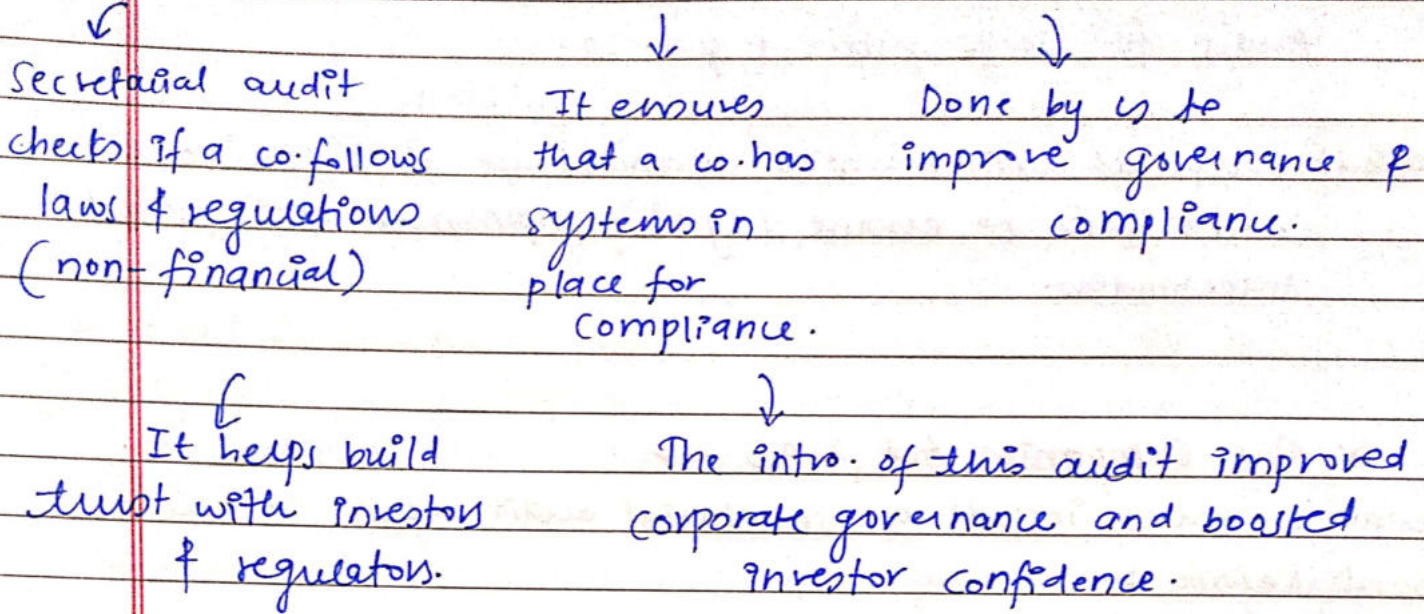
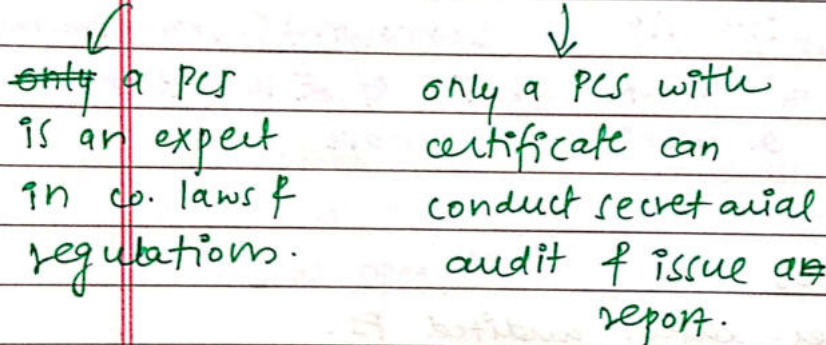


\* Introduction →



\* Secretarial Audit and PCS →



\* Secretarial audit - legal provisions →

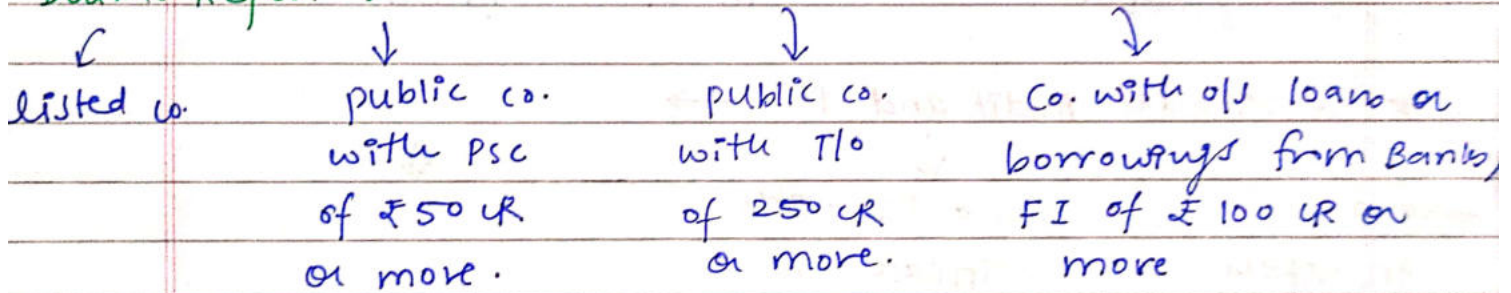
- 1988: listed co. required certification of their annual return by PCS.
- 2000: Co. with PSC 10 lakh or more (without a full time co) needed an annual compliance certificate from PCS.
- 2002: Narsh chandra committee recommended a compliance audit for better corporate governance.
- 2003: The Co. (Amendment) Bill introduced the concept of Secretarial audit, allowing govt. to order such audits.

2009: Corporate governance guidelines recommended Secretarial Audit for large public & priv. co.

2014: Secretarial audit became mandatory for bigger co. under Co. Act 2013 to ensure legal compliance and protect stakeholders.

### \* The Companies Act, 2013 →

- Certain co. must include a secretarial audit report in their Board's Report :



- Audit must be done by PSC.
- PSC / T10 / borrowings as per latest audited FS.
- Co. must provide full assistance to PSC during audit.
- if co. raises any issues in Audit report - BOD must explain them in their report.
- if any co. / PSC violates these rules : penalty of ₹ 2,00,000
- public co. means a co. ↗ which is not a private co.  
and  
↘ has min. PSC as prescribed.

