

Chapter – 6 “Company Audit”

Section – Wise Index of Chapter X of Companies Act, 2013 along with Corresponding Rules

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Appointment of Auditor

Appointment of Subsequent Auditor

Appointment of First Auditor

Non-Government Company – Sec. 139(1)

- Appointment will be at First AGM
- till conclusion of 6th AGM; and
- hereafter till conclusion of every 6th AGM
- in prescribed manner (Rule 3).
- Subject to following conditions:

Condition	Details of condition
1. Ratification	Omitted by Companies (Amendment) Act, 2017
2. Written consent	Before appointment company shall obtain (a) Written consent from auditor (b) Certificate from auditor. (Rule 4)
3. Certificate	→ Certificate shall indicate → Whether auditor has satisfied the criteria as provided u/s 141.
4. Intimation to ROC	→ Company shall inform the auditor and ROC about the appointment of auditor within 15 days of appointment. → Rule 4 – Intimation to ROC will be in Form ADT-1

Government, Govt. owned / controlled Companies – Sec. 139(5)

Appointment of Auditor
 ↓
In respect of a Financial year
 ↓
will be made by
 ↓
CAG
 ↓
Within a period of 180 Days
 ↓
From the commencement of financial year
 ↓
Who shall hold the office till the conclusion of next AGM

Non-Government Company – Sec. 139(6)

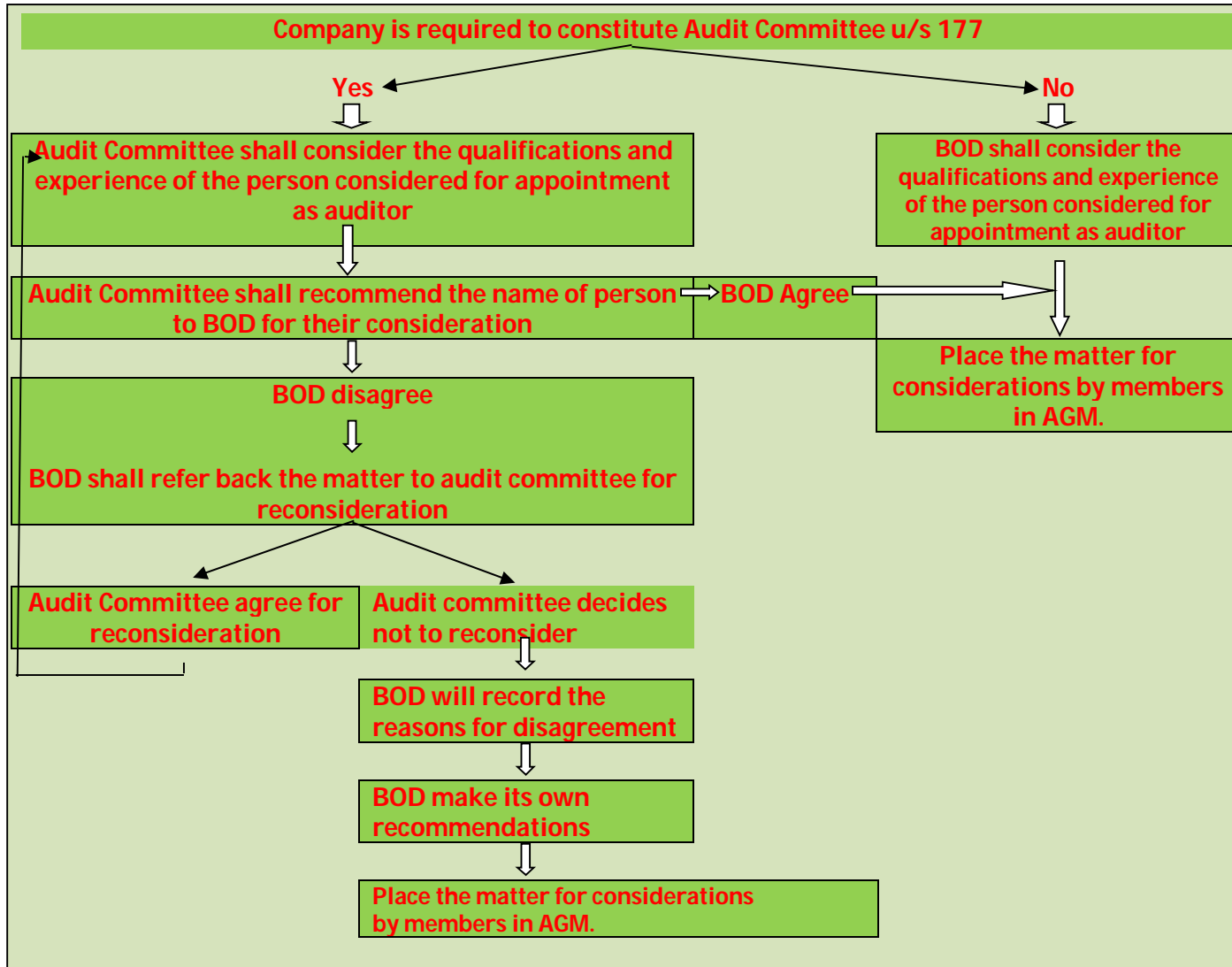
First auditor shall be appointed by
 ↓
Board of Directors
 ↓
Within 30 days
 ↓
of registration of company
 ↓
If Board fails, Board shall inform the members
 ↓
Members shall within 90 days
 ↓
at an EGM
 ↓
appoint the first auditor
 ↓
Who hold office till conclusion of first AGM

Government, Govt. owned / controlled Companies – Sec. 139(7)

