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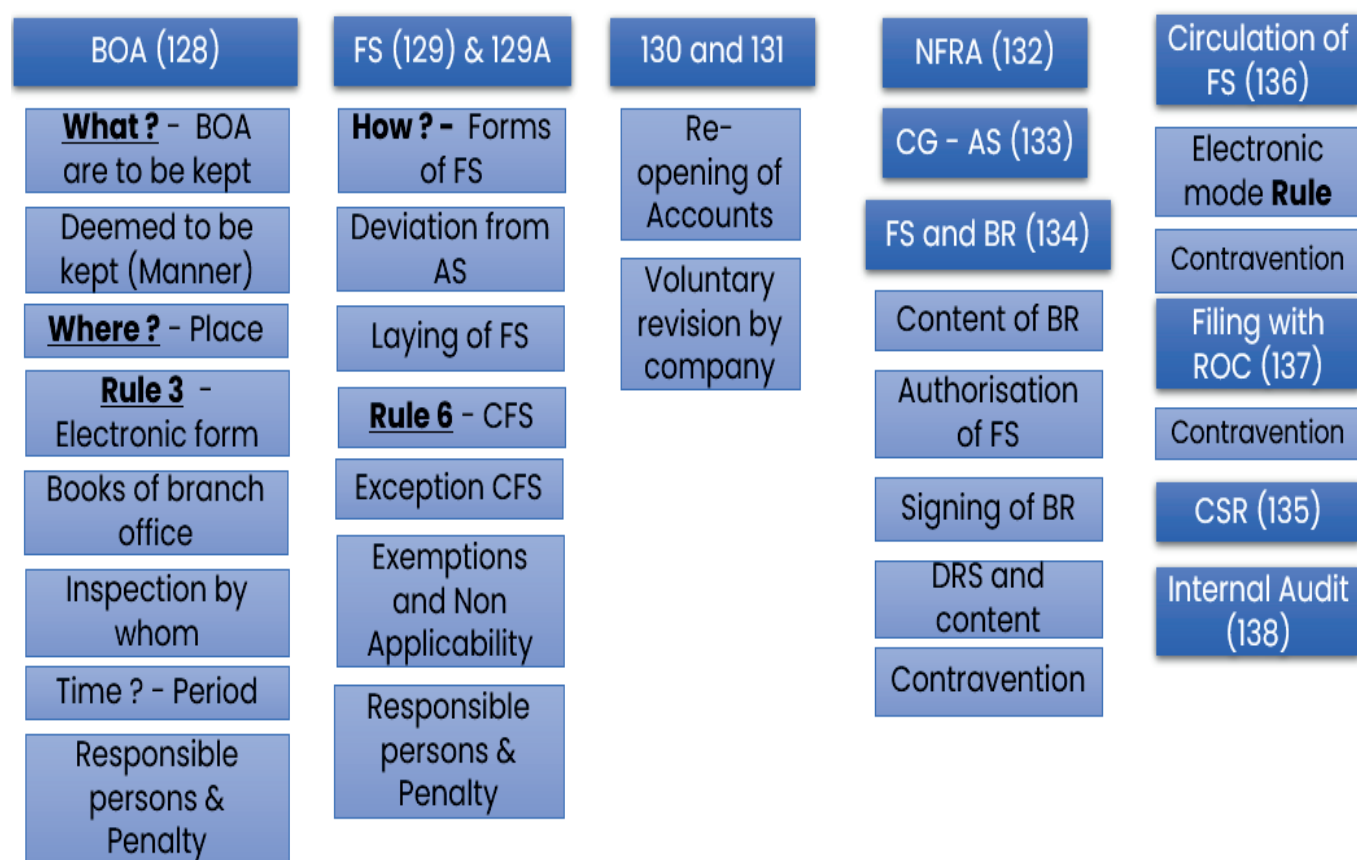
Chapter IX

Accounts of Companies

1. OVERVIEW & INTRODUCTION OF THE CHAPTER

- This chapter explains the provisions of Chapter IX of the Companies Act, 2013
- consisting of sections 128 to 138 dealing with the accounts of companies.
- Directors who are agents of shareholders and acting in fiduciary capacity,
- So they are required to report in order to disclose financial results (financial performance and position through financial results)
- to shareholders so that the shareholders remain aware of the working and affairs of the company.