- Even if a co. is private subsidiary of a public co., it shall be treated as a public co., regardless of its private status in the AOA!

- Co. not required can still choose to conduct secretarial audit for added legal assurance.

Eg: PPP Pvt Ltd is a pvt. co. with PSC 35 CR  
TI. 300 CR.

- it is a subsidiary of a public company.
- Hence PPP Pvt. Ltd = public co. and hence secretarial audit is mandatory!

### \* Need for Secretarial Audit →

- ① Compliance verification - ensures the co. follows the rules of regulations like Co. Act, SEBI & FEMA etc.
- ② Corporate governance - promotes good governance practices, transparency and accountability.
- ③ Risk mitigation - Identifies potential risk & weaknesses in internal controls to prevent legal, financial or reputational harm.
- ④ Stakeholder confidence - Boosts trust among investors, regulators and other stakeholders by demonstrating legal & ethical operations.
- ⑤ Preventing fraud - Detects fraud, mismgmt or irregularities by reviewing co. records and governance practices.
- ⑥ Legal requirements - In some cases, secretarial audits are legally required - failing to comply can result in penalties or legal consequences.
- ⑦ Improving efficiency - Identifies inefficiencies in processes, leading to cost savings & improved productivity!

## \* Secretarial Audit as a tool for good corporate governance →

- ① Ensures legal compliance - verifies adherence to laws, regulations and statutory requirements.
- ② monitors ~~the~~ ethical practices - ensures corporate practices align with ethical standards & best practices.
- ③ Assesses Board effectiveness - Evaluates Board's performance & governance, ensuring it meets its responsibilities.
- ④ promotes transparency - ensures accurate & timely disclosure of info., fostering trust with stakeholders.
- ⑤ Identifies risk - Detects potential risks & evaluates internal controls to strengthen governance.
- ⑥ Supports decision making - provides insights that <sup>help</sup> and Board make "informed strategic decisions."

## \* Objectives of Secretarial Audit →

- ① Verify compliance - ensure co. follows laws & regulations like Co. Act, FEMA, SEBI etc.
- ② Assess governance - Evaluate co.'s effectiveness on corporate governance practices.
- ③ Identify legal risks - Spot potential legal risks & check internal controls to manage them.
- ④ Evaluate Board procedures - Review how the Board makes decisions & follows statutory requirements.
- ⑤ Review statutory records - Ensures statutory registers and records are accurate & up to date.
- ⑥ Examine disclosures - check the accuracy of info. disclosed to regulators and stakeholders.
- ⑦ Assess RPT - Ensure proper controls & disclosures for transactions with related parties.
- ⑧ Detect fraud - Identify potential fraud / mismgmt by reviewing records & transactions.

- ⑨ recommend improvements — suggest corrective actions to fix any issues found during the audit.
- ⑩ Boost stakeholder confidence — provide assurance to stakeholders about co.'s compliance & governance practices.

\* Secretarial Audit & Secretarial Compliance Report under SEBI (LODR) Regulations, 2015 → Recommendations by <sup>on corp. governance</sup> Kotak committee in 2017. Key points are as follows:

### ① Secretarial Audit mandate :

mandatory for all listed co. and their material unlisted subsidiaries in India.

This applies from FY ending 31/3/2019.

material subsidiary is defined as a subsidiary whose income / NW exceeds 10% of Consolidated Income / NW of listed entity in preceding year.

### ② Amendments in 2021 :

listed entities must not only undertake Secretarial Audit BUT also Secretarial Compliance Report.

Secretarial compliance report must be submitted to ITC within 60 days of end of FY.

### ③ Role of CS :

CS is responsible for issuing both Secretarial Audit report & Secretarial compliance report.

Report should cover compliance with appli. laws including SEBI Reg, circulars & guidelines

CS must verify records, Books & docs to ensure full compliance.

④ Purpose: - To improve oversight & ensure listed entities & their material subsidiaries comply with all legal & regulatory requirements.

- Secretarial compliance Report adds a layer of independent verification to enhance transparency & governance.

### Exceptions

Certain listed entities are exempt from complying with Secretarial Audit & Secretarial compliance Report requirements based on following conditions:

① Small listed entities:

if a listed entity has PSC equity of upto ₹ 10 CR & NW of ₹ 25 CR on last day of previous FY - exempt from compliance.

However, if other corporate governance provisions later become applicable

↓  
comply within 6m.

↓  
once these regulations apply - they will remain applicable even if co.'s capital / NW falls below threshold for 3 consecutive yrs.

② Entities listed on SME Exchange are also EXEMPT.

③ Non-company entities: like body corporates listed on STX, corporate governance regulations apply as long as they don't conflict with other laws & regulations they are subject to.

## \* CSAS 4 → Auditing Standard on Secretarial Audit →

**Effective dates** →

- recommendatory from 1/07/2019
- mandatory from 1/09/2021.

**Scope** → applies to Secretarial Audit under:

- Sec 204 of Co. Act 2013
- Reg. 24A of SEBI (LODR) Reg, 2015.

**Objective** → provides guidelines for evaluating legal compliance and corporate conduct during the audit.

**Exemptions** →

- not mandatory for Annual <sup>Sec.</sup> Compliance Report under SEBI Circulars.

↳ not required for voluntary audits, but its always recommended to follow standards.

**3rd party mandates** → does not apply if audit is required by a 3rd party / regulator, but auditors to mention if they followed ICSI standards.

**Adherence to other standards** → Auditors must also follow:

CSAS 1  
(Engagement)

CSAS 2  
(Audit process)

CSAS 3  
(Forming opinion)

## \* Concept of Secretarial Audit →

Secretarial Audit is a key tool for ensuring legal compliance & strengthening corporate governance. It helps:

- ① **Build confidence**: It ensures regulators, s/h, creditors & other stakeholders about the co.'s legal & regulatory compliance, boosting trust & reducing risk.
- ② **Risk mitigation**: Secretarial audits help identify & address compliance issues, preventing legal troubles & regulatory penalties.
- ③ **Corrective actions**: The audit report allows govt. & stakeholders to quickly assess a co.'s compliance & take corrective actions if needed - reducing fraud & legal issues.
- ④ **Support ~~from~~ for companies**: Beyond compliance, it provides internal control, helping co. avoid legal violations. It reassures ~~that~~ independent & nominee directors that the co. is following the law.
- ⑤ **Advisory role**: The secretarial auditor acts as an advisor, guiding the company to fix issues before they become serious issues.