First Auditor shall be appointed by CAG
 ↓
Within 60 days of registration of company
 ↓
If CAG does not appoint the auditor
 ↓
BOD will appoint within next 30 days
 ↓
If Board fails, Board shall inform the members
 ↓
Members shall within 60 days at an EGM
 ↓
appoint the first auditor
 ↓
who hold office till conclusion of first AGM

Rules 3 & 4 of Companies (Audit & Auditor's) Rules, 2014

Rule 3 – Manner and procedure for selection and Appointment of Auditors



Rule 4 – Conditions for Appointment and Notice to Registrar

Certificate obtained from the auditor shall contain the following:

- (a) That the individual or the audit firm, as the case may be, is eligible for appointment as per the provisions of this Act and Chartered Accountants Act, 1949.
- (b) That proposed appointment is as per the terms provided in the Act.
- (c) That proposed appointment is within the limits prescribed by the Act.
- (d) That list of proceedings against the auditor or the audit firm or any partner of the firm w.r.t. disciplinary matters as disclosed in the Certificate, is true and correct.

Rotation of Auditor

Sec. 139(2)

Sec. 139(3)

Sec. 139(4)

Listed companies and Other prescribed companies Shall not appoint ↓ An individual as an auditor for more than one term of five consecutive years. ↓ An audit Firm as an auditor for more than two terms of five consecutive years.	Rule 5	Unlisted Public Companies having paid up capital \geq 10 Cr. Private Companies having paid up capital \geq 50 Cr. Companies not covered above if public borrowings from banks and FI/ public deposits \geq 50 Cr.
1st Proviso	Individual Auditor	Not eligible for reappointment for 5 years after completing of as auditor in same company → tenure
	Audit Firm	Not eligible for reappointment for 5 years after completing of as auditor in same company → tenure
2nd Proviso	Audit Firm	→ Having a common partner with audit firm → Whose tenure has just expired → As on date of appointment → Shall not be appointed as auditor of same company → for a period of five years
3rd Proviso	Every Company	→ Existing before commencement of this Act → Shall comply with requirement of Sec. 139(2) → Within a period which shall not be later than the date of First AGM after 3 years from the date of commencement of this Act.
4th Proviso	Sec. 139(2) shall not prejudice the -	→ Right of company to remove auditor → Right of auditor to resign.

Members may resolve the following:

(a) Rotation of auditing partner & his team at such interval as may be prescribed.

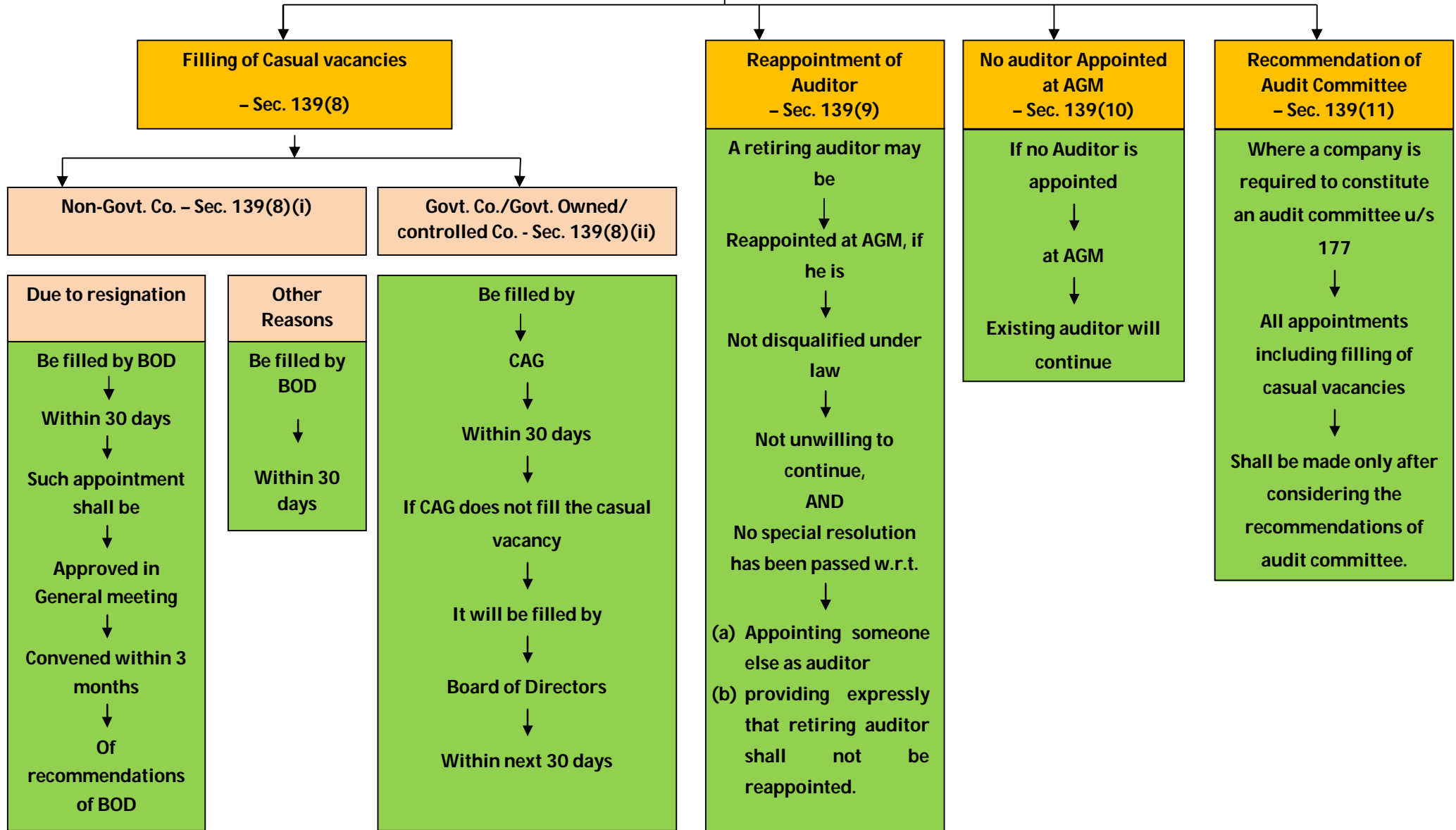
(b) That audit shall be conducted by more than one auditor.