Following diagram depicts the arrangement of relevant sections -



2. BOOKS OF ACCOUNT, ETC. TO BE KEPT BY COMPANY [Section 128]

Books of Account [Section 2(13)]	● The “books of account” includes records maintained in respect of: ○ All sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place; ○ All sales and purchases of goods and services by the company; ○ The assets and liabilities of the company; and ○ The items of cost as may be prescribed under section 148 (Cost Audit) of the Companies Act, 2013 (“Act”) in the case of a company which belongs to any class of companies specified under that section.
Book and Paper [Section 2(12)]	● The “book and paper” and “book or paper” include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form.
Financial Statement [Section 2(40)]	● The “financial statement” in relation to a company, includes ○ A balance sheet as at the end of the financial year; ○ A profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year; ○ Cash flow statement for the financial year with exception in case of one person company, small company, dormant company and private company (if such private company is a start-up and has not committed a default in filing its financial statements under section 137 of the said Act or annual return under section 92 of the said Act with the Registrar); ● A statement of changes in equity, if applicable; and ● Any explanatory note annexed to, or forming part of, any document referred above.
Financial Year [Section 2(41)]	● The Financial Year, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and ● where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up.

What is a Financial Year for a Company ?

Normal case

April to ending in March every year

Special case

If Co. incorporated between Jan to March
Then 31st March of Next year

If your HSA is Incorporated outside India and

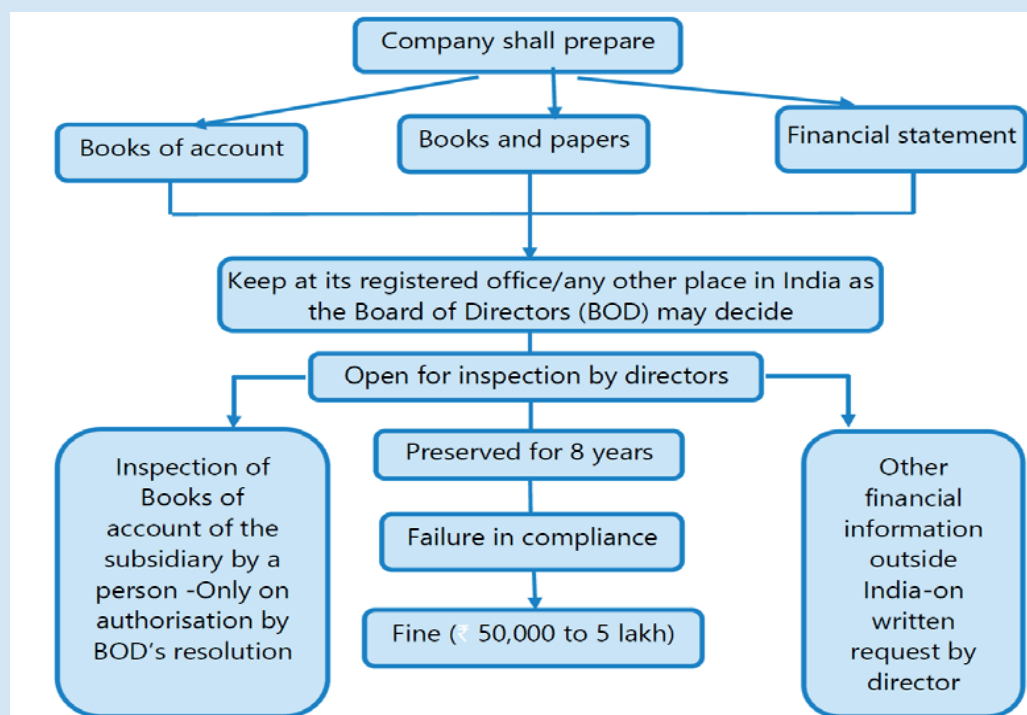
are required to maintain different FY
Then

Apply to CG (RD) Form RD-1 and approval in 30 days and
send the approval copy to ROC in 30 days in INC-28

Example - Mahindra Limited was incorporated as a company on 22nd February 2023. Its first financial year shall comprise of the period ending on the 31st day of the March of the following year i.e. 31st March 2024.