## Risks of non-compliance →

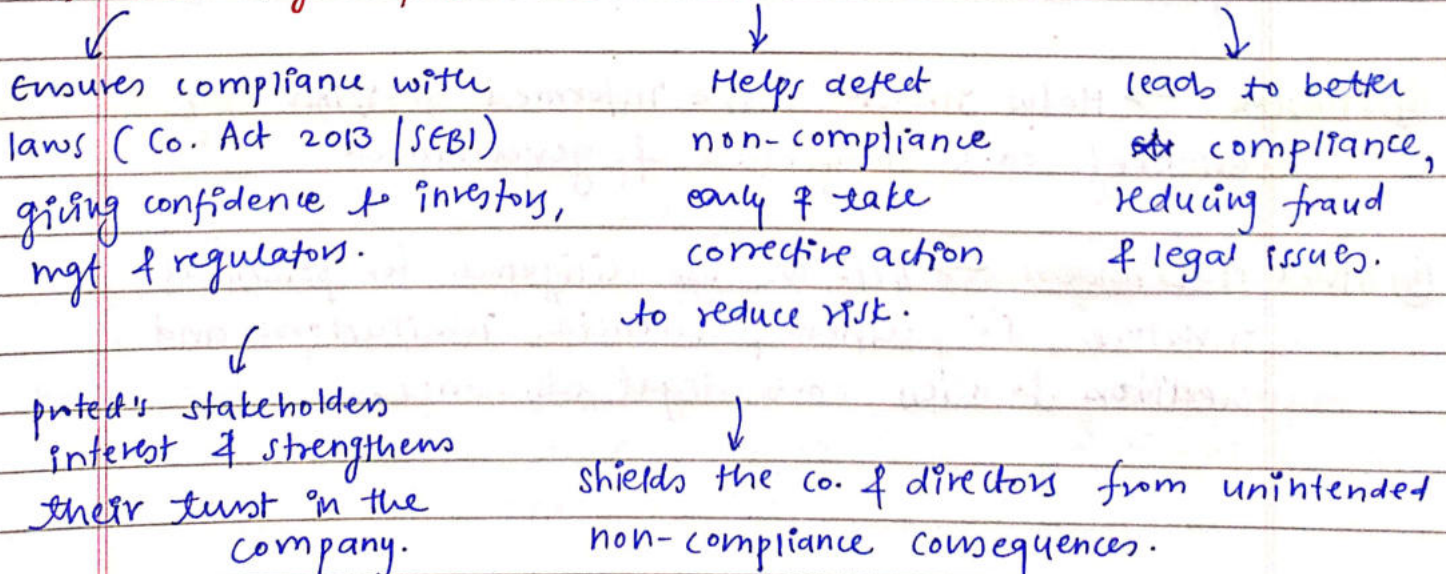
- ① **Legal issues** - not following laws / keeping proper records can lead to legal problems and 3<sup>rd</sup> party claims.
- ② **Missing approvals** - failing to get required approvals / licenses can result in fines, penalties or even business shutdown.

- ③ **Regulatory troubles** — Non-compliance may invite actions from regulators (SEBI/RBI).
- ④ **Environmental violations** — Ignoring environmental laws can cause legal & environmental damage.
- ⑤ **Poor Record-keeping** — Inaccurate records may show poor judgement, leading to liability for co. / its directors.
- ⑥ **Reporting failures** — Not meeting reporting requirements can cause issues with investors / lenders.

**Role of PG** → Co helps ensure compliance & report issues early to prevent bigger problems.

— Including Secretarial Audit Report in Director's Report builds trust in co.'s governance. It assures investors & partners especially in JV / foreign collaborations, that the co. follows the law, improving transparency & compliance.

### \* Advantages of Secretarial Audit →



↓  
provides independent assurance to non-executive / nominee directors that a co. is following the law.

↓  
promotes self-regulation of professional & discipline.

↓  
Improves investor services & alerts investors about any issues through report qualifications.

↓  
Reduces burden on regulators by ensuring timely compliance.

### ✦ Audience for Secretarial Audit →

- ① Promoters → Assures them that the co. is being managed according to the law, protecting their stake from unintended risks.
- ② Non-executive / ID → Provides comfort that the co. is compliant with laws, reducing governance and regulatory risks.
- ③ Govt. authorities / Regulators → Eases their workload by ensuring compliance & enabling timely action against violations.
- ④ Investors → Helps investor make informed decisions by assessing co.'s compliance & governance.
- ⑤ Other stakeholders → Acts as due diligence for potential investors, JV partners, financial institutions and creditors to assess co.'s legal adherence.

## \* Risk of Secretarial Auditor →

① Penalty for contravention (Sec 204) → If a co., officers or PCs violates provisions of Sec 204, they could face a penalty of ₹ 2 lakh.

- failure to comply with Sec 143 (powers / duties of auditors)
  - listed co. → 5 lakh penalty
  - other co. → 1 lakh penalty.

② Punishment for fraud (Sec 447) →

If found guilty of fraud, punishment includes imprisonment 6m - 10 years and a fine upto 3 times the fraud amt. particularly if it involves public interest.

③ Punishment for false statements (Sec 448) →

Making false / misleading statements knowingly in co. docs / reports can lead to penalties up to 447.

④ Repeated offences → (Sec 451) →

If same offence is committed more than once in 3 years, penalty = double the fine and any additional ~~requirement~~ imprisonment.

⑤ Professional misconduct [CS Act, 1980] →

CS can face disciplinary action for professional misconduct as per provisions of CS Act, 1980.

- Disciplinary actions by ICSI includes:

Reprimand

suspension /  
permanent removal  
from Register.

A fine of upto  
₹ 5 lakh.

## \* Sun Pharmaceuticals Industries Ltd →

## Issue

→ Secretarial Auditor failed to report Aditya Medisales Ltd. as a related party in co.'s transactions, despite it being a requirement under Co. Act, 2013.

## facts

→ A whistleblower complaint led to an inquiry about RPT & money diversion.

- secretarial Auditor relied only on statutory auditors' report, not properly reviewing RPT.
- This failure led to non-compliance with legal requirements

## Decision

→ Secretarial Auditor was found to have ~~not~~ neglected their duties & was penalized for not reporting RPT as required under Co. Act, 2013 and ICSI guidelines.