C.G. may by Rules
 ↓
 Prescribe the manner of rotation for Sec. 139(2)
 ↓
(Rule 6 prescribes the manner of rotation)

Rule 6 – Manner of Rotation

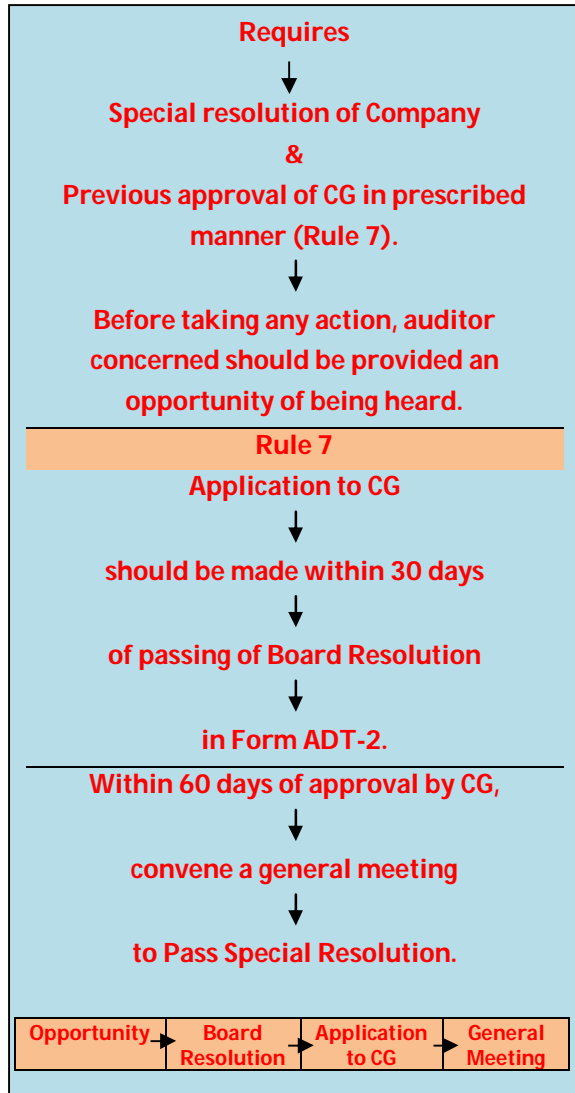
1. For calculating period of 5 years/10 years, period served prior to commencement of this Act, shall also be considered.
2. Individual auditor/Audit Firm shall not be eligible for appointment as auditor for a period of 5 years if it belongs to same network to whom retiring auditor belong to.
3. Break in the term should be for a continuous period of 5 years.
4. A partner in charge of audit firm who certifies the financial statements of the company, if retires from the said firm and join another firm, such other firm shall also be ineligible to be appointed as auditor for a period of 5 Years.

