc) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions to a person, otherwise than by a cheque or bank draft, or use of electronic clearing system through a bank account, during the previous year:—

- (i) Name, address and Permanent Account Number (if available with the assessee) of the payee;*
- (ii) Nature of transaction;*
- (iii) Amount of payment (in Rs.);*
- (iv) Date of payment;*

(bd) Particulars of each payment made in an amount exceeding the limit specified in section 269ST, in aggregate to a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasions to a person, made by a cheque or bank draft, not being an account payee cheque or an account payee bank draft, during the previous year:—

- (i) Name, address and Permanent Account Number (if available with the assessee) of the payee;*
- (ii) Amount of payment (in Rs.);*

(Particulars at (ba), (bb), (bc) and (bd) need not be given in the case of receipt by or payment to a Government company, a banking Company, a post office savings bank, a cooperative bank or in the case of transactions referred to in section 269SS or in the case of persons referred to in Notification No. S.O. 2065(E) dated 3rd July, 2017)

(c) Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year:—

- (i) name, address and Permanent Account Number (if available with the assessee) of the payee;*
- (ii) amount of the repayment;*
- (iii) maximum amount outstanding in the account at any time during the previous year;*
- (iv) whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;*
- (v) in case the repayment was made by cheque or bank draft, whether the same was repaid by an account payee cheque or an account payee bank draft.*

(d) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:—

- (i) name, address and Permanent Account Number (if available with the assessee) of the payer*;*
- (ii) repayment of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.*

(e) Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year:—

- (i) name, address and Permanent Account Number (if available with the assessee) of the payer*;*
- (ii) repayment of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.*

(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or any specified advance taken or accepted from the Government, Government company, banking company or a corporation established by the Central, State or Provincial Act).

**As corrected by Corrigendum GSR 841(E), dated 6-7-2017.*

32.(a) Details of brought forward loss or de preciation allowance, in the following manner, to the extent available :

Serial Number	Assessment Year	Nature of loss/ allowance (in rupees)	Amount as returned (in rupees)	Amounts as assessed (give reference to relevant order)	Remarks

(b) Whether a change in shareholding of the company has taken place in the previous year due to which the losses incurred prior to the previous year cannot be allowed to be carried forward in terms of section 79.

(c) Whether the assessee has incurred any speculation loss referred to in section 73 during the previous year, If yes, please furnish the details of the same.

(d) whether the assessee has incurred any loss referred to in section 73A in respect of any specified business during the previous year, if yes, please furnish details of the same.

(e) In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73, if yes, please furnish the details of speculation loss if any incurred during the previous year.

33. Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).

Section under which deduction is claimed	Amounts admissible as per the provision of the Income-tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules,1962 or any other guidelines, circular, etc, issued in this behalf.

34. (a) Whether the assessee is required to deduct or collect tax as per the provisions of Chapter XVII-B or Chapter XVII-BB, if yes please furnish:

Tax deduction and collection	Section	Nature of payment	Total amount of payment or receipt	Total amount on which tax was	Total amount on which tax was	Amount of tax deducted or	Total amount on which tax was	Amount of tax deducted or	Amount of tax deducted or collected not deposited to

Account Number (TAN)			of the nature specified in column (3)	required to be deducted or collected out of (4)	deducted or collected at specified rate out of (5)	collected out of (6)	deducted or collected at less than specified rate out of (7)	collected on (8)	the credit of the Central Government out of (6) and (8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

(b) whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details :

<i>Tax deduction and collection Account Number (TAN)</i>	<i>Type of Form</i>	<i>Due date for furnishing</i>	<i>Date of furnishing, if furnished</i>	<i>Whether the statement of tax deducted or collected contains information about all details/transactions which are required to be reported. If not, please furnish list of details/transactions which are not reported.</i>

(c) whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:

Tax deduction and collection Account Number (TAN)	Amount of interest under section 201(1A)/206C(7) is payable	Amount paid out of column (2) along with date of payment.

35. (a) In the case of a trading concern, give quantitative details of principal items of goods traded :

- (i) Opening Stock;
- (ii) purchases during the previous year;
- (iii) sales during the previous year;
- (iv) closing stock;
- (v) shortage/excess, if any

(b) In the case of a manufacturing concern, give quantitative details of the principal items of raw materials, finished products and by-products :

A. Raw Materials :

- (i) opening stock;
- (ii) purchases during the previous year;
- (iii) consumption during the previous year;
- (iv) sales during the previous year;
- (v) closing stock;
- (vi) yield of finished products;
- (vii) percentage of yield;
- (viii) shortage/excess, if any.