## \* Code of conduct for professionals →

↓  
essential for maintaining professional standards, ensuring accountability, responsibility and trust in the profession. It helps professionals meet ethical expectations and regulatory requirements in a competitive & ever evolving corporate world.

- code of conduct outlines principles that guide an individual's responsibilities and proper practices including:
  - integrity
  - independence
  - competence
  - objectivity
  - ethical behaviour
  - conformance to tech. standards
  - confidentiality.

- These principles are crucial for professionals like us, who serve various stakeholders such as investors, employees, and public.
- A high level of integrity & adherence to ethical behaviour ensures quality service.
- ICSI issues various code of conduct from time to time.

### \* Scope of Secretarial Audit →

Scope of secretarial audit includes verifying compliance with following rules, laws, regulations & guidelines →

- |   |   |                   |      |                                |
|---|---|-------------------|------|--------------------------------|
| ① Co. Act 2013                                      | } Rules / regulations / bye laws etc made thereunder. |                   |      |                                |
| ② SCRA, 1956  |   |                   |      |                                |
| ③ Depositories Act, 1996                            |   |                   |      |                                |
| ④ FEMA 1999   |   |                   |      |                                |
| ⑤ SEBI Regulations & guidelines                     |   |                   |      |                                |
| ↓   |   |                   |      | ↓                              |
| substantial acquisition of shares & takeover (SATT) | PIT   | ICDR              | LODR | Share based Employee benefits. |
|   | ↓   | ↓                 |      |                                |
|   | delisting of eq. shares                               | BB of securities. |      |                                |
- ⑥ Industry specific laws - Banking, Insurance, cement etc.

\* The secretarial auditor must <sup>also</sup> check & report on:

- ① Compliance with ss of listing agreements.
- ② Board composition - Ensure BOD has a mix of executive, NED & woman director, IP etc.
- ③ Board changes - confirm that any Board changes comply with law.
- ④ Board meetings - Ensure ~~bee~~ meetings follow proper procedures (7 days' notice, etc)
- ⑤ Decision making - confirm majority decisions are recorded and dissenting views are recorded.
- ⑥ Compliance systems - Ensures that co. has systems in place to follow all relevant laws (eg. labour, environmental etc.)

\* Secretarial Audit - PROCESS →

- ① Objective: The audit ensures that the co. follows all laws, rules, regulations & good governance practices.
- ② Appointment: Auditor is appointed via Board Resolution.
  - New auditor informs previous auditor before accepting the role.
- ③ Acceptance: The co. sends a formal appointment letter, and the auditor confirms it.
- ④ preliminary info: The auditor gathers basic details about the company by talking to KMP.
- ⑤ preliminary meeting: Auditor meets with mgt to set the audit scope, objectives & timeline.

- (f) Audit plan : Auditor creates a plan & assigns tasks to the team
- (g) Testing & analysis : The auditor checks compliance, interview staff and reviews co. processes.
- (h) Working papers : Findings are documented to support the audit opinion.
- (i) Summary & discussions : Audit findings are discussed with mgt for clarification.
- (j) Audit report : The final report (MR-3) is prepared & submitted to the Board.
- (k) Standards : The audit follows guidelines from ICSI.

### \* Identification & segregation of applicable laws →

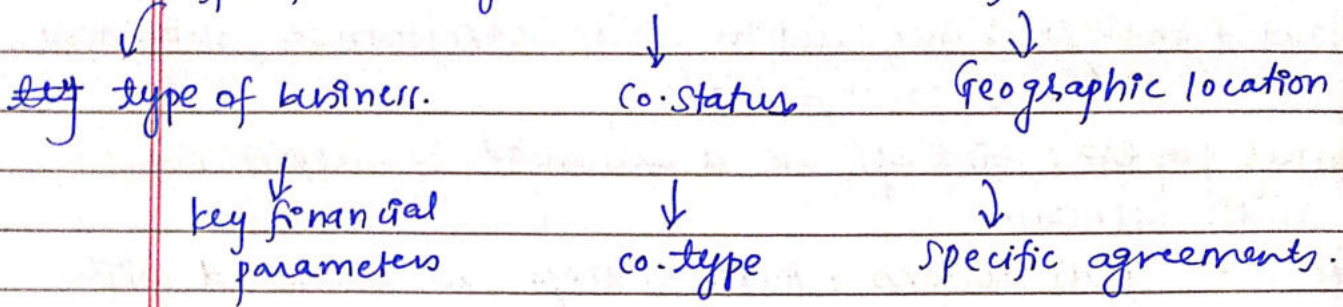
(1) Industry specific laws : The auditee (company) is responsible for ~~complying~~ identifying & segregating laws that apply specially to their industry (Banking, insurance etc)

- Secretarial auditor verifies that the mgt has correctly identified these laws. If auditor not satisfied - they can ask mgt for clarification.

(2) General laws : Auditor also checks if co. has systems in place to comply with general laws (labour / environment)

(3) Statutory & Tax audits : The secretarial Auditor does not handle audits related to financial accounts / taxes. These are mgt by stat. auditor / tax auditor (TA) and secretarial auditor can only rely on their reports.

④ Principles for segregating laws : laws are divided into industry-specific and general laws based on factors like :



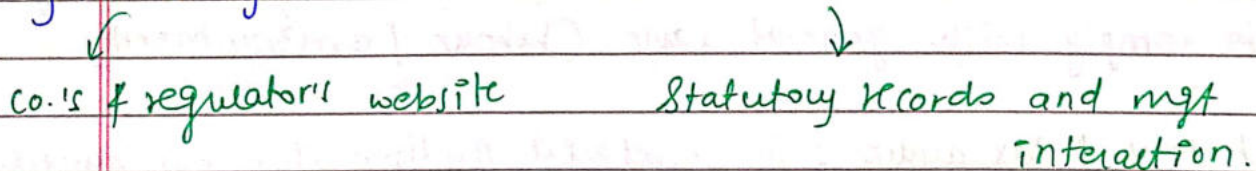
⑤ General laws becoming industry specific : Some laws though general, may apply to certain industries (eg. environmental laws for manufacturing)

- food / beverage : FSSAI act etc.
- Coal mining : Mines Act etc.

Secretarial Auditor reports on compliance with industry specific laws using MR-3 form.