Other Provisions of Sec. 139

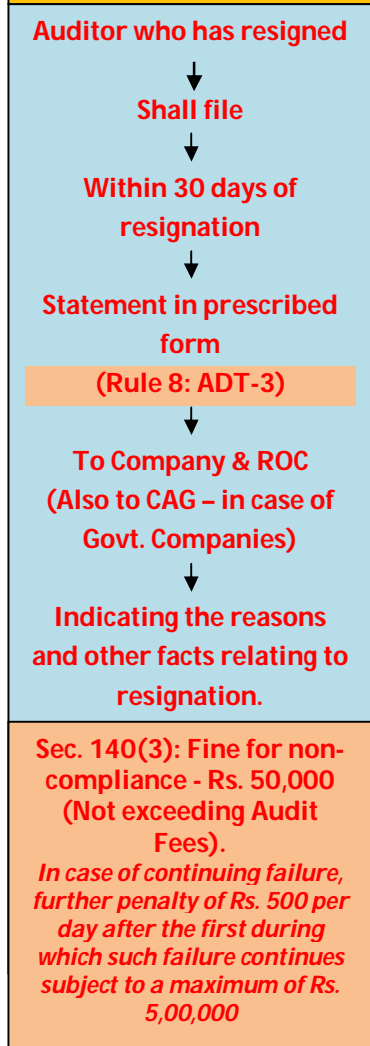


Sec. 140 – Removal, Resignation of Auditor and giving of Special Notice

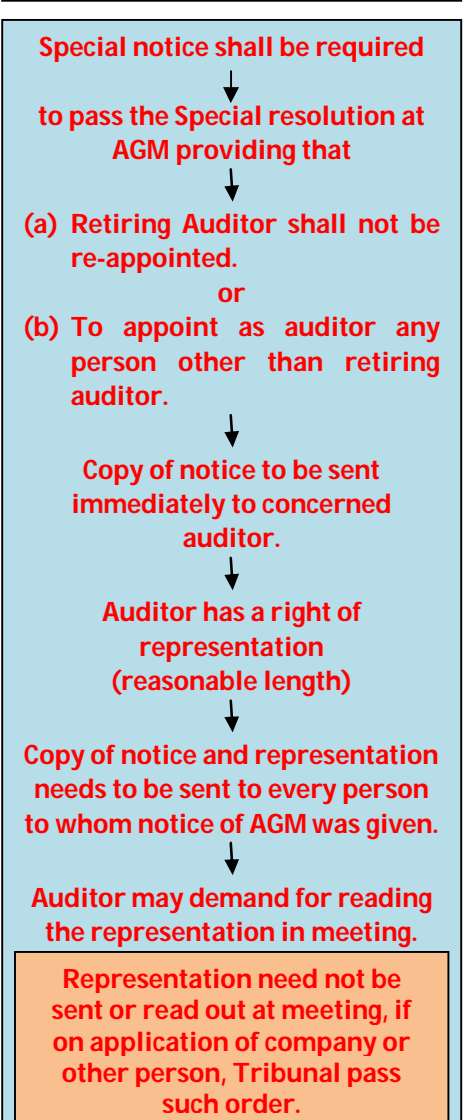
Sec. 140(1) – Removal before expiry



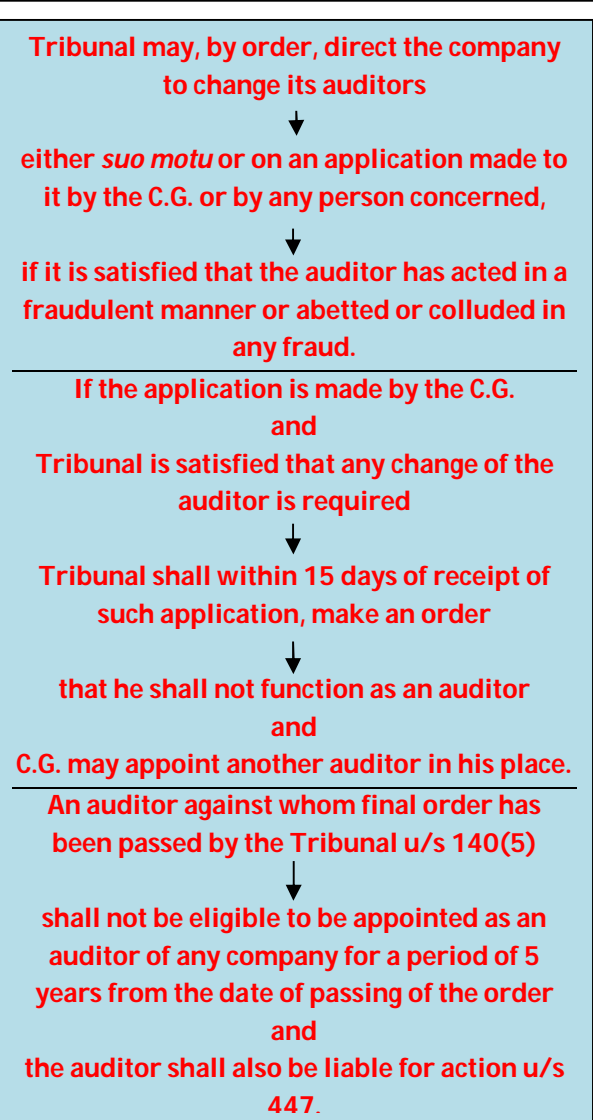
Sec. 140(2) & (3) – Filing of Statement in case of Resignation



Sec. 140(4) – Special Notice



Sec. 140(5) – Directions for change of Auditor



Sec. 141 – Eligibility, Qualifications and Disqualifications of Auditor

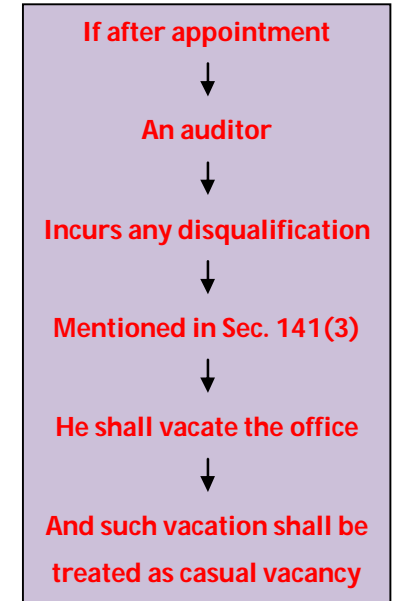
Sec. 141 (1) & 141 (2) – Eligibility to be appointed as Auditor



Sec. 141(3) - Persons not eligible for appointment & Rule 10

(a)	Body Corporate other than LLP		
(b)	Officer or Employee of the company		
(c)	Partner/Employee of Officer/Employee of the company		
(d)	(i)	person/ relative/ partner	is holding any security * or interest in the Company / subsidiary / holding / associate, or subsidiary of same holding.
	(ii)		is indebted > 5 Lacs in the
	(iii)		has given a guarantee in connection with indebtedness of 3 rd person > 1 Lac in the
* no disqualification if relative holds any security in the company of face value upto 1 Lac.			
(e)	Person or firm having business relationship with Company / Subsidiary / Holding / Associate / Subsidiary of Such Holding or Associate Company		
(f)	A Person whose relative is a director or is in employment of the company as a Director or KMP.		
(g)	A person who is in full time employment elsewhere Or A person holding appointment as auditor or more than 20 companies other than OPC, dormant companies, Small Companies and private companies having paid up capital < 100Cr.		
(h)	A person who has been convicted of an offence involving fraud and a period of 10 years has not elapsed.		
(i)	Any person who directly or indirectly renders any service referred to in Sec. 144 to company or its holding company or its subsidiary company.		