B. Finished products/by-products :

- (i) opening stock;
- (ii) purchases during the previous year;
- (iii) quantity manufactured during the previous year;
- (iv) sales during the previous year;
- (v) closing stock;
- (vi) shortage/excess, if any.

36. In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form :-

- (a) total amount of distributed profits;
- (b) amount of reduction as referred to in section 115-O (1A)(i);
- (c) amount of reduction as referred to in section 115-O (1A)(ii);
- (d) total tax paid thereon;
- (e) dates of payment with amounts.

36A. (a) Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause(e) of clause (22) of section 2? (Yes/No.)

(b) If yes, please furnish the following details:—

(i) Amount received (in Rs.):

(ii) Date of receipt:

37. Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.

38. Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

39. Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.

40. Details regarding turnover, gross profit, etc., for the previous year and preceding previous year:

Serial number	Particulars	Previous year	Preceding previous year
1.	Total turnover of the assessee		
2.	Gross profit/turnover		
3.	Net profit/turnover		
4.	Stock-in-trade/turnover		
5.	Material consumed/finished goods produced		

(The details required to be furnished for principal items of goods traded or manufactured or services rendered)

41. Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income-tax Act, 1961 and Wealth-tax Act, 1957 alongwith details of relevant proceedings.

42. (a) Whether the assessee is required to furnish statement in Form No.61 or Form No.61A or Form 61B? (Yes/No)

(b) If yes, please furnish :

<i>Income tax Department Reporting Entity Identification Number</i>	<i>Type of Form</i>	<i>Due date for furnishing</i>	<i>Date of furnishing, if</i>	<i>Whether the Form contains information about all details/ furnished transactions which are required to be reported. If not, please furnish list of the details/transactions which are not reported.</i>
---	---------------------	--------------------------------	-------------------------------	---

43. (a) Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286? (Yes/No)

(b) If yes, please furnish the following details :

- (i) Whether report has been furnished by the assessee or its parent entity or an alternate reporting entity
- (ii) Name of parent entity
- (iii) Name of alternate reporting entity (if applicable)
- (iv) Date of furnishing of report

44. Break-up of total expenditure of entities registered or not registered under the GST:

<i>Sl. No.</i>	<i>Total amount of Expenditure incurred during the year</i>	<i>Expenditure in respect of entities registered under GST</i>			<i>Expenditure relating to entities not registered under GST</i>
		<i>Relating to goods or services exempt from GST</i>	<i>Relating to entities falling under composition scheme</i>	<i>Relating to other registered entities</i>	<i>Total payment to registered entities</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>

.....

*(Signature and stamp/seal of the signatory)

Place : _____

Name of the signatory

Date : _____

Full address

Notes :

1. *This Form has to be signed by the person competent to sign Form No. 3CA or Form No. 3CB, as the case may be.

Cloud CA



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA

वेबसाइट : www.rbi.org.in/hindi

Website : www.rbi.org.in

इ-मेल email: helpdoc@rbi.org.in

संचार विभाग, केंद्रीय कार्यालय, एस.बी.एस.मार्ग, मुंबई-400001

DEPARTMENT OF COMMUNICATION, Central Office, S.B.S.Marg, Mumbai-400001

फोन/Phone: 022-22610835 फैक्स/Fax: 91 22 22660358

June 29, 2018

Enforcement action framework in respect of statutory auditors for the lapses in the statutory audit of commercial banks

Statutory Auditors (SAs) of banks play an important role in contributing to financial stability when they deliver quality bank audits which foster market confidence in banks' financial statements. Quality bank audits are also a valuable input in the supervisory process of the Reserve Bank of India (RBI) for commercial banks.

2. In the interest of improving audit quality and with a view to instituting a transparent mechanism to examine accountability of SAs in a consistent manner, it has been decided to put in place a graded enforcement action framework to enable appropriate action by the RBI in respect of the banks' SAs for any lapses observed in conducting a bank's statutory audit. The framework would cover, *inter alia*, instances of divergence identified in asset classification and provisioning during the RBI inspection vis-à-vis the audited financial statements of banks above the threshold specified in the [RBI circular DBR.BP.BC.No.63/21.04.018/2016-17 dated April 18, 2017](#). The salient features of the framework are in the [Annex](#).