Auditor also comments : ✓ co. has sufficient systems / processes to manage compliance with these laws

\* verification of corporate conduct & compliance of laws → The auditor identifies key events / actions during audit period by reviewing :



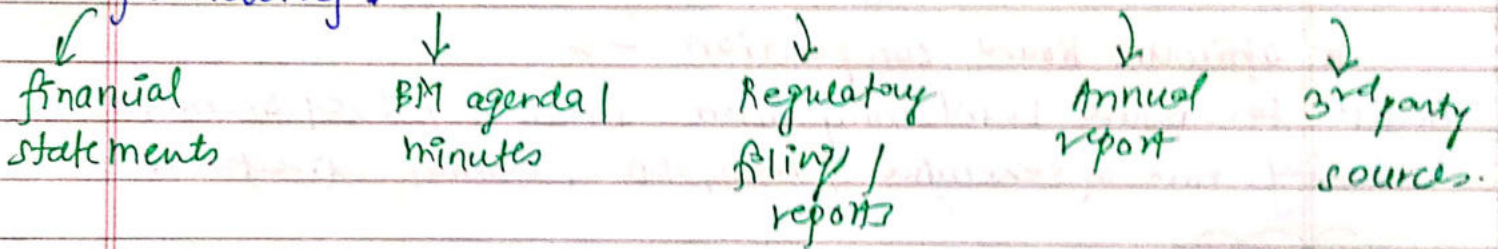
**Corporate actions** - Events that significantly change co.'s ~~actions~~ operations / structure, affecting sh, lenders, other stakeholders. These actions are approved by co.'s BOD / sh.

Examples of corporate actions :

- changes to co.'s legal docs
- alterations to co.'s capital (issue of new shares)
- changes in mgmt
- changes in business licenses / permission
- vacancies in key positions (eg. auditor / director)
- borrowing beyond legal limits.

\* Identifying corporate actions →

Auditor identifies corporate actions that may require compliance by reviewing :

\* verifying compliance →

The auditor checks compliance by

- Reviewing co. records
- checking regulator websites / other sources.

\* Board composition →

Auditor checks if Board composition complies with relevant laws, including :

- Co. Act 2013
- SEBI
- lender / investor agreements
- Co.'s AOA
- industry specific laws / regulations.

- Auditor must ensure that the Board has correct no. of directors as required by law.

- Some co. (Banks / Insurance) have add'l rules.

**Auditor's Role** →

- identify all applicable laws / reg for the co.
- verify Board composition based on these laws.
- check specific requirements for co. governed by special laws like Insurance Act / Banking Regulation Act and ensure co.'s compliance with co.'s AOA.

\* optimum Board composition →

Auditor to ensure board composition meets legal requirements including mix of executive, NED, ID, woman director etc.

**Co. Act, 2013** →

- at least 1 director must stay in India for 182 days each yr
- for listed co. -  $\frac{1}{3}^{\text{rd}}$  of directors = Independent.
- certain co. (Listed with ₹ 100 CR capital @ ₹ 300<sup>cr</sup>/10) must have at least one woman director.

**SEBI, Regulations, 2015** →

- Board must have a mix of Executive & NED.
- 50% of Board = NED.
- for top 500 listed entities = one independent woman director is required.
- at least  $\frac{1}{3}^{\text{rd}}$  of Board must be independent if chairperson is non-executive.

Companies with superior voting rights, must have  $\frac{1}{2}$  Board as independent

\* Addn requirements for NSE prime co. →

### Board composition:

- min 2 directors
- chairman cannot be relative of  $\begin{matrix} MD \\ CEO \end{matrix}$

### Independent director:

- if public sh/holding  $> 50\%$  → more than  $1/2$  of Board must be independent.
- if public sh/holding  $\leq 50\%$  → atleast  $1/2$  = independent
- fractions of ID must be rounded up.

Woman directors: By July 1, 2025 → atleast 2 woman directors  
(1 = independent)

### \* Director eligibility / Disqualification →

Auditor checks that directors meet the qualifications & are not disqualified as per Co. Act, 2013 @ any other industry specific laws.

This includes checking for conditions that could disqualify a director from being appointed as a director to BoD.

\* Board committees → certain committees are required by laws for good governance.

for Banking  
co: committees  
must follow  
Banking Reg.  
Act and  
RBI / Gov Rules.

mandatory committees for all co:

AC

NRC

SRC

CR

RMC

↓  
internal  
committee etc

\* preferred Board size by proxy advisors →

**US** → 6-15 members preferred. Smaller than 6 = too small, larger than 15 can cause decision-making issues.

**In govern** → 7-15 members preferred. Too few can lack diversity, too many can slow decisions & may have too many promoters.

**SES** → 6-15 members preferred. If outside this range, justification required.

\* Board processes →

The BOD oversees the co. and must act in best interest of sh and stakeholders. Directors have duties but are also protected by law.

Key points : ① SS-1 → Sec 112(10) of Co. Act, 2013 requires co. to follow SS-1 for Board meetings & governance practices.

② Auditor's Role → The auditor ensures board decisions follow the law, regulations & internal processes.

③ Key provisions on Board processes →

- Board and committee meetings
- committees exercising board powers u/s 179 of Co. Act, 2013
- member's meetings - properly (conducted & documented).
- Board performance evaluation & training : Ensure proper evaluation & training mechanisms.
- follow proper procedures for appointments & resignations.

\* Case → ROC penalty for ss-1 non compliance →

Issue : Polaris Indra failed to hold 4 BM per year, as required under ss-1

Action : The co. self reported the issue to ROC and explained that non-compliance was unintentional.

Outcome : ROC imposed a penalty of ₹ 1.6 lakhs on co., its directors and the co.

\* Auditor's role in verifying Board processes →

The auditor checks

→ ensures proper documentation of minutes, agenda and notices.

→ verifies compliance with co.'s internal processes and manuals (if any)

→ Identifies any deviations from established processes.

Key areas of Board processes

→ Board structure : composition of Board

→ Board systems & procedures : decision making systems / procedures followed by Board etc.

\* Case Study : Secretarial Audit for Flowers Pvt. Ltd →

Auditor : Dharmi

Audit Period : 25-26

Guidelines : CSA-4 (Secretarial Audit)

### Board composition verification :

- ① Auditor shall ensure that Board meets minimum & max size required by law.
- ② Auditor shall verify that there is a right balance of executive, NED, ID and woman directors.
- ③ Auditor shall check if directors meet legal eligibility criteria.
- ④ Auditor shall verify the correct structure of Board committees.