Two-year time from the date commencement of this Act was given to corporates to align their financial year to the provisions contained in 2(41). [Transition period]

Summary



Application for Different Financial Year	Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and which is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on the basis of such application made in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year.
BOOKS OF ACCOUNT SHOULD GIVE A TRUE AND FAIR VIEW AND MUST BE KEPT ON ACCRUAL BASIS AND DOUBLE-ENTRY SYSTEM OF ACCOUNTING	
Section 128(1)	Section 128(1) also requires such books of account shall be kept on accrual basis and according to the double entry system of accounting.
True and fair view	A True and fair view of the state of the affairs means that the financial statements are free from material misstatements and faithfully represents the financial performance and positioning of an entity.
Accrual basis of accounting	Accrual basis of accounting is an accounting assumption, or an accounting concept followed in preparation of the financial statements, which warrants recording income and expenses as they accrue (earned or incurred); opposite to cash system when they are received or paid.
Double entry system of accounting	Double entry system of accounting is a method of recording any transaction of a business in a set of accounts, in which every transaction has a dual aspect of debit and credit and therefore, needs to be posted in at least two accounts. Double aspect enables an effective control of business because all the books of account must balance.
PLACE OF KEEPING BOOKS OF ACCOUNT	- Section 128(1) further requires every company to prepare and keep - - The books of account and - other relevant books and papers and - financial statements at its registered office - But first proviso to sub-section 1 provides that all or any of the books of account may be kept at such other place in India - as the Board of directors may decide.

	- Where such a decision is taken by the Board, the company shall within seven days thereof - file with the registrar a notice in writing as per rule 2A of the Companies (Accounts) Rules, 2014 in form AOC-5 - giving full address of that other place.
MAINTENANCE OF BOOKS OF ACCOUNT IN ELECTRONIC FORM	Second proviso to section 128(1) allows company to keep books of account or other relevant papers in electronic mode as per manner specified in the Rule 3 of the Companies (Accounts) Rules, 2014.
<i>Note : For the purposes of rule 3, the expression “electronic mode” includes electronic form and electronic record as defined in clause (r) and (t) respectively of sub- section (1) of section 2 of the Information Technology Act, 2000.</i>	
Remain accessible in India [Rule 3(1)]	The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India, at all times, so as to be usable for subsequent reference.
Audit trail and edit log [Proviso to Rule 3(1)]	- In order to ensure audit trial, in case of company which uses accounting software for maintaining its books of account, the proviso to rule 3(1) requires that: For the financial year commencing on or after the 1st day of April, 2023: - Every such company (which uses accounting software) shall use only such accounting software: - Which has a feature of recording audit trail of each and every transaction - Creating an edit log of each change made in books of account along with the date when such changes were made - Ensuring that the audit trail cannot be disabled
Retain in original or accurate form [Rule 3(2) and Rule 3(3)]	- Sub-rule 2 requires: - The books of account and other relevant books and papers referred to in sub-rule (1) shall be retained completely in the format in which they were originally generated, sent or received, - Or in a format which shall present accurately the information generated, sent or received - And the information contained in the electronic records shall remain complete and unaltered. Further sub-rule 3 requires: - The information received from branch offices shall not be altered - And shall be kept in a manner where it shall depict what was originally received from the branches.

Proper storage, retrieval and legible display [Rule 3(4) and Rule 3(5)]	• Sub-rule 4 requires: ○ The information in the electronic record of the document shall be capable of being displayed in a legible form. Further sub-rule 5 requires: ○ There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate ○ Such records shall not be disposed of or rendered unusable, unless permitted by law. Proviso to sub-rule 5 requires: ○ The back-up of the books of account and other books and papers of the company maintained in electronic mode, ○ Including at a place outside India, if any, ○ Shall be kept in servers physically located in India on a daily basis.
Intimation to Registrar – Information of Service Provider [Rule 3(6)]	• The company shall intimate to the Registrar on an annual basis at the time of filing of financial statement following relevant information related to service provider: • The name of the service provider; • The internet protocol (IP) address of service provider; • The location of the service provider (wherever applicable); • Where the books of account and other books and papers are maintained on cloud, such address as provided by the service provider. Where the service provider is located outside India: • The name and address of the person in control of the books of account and other books and papers in India.
BOOKS OF ACCOUNT - BRANCH OFFICE [SUB-SECTION 2]	Where a company has a branch office in or outside India, it shall be deemed to have complied with the provisions of sub-section (1) if- ○ Proper books of account relating to the transactions effected at the branch office are kept at that office, and ○ Proper summarised returns are sent on periodical basis by branch office to the company at its registered office or other place (referred to sub-section 1). ○ As per Rule 4(1) of the Companies (Accounts) Rules, 2014, the summarised returns of the books of account of the company kept and maintained outside India shall be sent to the registered office at quarterly intervals, which shall be kept and maintained at the registered office of the company and kept open to directors for inspection.