Sec. 141(4) – Vacation of office



Powers / Rights & Duties of Company Auditor (Sec. 143)

RIGHTS OF AUDITOR – Sec. 143(1)

Right of Access

- at all times
- to books of Account & Vouchers
- whether kept at Regd. Office or at any other place.

Right to Obtain Info.

- From the officers of the company
- As considers necessary
- For performance of his duties.

Duties of Auditor of Govt. Cos. – Sec. 143(5)	Supplementary Audit – Sec. 143(6)	Test Audit – Sec. 143(7)
CAG – direct the auditor the manners in which accounts are to be audited.	Within 60 days of days of receipt of Audit Report	CAG may If considers necessary
Auditor report shall include:	↓	↓
• Directions issued by CAG.	CAG have a Right	by an order
• Action taken thereon	↓	↓
• Its impact on Accounts and F.S.	To order for supplementary audit of F.S.	cause test audit
	↓	↓
	By such persons as authorized by him	of accounts of Govt. companies

Sec. 143(8)	Audit of Branch Accounts (will be discussed separately)
Sec. 143(9)	Every Auditor shall comply with Auditing Standards
Sec. 143(10)	CG may prescribe the SA in consultation with NFRA
Sec. 143(11)	CG may direct that auditor's report shall include a statement on such matters as specified in order issued by it. (CARO, 2016)

DUTIES of AUDITOR

Inquire into Propriety Matters – Sec. 143(1)

1. Loans and advances are properly secured and terms are prejudicial.
2. Book entries are prejudicial.
3. Shares, debentures and other securities are sold at a price less than acquisition cost in case of non-banking and non-investment company.
4. Loans and advances made are shown as deposits.
5. Personal expenses charged to revenue account.
6. Cash has actually been received on shares allotted for cash, if not received, correct position shown in books and balance sheet.

Reporting over Accounts & Financial Statements – Sec. 143(2)

That to the best of auditor information & knowledge, the accounts & financial statements give a true and fair view of the state of the company affairs as at the end of its financial year & profit & loss and cash flow for the year.

Reporting u/s 143(3)

1. Obtained all necessary information for the audit.
2. Proper books of account have been maintained.
3. Branch audit report has been received and manner of dealing with it.
4. Balance Sheet and P & L Account agree with the books of account.
5. Financial statements comply with AS.
6. Comments on financial transactions having any adverse effect on functioning.
7. Directors disqualified u/s 164(2).
8. Qualifications w.r.t. maintenance of accounts.
9. Adequacy and operative effectiveness of IFC with reference to F.S.
10. Other matters as prescribed. (Rule 11)

Rule 11

1. Disclosure of impact of pending litigations on financial position.
2. Provisions for Material Foreseeable losses on long term contracts made.
3. Any delay in transferring amounts to IEPF.
4. Disclosures w.r.t. holdings and dealings in SBNs.

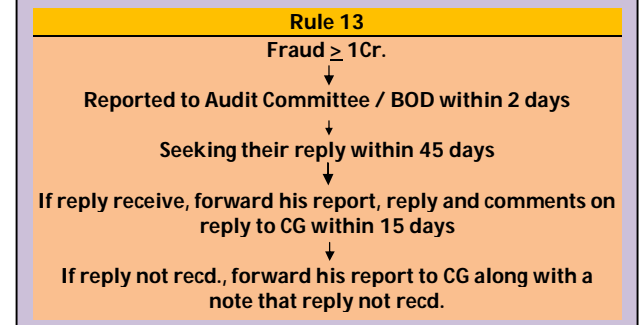
Reasons for reservations – Sec. 143(4)

For every matter reported with a qualification
↓
Auditor shall state the reasons thereof

Reporting u/s 143(12)

Fraud involving prescribed amount
↓
Committed by officers or employees
↓
Should be report to CG in prescribed manner (Rule 13)

Frauds below prescribed amount
↓
Should be reported to Audit Committee or BOD
↓
Details of Such Frauds need to be disclosed in Board's report.



Nature of Fraud with description	Approx. amount involved
Parties involves	remedial action taken

Other Provisions (Secs. 142, 144, 145, 146 & 147)

Sec. 142 – Remuneration of Auditors

Authority to Fix remuneration

- Shall be General meeting or in such manner as may be determined therein.
- May be BOD in case of first auditor if appointed by BOD.

Elements of remuneration

- Shall include all expenses incurred in connection with audit and any facility extended to auditor.
- Does not include remuneration paid for any other service.

Sec. 144 – Auditor not to render certain services

Other Services that may be rendered

- As approved by the BOD or Audit Committee.

Services that cannot be rendered directly or indirectly to Co, Holding or Subsidiary

- Accounting & Book Keeping.
- Internal Audit
- Design & Implementation of Financial Information System.
- Actuarial Services.
- Investment advisory.
- Investment Banking
- Outsourced Financial
- Management Services
- Other Prescribed.

Sec. 145 – Signing of Audit Reports

Shall be in accordance with Sec. 141(2)

Sec. 146 – Attending of General meetings

- All Notice & other communication of general meetings shall be forwarded to Auditor.
- Unless exempted auditor shall attend either himself or through his authorized representative any general meeting,
- Auditor shall have right to be heard at such meeting on part of business which concerns him as auditor.