Press Release: 2017-2018/3425

Jose J. Kattoor
Chief General Manager

Enforcement action framework in respect of statutory auditors for the lapses in the statutory audit of commercial banks

1. The salient aspects underpinning the framework for enforcement action against the Statutory Auditors (SAs) for lapses in statutory audit of banks are summarised below.
2. Various statutes, viz., Banking Regulation Act, 1949, Banking Companies (Acquisition and Transfer of Undertaking) Act 1970/1980 and State Bank of India Act, 1955 stipulate that commercial banks shall obtain previous approval of the Reserve Bank of India (RBI) before appointing any SA. In exercise of these statutory powers, in case of those auditors whose audit quality or conduct is not found satisfactory by the RBI, it decides on enforcement action against them by way of not approving their appointments for undertaking statutory audit in commercial banks for a specified period. Further, the RBI may also not approve auditor/s, who have been debarred by other regulators/law-enforcement agencies/government agencies. As regards the cases pending against auditors with the aforesaid agencies, the RBI would debar such audit firms, provided the case is of serious nature, where public interest is involved and it is established, *prima facie*, that the firm is culpable, either by the RBI or by the above entities and brought to the RBI's notice.

Types of lapses to be considered

3. The lapses on the part of the SAs that would be considered for invoking the enforcement framework would, illustratively, cover the following areas:
 - a) Lapses in carrying out audit assignments resulting in misstatement of a bank's financial statements;
 - b) Wrong certifications given by the auditors with respect to list of certifications as advised by the RBI to banks;
 - c) Wrong information given in the Long Form Audit Report (LFAR);
 - d) Issues related to misconduct by auditors in respect of their bank audit assignments; and
 - e) Any other violations/lapses vis-à-vis the RBI's directions/guidelines regarding the role and responsibilities of the SAs in relation to banks.

Process of enforcement

4. The determination of actionable lapses on the part of the banks' SAs would be made on a case-specific basis, based on the following two dimensions:
 - a) the fact of lapse; and
 - b) the materiality of the lapse.

5. The **fact of the lapse** would be determined based on the existence of the following parameters:

- a) Statutory provision and directive/guideline issued thereunder and violation thereof; and /or
- b) Variance between the figures/statements as appearing in audited financial statements/ certifications/LFAR given by the SA of the bank and the actuals, as determined later by the RBI; and/or
- c) Non-adherence to/violation of the RBI's instructions/guidelines, etc.; and/or
- d) Any other lapse/violation like misconduct of the SA.

6. The **materiality of lapse** would be determined based on the following aspects:

- a) the **extent** of the violation, i.e., by what degree or percentage the figures in audited financial statements/certifications/LFAR given by SAs vary, vis-à-vis the actual figures, as determined later by the RBI, on account of the lapse/violation;
- b) the **frequency** of the lapse/violation; and
- c) the **impact** of the lapse/violation:

The impact of the violation would be assessed in terms of impact on a bank's Capital to Risk Weighted Assets Ratio (CRAR) considering the amount involved in the violation for divergence-related cases, and in case of other lapses, the impact would be calculated as the effect on the bank's business area concerned.

- d) Aggravating factors such as repeated or persisting violations and wrong compliance, if any, would also be taken into account.

The adjudication process

7. For the purpose of providing a reasonable opportunity of being heard before adjudging the enforcement action, a notice in writing will be served on the SA by the RBI, requiring them to show cause, in writing, as to why the action as indicated in the Show-Cause Notice (SCN) should not be taken. A period of 15 working days would be given to the audit firms to reply to the SCN.

8. The RBI would provide a reasonable opportunity to the audit firm concerned for presenting its views in the matter, including through oral hearing, if it so desires or at the request of the audit firm. Based on the above, enforcement action, if any, would be taken by way of a Speaking Order served on the audit firm containing details of the lapses, written and oral submissions made by the audit firm, and findings and decision of the RBI.

The quantum of enforcement action

9. The quantum of enforcement action shall be determined based on the materiality of lapses/violations by audit firms. Lapses/violations that are determined to be **not material enough** would lead to the issuance of a Cautionary Advice to the audit firm. In case of a **violation determined to be material**, the enforcement action could be the RBI not approving the audit firm for undertaking statutory audit assignments of banks for such periods as may be decided by the RBI.

Debarment by other regulators/law enforcement agencies and cases pending with them

10. In case of violations/lapses identified by any other regulators/ enforcement agencies/ judicial or government authorities, etc., the RBI would deny audit to such firms, provided the case is of serious nature, where public interest is involved and it is established, *prima facie*, that the firm is culpable, either by the RBI or by the above entities, and such violation / lapse is brought to the RBI's notice. Further, the RBI would also deny audit assignments to such audit firms as are *blacklisted* by the above entities and brought to RBI's notice, until the time their name is cleared by them.

Disclosure of enforcement action

11. Any enforcement action, including issuance of Cautionary Advice, on an audit firm will be communicated to the Institute of Chartered Accountants of India (ICAI), the professional body of the audit community, as and when such action is taken. The fact of such communication to the ICAI will also be placed in the public domain by the RBI.