### Board processes verification :

- Ensure that all Board processes & decisions comply with laws and internal rules.
- If rules conflict : stricter compliance should be followed.

### \* System & processes →

↓  
co.'s structure  
for managing  
operations.

↓  
steps taken to ensure the system  
works efficiently & complies with  
laws.

In secretarial audit : auditor checks if co.'s internal processes & systems are in place to follow all legal & regulatory requirements.

### Auditor's Responsibilities →

↓  
ensure systems match co.'s  
size and operations.

↓  
confirm that processes follow all  
applicable laws & regulations.

### How auditor verifies:

checks docs maintained by the co.

look at how the co. tracks & reports compliance.

Review the compliance manuals & standard procedures.

Investigate any fines, penalties or legal actions for non-compliance.

### \* Best Board Practices →

#### ① Bharti Airtel:

- Quarterly audited results to STX
- Quarterly meetings for ID
- External evaluation of Board.
- Links executive pay to sustainability goals.

#### ② Hindustan Unilever:

has a "corporate governance code" for all employees / officers.

#### ③ Mahindra Logistics:

- AGM held within 5 months after the fy.
- 15 day "silent period" before financial results are announced.
- Strong compliance systems across India.

#### ④ An small finance Bank: executive directors' pay linked to Bank performance.

### \* compliance with strong governance:

- Tata group: Independent, diverse board.
- Infosys: Transparent processes & active mgt engagement with s/h.
- Reliance: Structured board & improving governance.
- HDFC Bank: Excellent risk mgt & clear communication.
- WIPRO: Global governance standards & accountability.

## \* Detection of fraud →

Role of Audit : ① Auditor must maintain professional skepticism and judgement throughout the audit to detect fraud.

- ② Auditor shall stay alert for conditions that might suggest fraud / errors.
- ③ Auditor should use accumulated knowledge & experience to make informed decisions about fraud related issues.

Identifying fraud : ① Auditor must be alert to signs of frauds such as contradictory audit evidence / suspicious docs.

- ② Auditor shall check if co. has anti - corruption / anti - bribery laws.
- ③ Suspicion of fraud is based on some evidence, even if tentative. It's stronger than mere speculation but lacks conclusive proof.

Red flags for fraud : Recurring -ve cash flows. while reporting profits.  
- mgt practices aimed at maintaining stock prices / earnings growth at any cost.

Gathering evidence : ① If fraud is suspected : auditor shall collect the evidence

- ② The auditor shall communicate with internal & stat. auditors to see if they have identified any fraud.

- ③ Auditor must gather enough evidence to substantiate the suspicion and have reasonable grounds to believe that fraud has occurred.

Auditors should ensure they have solid evidence & justifiable grounds for suspecting fraud before reporting it.

## \* fraud cases involving RPT →

- ① Poly Pak: Diverted funds to co. owned by family of CEO, leading to the creation of UK corporate governance code.
- ② Lehman Brothers: manipulated <sup>la</sup> FS using artificial prices in transactions with related parties.
- ③ Satyam computer service: CEO funneled \$1.6 Billion to co. owned by his sons through fraudulent RPT.
- ④ Sun Pharmaceutical Ltd: SEBI investigated transactions b/w Sun pharma's co-promoter and his family, involving real estate deals.
- ⑤ IL & FS: co. collapsed due to mismgmt and undisclosed RPT.
- ⑥ Kingfisher Airlines: vijay mally ~~not~~ used questionable loans & guarantees to family owned co. leading to airline's collapse.

## \* Excessive managerial remuneration → case studies →

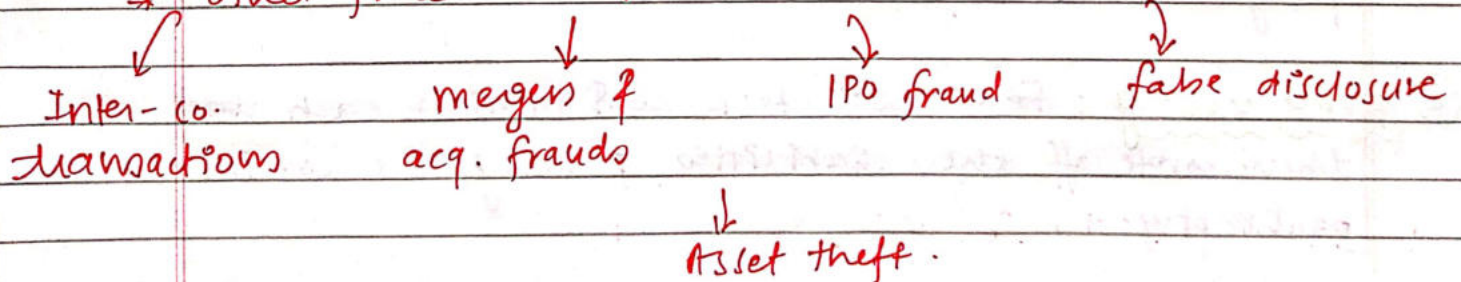
- ① tyco: CEO received excessive compensation, including ~~spend~~ spending ₹ 2 million on his wife's birthday party at co.'s expense.
- ② Global Crossing: Four CEOs took 23 \$ million each and then wrote off the liabilities, pushing the co. into bankruptcy.
- ③ Infosys → former CFO was awarded a package of ₹ 11 Cr sparking s/h concerns about governance.

- ④ Tata motors : cynic misty severance pay after being removed as CEO / MP caused s/h backlash over high compensation.
- ⑤ wipr : s/h raised concerns over high compensation package of CEO, questioning its alignment with co. performance.

### \* Insider trading - case studies :

- ① ENRON : CEO + his wife sold shares before co. went bankrupt.
- ② Galleon : Raj Rajaratham got insider info. about an investment leading to fine & imprisonment.
- ③ Martha Stewart : She sold stocks after hearing about FDA rejection.
- ④ SAC Capital Advisors : The ~~best~~ hedge fund, <sup>pleaded</sup> guilty to insider trading and paid huge penalty.

### \* other fraud areas :



## \* Reporting of fraud →

Sec 143(12) → if secretarial auditor suspects / believes that fraud has been committed by co.'s officers / employees, they are required to report it.

- If fraud involves a significant amt. → auditor must report it to CG.