Sec. 147 – Punishment for Contravention

Over the Company & Officer in default – 147(1)

- Violation of Sec. 139-146
- Company – Fine from ₹ 25,000 to ₹ 5 Lacs.
- Officer in default – Imprisonment upto 1 year or fine from ₹ 10,000 to ₹ 1 Lac or Both

Over the Auditor – 147(2)

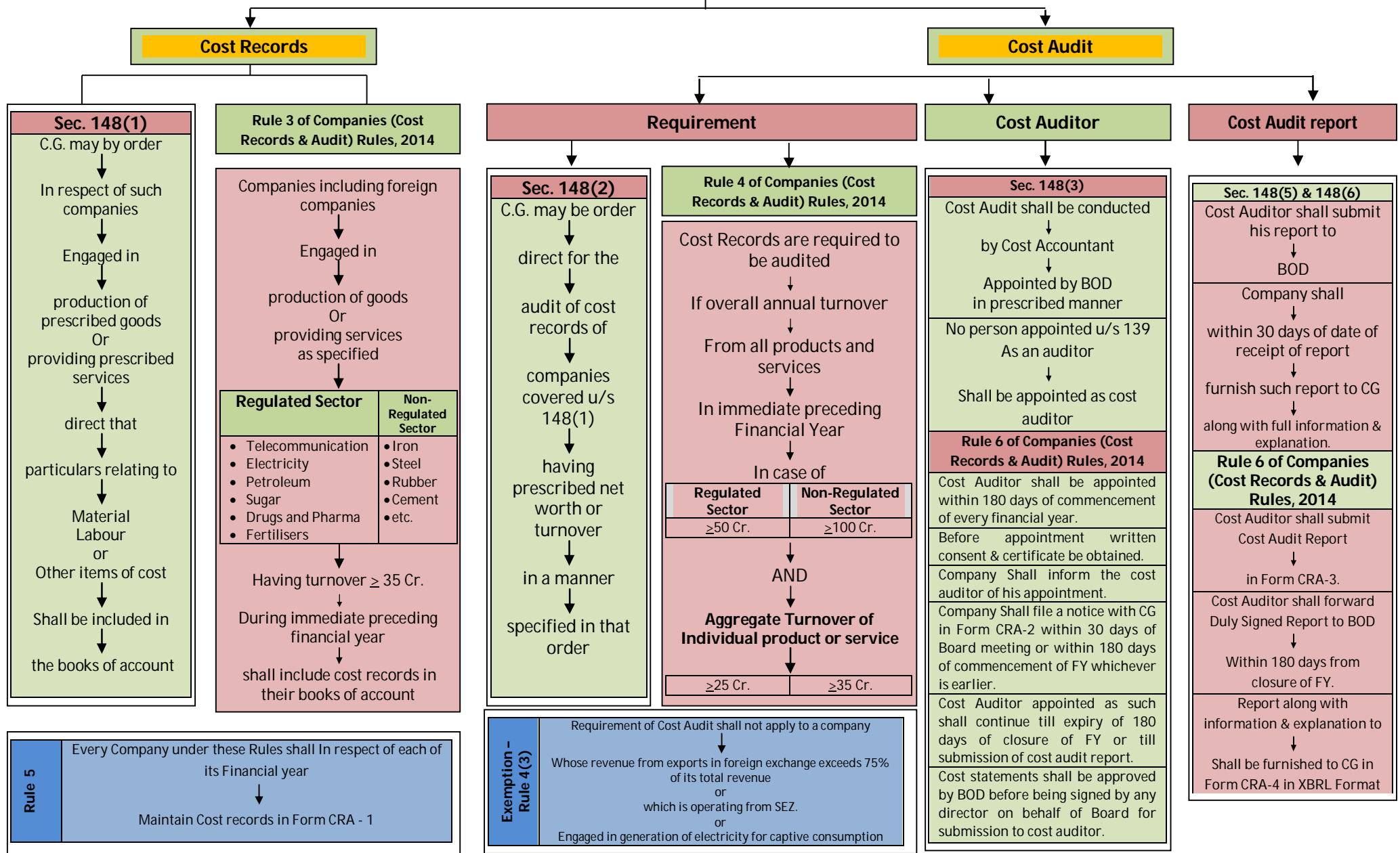
- Violation of Secs. 139, 143, 144, 145.
- Fine from ₹25,000 to (₹5 Lacs or 4 times the remuneration, whichever is less).
- In case of Wilful default – Imprisonment upto 1 year and fine from ₹50,000 to (₹25 Lacs or 8 times the remuneration, whichever is less).

If auditor convicted u/s 147(2)

he shall be liable to

Refund the remuneration and Pay for damages

Cost Records and Cost Audit (Section 148 of Companies Act, 2013 & Companies (Cost Records and Audit) Rules, 2014)



Branch Audit [Sec. 143(8) and Rule 12] and Payments controlled by Companies Act, 2013

Branch Audit



Branch Office – Sec. 2(14)	Branch office, in relation to a company, means any establishment described as such by the company.				
Persons Eligible to be appointed as Branch Auditor – Sec. 143(8)	<table border="1" style="width: 100%;"> <tr> <td style="background-color: #e1f5fe;">Indian Branch</td> <td> <ul style="list-style-type: none"> Company Auditor Other person qualified for appointment as auditor as per Sec. 141. </td> </tr> <tr> <td style="background-color: #e1f5fe;">Foreign Branch</td> <td> <ul style="list-style-type: none"> Company Auditor Other person qualified for appointment as auditor as per Sec. 141. Other person qualified for appointment as auditor in accordance with the Laws of that country. </td> </tr> </table>	Indian Branch	<ul style="list-style-type: none"> Company Auditor Other person qualified for appointment as auditor as per Sec. 141. 	Foreign Branch	<ul style="list-style-type: none"> Company Auditor Other person qualified for appointment as auditor as per Sec. 141. Other person qualified for appointment as auditor in accordance with the Laws of that country.
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Duties of Branch Auditor – Sec. 143(8)	<ul style="list-style-type: none"> Prepare a report on the accounts of the branch examined by him <li style="text-align: center;">and send it to the auditor of the company who shall deal with it in his report in such manner as he considers necessary. 				
Duties & powers of the company's auditor with reference to the audit of the branch and the branch auditor – Rule 12	<p>(1) The duties and powers of the company's auditor with reference to the audit of the branch and the branch auditor, if any, shall be as contained in sub-sections (1) to (4) of section 143.</p> <p>(2) The branch auditor shall submit his report to the company's auditor.</p> <p>(3) The provisions regarding reporting of fraud by the auditor shall also extend to such branch auditor to the extent it relates to the concerned branch.</p>				

Payments controlled by Companies Act, 2013



Sec. 181	Contribution to Charitable Funds
	<ul style="list-style-type: none"> BOD can contribute to the bona fide charitable and other funds any amount in any FY. If aggregate of such contribution exceeds 5% of average net profits of 3 immediately preceding FY, prior permission of company is required.
Sec. 182	Political Contribution
	<ul style="list-style-type: none"> Government company or any other company which has been in existence for less than 3 FY cannot contribute any amount directly or indirectly to any political party. In other cases, contribution in any FY can be made if a resolution authorising the making of such contribution is passed at a Board Meeting. Every company shall disclose in its P&L A/c total amount contributed by it under this section during the FY to which the account relates. Contribution shall not be made except by an A/c payee cheque drawn on a bank or an A/c payee bank draft or use of electronic clearing system through a bank account.
Sec. 183	Contribution to National Defence Fund
	<ul style="list-style-type: none"> Section 183 permits the Board or any person or authority exercising the powers of the Board or company to make contributions to the National Defence Fund or any other Fund approved by the CG for the purpose of National Defence to any extent as it thinks fit. Every company shall disclose in its profit and loss account the total amount or amounts contributed by it to the National Defence Fund during the financial year to which the amount relates.

Audit of Limited Liability Partnerships (LLP Audit) – Sec. 34 of LLP Act, 2008 & Rule 24 of LLP Rules, 2009 (New Syllabus Only)

Statutory provisions Relating to Books

1.	<p>Books of Account – Sec. 34</p> <ul style="list-style-type: none"> LLP shall maintain prescribed books relating to its affairs for each year. Books may be maintained on cash or accrual basis and as per double entry system. Books shall be maintained at regd. office for prescribed period.
	<p>Rule 24 of LLP Rules, 2009</p> <p>The books of account shall contain:</p> <ol style="list-style-type: none"> (a) particulars of all sums of money received and expended; (b) a record of the assets and liabilities; (c) statements of cost of goods purchased, inventories, WIP, finished goods & COGS; and (d) other particulars which partners may decide. <p>Books shall be preserved for 8 years from the date on which they are made.</p>
2.	<p>Statement of Account and Solvency</p> <ul style="list-style-type: none"> Every LLP shall, within a period of 6 months from the end of each FY, prepare a Statement of Account & Solvency for the said FY and such statement shall be signed by the designated partners of the LLP. Statement of Account and Solvency shall be filed with the Registrar in Form 8 within a period of 30 days from the end of 6 months of the financial year.

Statutory provisions Relating to Audit

Rule 24 of LLP Rules, 2009	
1	<p>Requirement of Audit</p> <ul style="list-style-type: none"> LLP whose turnover does not exceed, in any FY, ₹40 Lacs, or whose contribution does not exceed ₹25 Lacs shall not be required to get its accounts audited. If partners decide to get the accounts of such LLP audited, the accounts shall be audited in accordance with these rules.
2	<p>Eligibility for auditor</p> <p>A person shall not be qualified for appointment as an auditor of a LLP unless he is a CA in practice.</p>
3	<p>Period of Appointment</p> <p>Auditor of LLP shall be appointed for each financial year of the LLP for auditing its accounts.</p>
4	<p>Appointment of auditor by designated partner</p> <p>The designated partners may appoint an auditor:</p> <ol style="list-style-type: none"> (a) at any time for the first FY but before the end of first FY, (b) at least 30 days prior to the end of each FY (other than the first FY), (c) to fill a casual vacancy, including in the case when the turnover or contribution of a LLP exceeds the limits, or (d) to fill up the vacancy caused by removal of an auditor.
5	<p>Appointment of auditor by partner</p> <p>Partners may appoint an auditor where the designated partners have power to appoint and have failed to appoint.</p>
6	<p>Tenure of Auditor</p> <p>Auditor shall hold office in accordance with the terms of his appointment and shall continue to hold such office till the period</p> <ol style="list-style-type: none"> (a) the new auditors are appointed, or (b) they are re-appointed.

Advantages/Purpose/Need of Audit

- (a) Detection of errors & frauds
- (b) Verification of financial statements
- (c) Resolving disputed among the partners in relation to accounting matters.
- (d) Arranging finance from banks & F.I.
- (e) Improved management of the LLP
- (f) Settlement of accounts between partners at time of admission, death, retirement, insolvency, insanity, etc

Auditor's duties w.r.t. Audit of LLP

- (a) Obtain instructions in writing as to work to be performed.
- (b) Read the LLP agreement & note the following
 - Nature of the business of LLP
 - Capital contributed by each partner
 - Interest in respect of capital contributions
 - Duration of partnership
 - Drawings allowed to the partners
 - Salaries, commission etc payable to partners
 - Rights & duties of partners
 - Method of settlement of accounts between partners at time of admission, retirement, admission etc.
 - Any loans advanced by the partners
 - Profit sharing ratio
- (c) Auditor should report (a) Whether the records reflects true and fair view (b) Whether he obtains all information & explanation (c) whether any restriction/limitation imposed upon him.
- (d) If minute book is being maintained, auditor shall refer it for any resolution passed regarding the accounts.