- If fraud <sup>involves a lesser</sup> amount → auditor must report it to:

↓  
Audit committee

↓  
BOD.

- If Auditor reports fraud to audit committee / BOD but not to CG - co. must disclose this in Board's Report.

\* Duty to report fraud to CG → if auditor believes that fraud involves ₹ 1 CR or more that has been committed by co.'s officers / employees - they must report it to CG.

\* Duty to report fraud to AC / BOD → for frauds involving less than ₹ 1 CR - auditor must report it to AC / BOD within 2 days. Report should include:

↓ Nature of fraud	↓ Approx. amt. involved.	↓ parties involved.
----------------------	-----------------------------	------------------------

\* Disclosures in Board's Report → The Board must disclose the details of fraud reported during the year, incl.:

↓ Nature / description of fraud.	↓ amt. involved	↓ parties involved (if no action is taken)	↓ Remedial actions taken
-------------------------------------	--------------------	--	-----------------------------

## \* consequences of non-reporting →

failure to report fraud as required can result in penalties:

↓  
₹ 5 lakh for listed co.

↓  
₹ 1 lakh fine for other co.

— auditors are protected if they report fraud in good faith.

## \* who is considered an auditor for fraud reporting?

The following are considered auditors for fraud reporting under Co. Act, 2013 →

↓  
statutory auditors

↓  
PCs.  
(Secretarial Audit)

↓  
Cost A/c  
in practice  
(Cost Audit)

↓  
Branch auditors.

Internal auditors & professionals like Tax auditors / GST Auditors are not included in fraud reporting.

## \* case study →

Company: Opoco Ltd.

fraud detected: ₹ 3.5 cr fraud by officers, not noticed by stat. auditor.

Secretarial Auditor's duties:

- if fraud is of ₹ 1 cr or more → auditor must report it.
- Report to AC / BOD within 2 days. (They must reply within 45 days)
- If no reply - report to Cg.
- report must be sent by Regd post / speed post / email.
- use form ADT-4 for reporting.
- penalties for non-compliance

↓  
for listed co. →  
₹ 5 lakh fine

↓  
for other co. → fine ₹ 1 lakh.

## \* Difficulties in estimating quantum of fraud penalty →

- Auditors estimate fraud based on mgt's figures, but its hard to get an exact amount.
- If fraud exceeds 1 CR → Secretarial auditor must report it to CG within 45 days.
- Initial estimate is imp because it decides whether the fraud needs to be reported to authorities
- fraud > 1 CR → CG
- fraud ≤ 1 CR → AC / BOD.
- Auditors must be careful while estimating fraud amts.

## \* very interesting question at its juncture →

<p>Regulatory non-compliance can be considered fraud if the loss is measurable.</p>	<p>Secretarial auditor may find it hard to estimate fraud in case of non-compliance.</p>	<p>If auditor finds issues like bribery / corruption: report it to AC / BOD.</p>	<p>If fraud is more than 1 CR: report it to CG!</p>
---	--	--	---

## \* Procedure for reporting fraud →

### (1) Fraud above ₹ 1 CR :

- Auditor must report fraud to AC / BOD within 2 days of discovering it.
- BOD / AC has 45 days to respond.
- Auditor sends the fraud report along with Board's response (or lack thereof) to CG within 15 days of receiving the reply.

- If no reply / response received from AC / BOD within 45 days : auditor shall report directly to CG along with a note stating no response was received.

## ② fraud below ICR →

- Auditor reports fraud to AC / BOD within 2 days.
- Report shall include nature of ~~fraud~~ fraud, amt. & parties involved.
- Board must disclose fraud details in its report, incl. remedial actions taken. If no action is taken - name of parties involved should be disclosed.

\* Case law: Globe motors Ltd vs. Menta Teja Singh & Co.

↓  
Delhi HC emphasized that director must act in good faith & not use co's resources for personal gain.

↓  
A co should not just focus on legal compliance during audits but should also ensure that no fraud has taken place in co's transactions.

\* fraud vs. Non-compliance →

↓  
intentional act of deception to gain an unfair advantage, trick someone into giving up something valuable or cause harm. It's a criminal offence and can lead to several penalties.

↓  
refers to failing to follow rules, laws, regulations such as missing deadlines, not filing required info., or not meeting eligibility conditions. Non-compliance can sometimes lead to fraud, but fraud can occur even in a compliant company.

\* Identification & Reporting of major events / actions having bearing on auditee's affairs →

- Secretarial Auditor must identify & report events that impact the co.'s affairs / governance.

Key factors to consider →

↓	↓	↓	↓
size of transaction in relation to co.'s T/O, NW & profit.	whether transaction is part of normal business.	if transaction represents a major change in strategy.	if omitting an event could cause market reaction if revealed later.

Examples of major events :