Guidance Note on IFC over Financial Reporting and Guidance Note on reporting of Fraud u/s 143(12)

Guidance Note on IFC over Financial Reporting

Guidance Note on Reporting of Fraud u/s 143(12)

1	Meaning of Internal Financial Control – Sec. 134 of Companies Act, 2013										
	<p>Policies and procedures adopted by the company for ensuring:</p> <ul style="list-style-type: none"> • Orderly & efficient conduct of its business, including adherence to Company policies, • Safeguarding of its assets, • Prevention and detection of frauds and errors, • Accuracy and completeness of the accounting records, and • Timely preparation of reliable financial information. 										
2	Meaning and concept of Internal Controls over Financial Reporting (ICFR)										
	<ul style="list-style-type: none"> • A Process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of F.S. for external purposes in accordance with GAAPs. • Company's IFC over financial reporting includes those policies & procedures which pertain to the maintenance of the records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets. • It provides reasonable assurance that transactions are recorded as necessary to permit preparation of F.S. in accordance with GAAPs, and receipts and expenditures of the company are being made only in accordance with authorizations of mngt and director of the company. • It provides reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on F.S. 										
3	Reporting Requirements										
	<table border="1"> <tr> <td style="text-align: center;">Sec. 134</td> <td>In the case of a listed company, the Directors' Responsibility states that directors, have laid down IFC to be followed by the company and that such controls are adequate and operating effectively.</td> </tr> <tr> <td style="text-align: center;">Sec. 143</td> <td>The auditor's report should also state whether the company has adequate IFC system in place and the operating effectiveness of such controls.</td> </tr> <tr> <td style="text-align: center;">Sec. 177</td> <td>Audit committee may call for comments of auditors about internal control systems before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management company.</td> </tr> <tr> <td style="text-align: center;">Sch. IV</td> <td>The independent directors should satisfy themselves on the integrity of financial information and ensure that financial controls and systems of risk management are robust and defensible.</td> </tr> <tr> <td style="text-align: center;">Rule 8 of Companies (Accounts) Rules, 2014</td> <td>The director's report should contain details in respect of adequacy of internal financial controls with reference to the financial reporting.</td> </tr> </table>	Sec. 134	In the case of a listed company, the Directors' Responsibility states that directors, have laid down IFC to be followed by the company and that such controls are adequate and operating effectively.	Sec. 143	The auditor's report should also state whether the company has adequate IFC system in place and the operating effectiveness of such controls.	Sec. 177	Audit committee may call for comments of auditors about internal control systems before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management company.	Sch. IV	The independent directors should satisfy themselves on the integrity of financial information and ensure that financial controls and systems of risk management are robust and defensible.	Rule 8 of Companies (Accounts) Rules, 2014	The director's report should contain details in respect of adequacy of internal financial controls with reference to the financial reporting.
Sec. 134	In the case of a listed company, the Directors' Responsibility states that directors, have laid down IFC to be followed by the company and that such controls are adequate and operating effectively.										
Sec. 143	The auditor's report should also state whether the company has adequate IFC system in place and the operating effectiveness of such controls.										
Sec. 177	Audit committee may call for comments of auditors about internal control systems before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management company.										
Sch. IV	The independent directors should satisfy themselves on the integrity of financial information and ensure that financial controls and systems of risk management are robust and defensible.										
Rule 8 of Companies (Accounts) Rules, 2014	The director's report should contain details in respect of adequacy of internal financial controls with reference to the financial reporting.										

1	Duty to report on frauds – Sec. 143(12)
	If auditor in the course of the performance of his duties, has reason to believe that an offence of fraud involving prescribed amount, is being or has been committed in company, by its officers or employees, the auditor shall report the matter to the C.G., within prescribed time and manner.
2	Manner of Reporting - Fraud amounting to ₹1 Cr. or more
	<p>If auditor has reason to believe that an offence of fraud, which involves or is expected to involve individually an amount of ₹1 Cr. or above, is being or has been committed against company by its officers or employees, the auditor shall report the matter to the C.G. in following manner:</p> <ul style="list-style-type: none"> • Report the matter to Board/Audit Committee, immediately but not later than 2 days of his knowledge of fraud, seeking their reply within 45 days; • on receipt of such reply, the auditor shall forward his report and the reply of Board/Audit Committee along with his comments to the C.G. within 15 days from date of receipt of such reply; • In case reply not received, auditor shall forward his report to C.G. along with a note containing details of his report that was forwarded to Board/Audit Committee for which he has not received reply; • Report shall be sent to the Secretary, MCA in a sealed cover by Regd. Post with AD or by Speed Post followed by an e-mail in confirmation of the same; • Report shall be on letter-head of the auditor containing postal address, e-mail address, contact details and be signed by the auditor with his seal and shall indicate his Membership Number; and • Report shall be in the form of a statement as specified in Form ADT-4.
3	Manner of Reporting - Fraud amounting to less than ₹1 Cr.
	<ul style="list-style-type: none"> • Section 143(12) prescribes that in case of a fraud involving lesser than the specified amount [i.e. less than ₹1 Cr.], the auditor shall report the matter to the audit committee constituted u/s 177 or to the Board in other cases within such time and in such manner as may be prescribed. • In this regard, Rule 13(3) of the CAAR, 2014 states that in case of a fraud involving amount less than ₹1 Cr., the auditor shall report the matter to Audit Committee constituted u/s 177 or to the Board immediately but not later than 2 days of his knowledge of the fraud and he shall report the matter specifying the following: <ul style="list-style-type: none"> (a) Nature of Fraud with description; (b) Approximate amount involved; and (c) Parties involved.