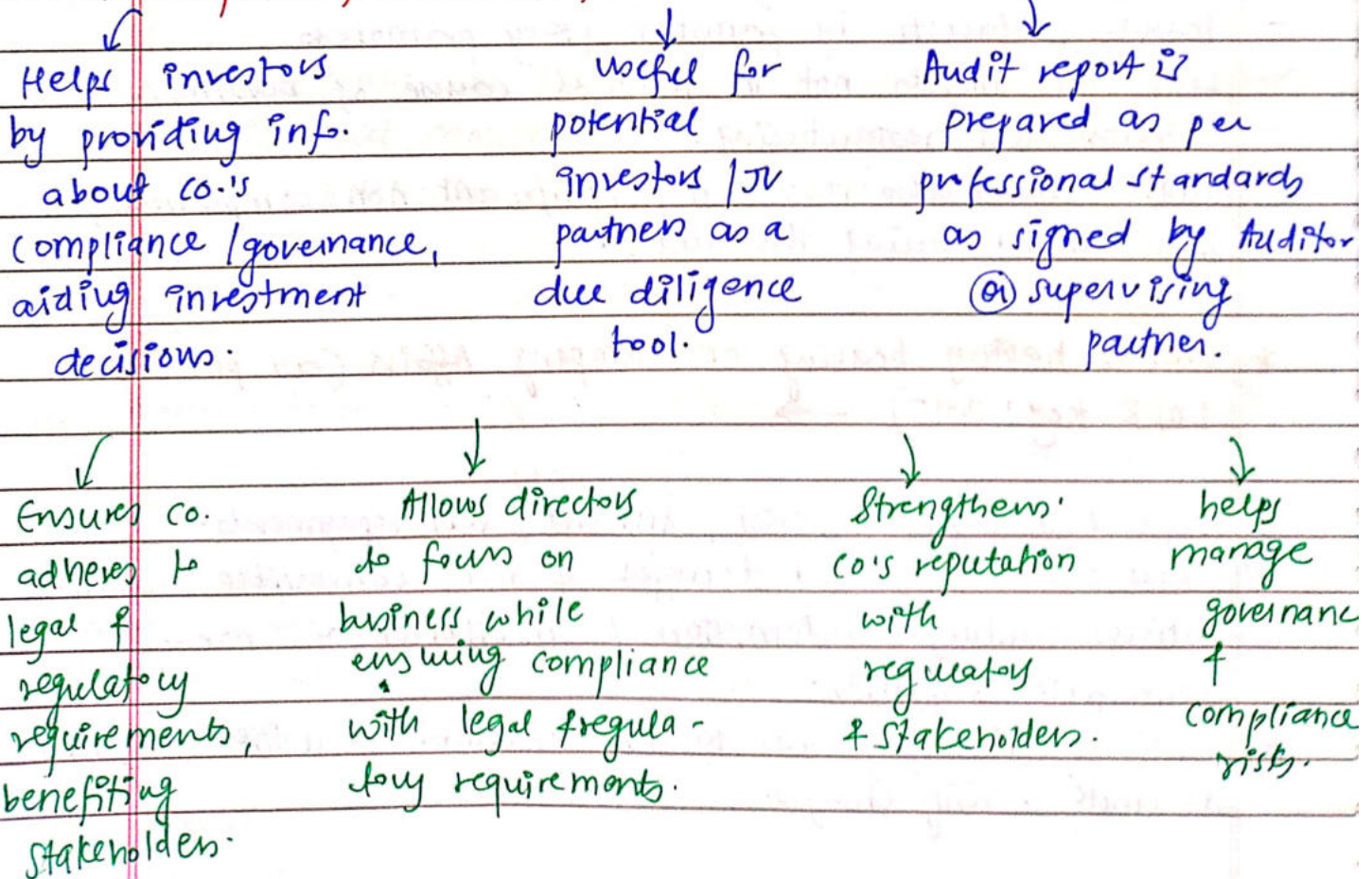
- merger / amalgamation plans
- changes in credit ratings.
- frauds / defaults by promoters / key promoters
- Imp. agreements not in normal course of business.
- Corporate debt restructuring.
- Auditor must also report any significant non-compliance / issues found during the audit.

\* Events having bearing on company Affairs (as per SEBI LODR Reg' 2015) →

- ① Default in paying interest, dividend, debt repayments.
- ② Legal orders preventing transfer of non-convertible securities.
- ③ actions leading to redemption / cancellation of non-convertible securities.
- ④ Issues affecting payments to non-convertible securities or failure to create security charges.

- ⑤ changes in non-convertible securities requiring re-listing on STX.
- ⑥ major business changes, disruptions or start to commercial operations.
- ⑦ Strikes / lockouts impacting payment liabilities
- ⑧ Comments from debenture trustees on non-payment / delays.
- ⑨ payment delays of over 3 months.
- ⑩ failure to create <sup>changes in</sup> asset over time.
- ⑪ Default / rescheduling of debt repayments.
- ⑫ Significant changes in Board that affect control.
- ⑬ changes in credit rating!
- ⑭ Board decisions on interest payments / capital increases
- ⑮ Inf. related to non-convertible debt securities
- ⑯ Frauds / defaults by promoters / KMP / directors.

### \* Impact of Audit Report →



↓  
Increase co.'s reputation by ensuring high compliance standards.

\* "Annexure A"

Form MR-3

Secretarial Audit report for FY ended 31<sup>st</sup> March' 2026.

To,  
The members  
PQR Pvt. Ltd

I/we have conducted the secretarial audit of compliance of applicable statutory provisions and adherence to corporate practices by PQR Pvt. Ltd. This audit provides a reasonable basis for evaluating co.'s compliance and corporate conduct.

Based on the examination of co.'s records, we report our opinion, that the co. has complied with statutory provisions listed here & has proper Board processes & compliance mechanism in place.

Laws & regulations examined:

Companies Act, 2013

Securities Contract (Regulation) Act 1956

Depositories Act 1996

FEMA, 1999

SEBI regulations.

Other applicable laws of the company!

We have also examined compliance with secretarial standards issued by ICSI and listing agreements with STX wherever applicable.

During the period, the co. has complied with all applicable laws & regulations subject to the following observations:

(Mention non-compliance / audit issues)

We further report that:

The Board is properly constituted with a Balance of executive, NED, ID.

The meetings of Board were scheduled with adequate notice and agenda.

The co. has systems in place to ensure compliance with laws & regulations according to its size & operations.

We further declare that during the audit period, company has engaged in following actions:

- Issue of shares / debentures
- Redemption / buyback of securities
- major corporate decisions like mergers etc.

Place:

Signature:

Date:

Signature

Name of PCS

ACS / FCS no.

CP no.

\* Annexure B →  
Format of Annual Secretarial Audit Compliance Report →

Secretarial Compliance Report of PAR Ltd for year ended  
31<sup>st</sup> March 2026.

We have ~~received~~ reviewed the compliance of applicable statutory provisions and adherence to corporate practices by PAR Ltd, having its Registered office at — Nagpur. The review was conducted in a manner that provides a reasonable basis for evaluating entity's compliance and to offer observations.

We have examined:

- Documents provided by listed entity, including filings with STX, website information and other relevant docs.
- compliance with SEBI <sup>Act</sup>, ~~1996~~ 1992 and related circulars, regulations & guidelines.
- Compliance with SCRA, 1956 and related regulations.

We have also examined: ~~Rel~~ Regulations related to:

- LODR, Regulations, 2015
- ICDR Regulations, 2017
- SAST Regulations, 2011
- BB Regulations, 2018.
- Share-based ee benefits & sweat equity Regulations, 2021
- prohibition of insider trading Regulations, 2015.
- add<sup>n</sup> applicable SEBI Regulations.



Place:  
Signature:  
Date:

Name of Pgs. \_\_\_\_\_  
ACS / FCS no. \_\_\_\_\_  
CP no. \_\_\_\_\_  
UDIN . \_\_\_\_\_  
PR No. \_\_\_\_\_