INSPECTION BY DIRECTORS [Sub-section 3 & 4]	• In case of books of account and other books and papers maintained by the company within India: Any director can inspect the books of account and other books and papers maintained by the company within India during business hours. Hence same shall be kept open for inspection at the registered office of the company or at such other place in India. • In the case of financial information, if any, maintained outside the country: ○ Where any other financial information maintained outside the country is required by a director, the director shall furnish a request to the company setting out the full details of the financial information sought, the period for which such information is sought under Rule 4(2) of the Companies (Accounts) Rules, 2014. ○ Sub-rule 3 requires the company shall produce such financial information to the director within fifteen days of the date of receipt of the written request.
<i>Note: The financial information (referred in sub-rule 2 and 3 above) shall be sought for by the director himself and not by or through his power of attorney holder or agent or representative.</i> <i>Note: As per sub-section 4, where an inspection is made under sub-section 3, the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection which the company may reasonably be expected to give.</i>	
Inspection in respect of any subsidiary company	The proviso to sub-section 3 provides that a person can inspect the books of account of the subsidiary, only on authorisation by way of the board resolution.
Period for preservation of books [Sub-section 5]	The books of account, together with vouchers relevant to any entry in such books, are required to be preserved in good order by the company for a period of not less than eight years immediately preceding the relevant financial year.
Persons responsible and Penalty [Sub-section 6]	Following shall be punishable with fine not less than fifty thousand rupees, which may extend to five lakh rupees; if duty-bound to comply with provisions of this section (Section 128 of this Act) but contravene such provisions: ○ Managing Director defined under section 2(54) ○ Whole-Time Director, in charge of finance defined under section 2(94)

	○ Chief Financial Officer defined under section 2(19) ○ Any other person of a company charged by the Board with duty of complying with provisions of section 128.
Note : ● <i>In case of a company incorporated less than eight years before the financial year, the books of account for the entire period preceding the financial year together with the vouchers shall be so preserved.</i> ● <i>As per proviso to sub-section 5, where an investigation has been ordered in respect of a company under Chapter XIV of the Act related to inspection, inquiry or investigation, the Central Government may direct that the books of account may be kept for such period longer than 8 years, as it may deem fit and give directions to that effect.</i>	
Example: <i>Statement – Vouchers need not to be preserved as part of requirement of preserving books for period of 8 years.</i> Answer False Reason: <i>As per section 128(5) of the Companies Act, 2013, the books of account, together with vouchers relevant to any entry in such books, are required to be preserved in good order by the company for a period of not less than eight years immediately preceding the relevant financial year.</i> Example: <i>Can XYZ Limited maintain its books of account on cash basis?</i> Answer: <i>The Companies Act, 2013 vide section 128(1) requires every company to prepare books of account and other relevant books and papers and financial statement for every financial year on accrual basis and according to double entry system of accounting. No exception has been given by the Act to any class or classes of companies from the above requirement. Hence XYZ Limited cannot maintain its books of account on cash basis.</i>	
Refer concept clarity slide at the end of the chapter on Section 128	

1. Ganesh Company Ltd, a public company incorporated under the Companies Act, 2013 has Mr. Jay- Director, Mr. Sagar – Independent Director, Mr. Abhishek – Nominee Director and Mr. Yash – Whole time director. Mr. Abhishek wants to inspect the books of account of Shankar Company Limited, the subsidiary of Ganesh Company Limited. You are required to state whether Mr. Abhishek is eligible to inspect the books of accounts of Ganesh Company Limited?
 - a. Yes, Mr. Abhishek can inspect the books of account of Shankar Company limited only on authorization of the public financial institution on whose behalf he has been so appointed in the board of the Ganesh Company Ltd.
 - b. No. Mr. Abhishek being a nominee director can only inspect the books of account of Ganesh Company Ltd and not its subsidiary company.
 - c. Yes, Mr. Abhishek can inspect the books of account of Shankar Company limited only on authorization by way of resolution of the board of directors.
 - d. Yes, Mr. Abhishek can inspect the books of account of Shankar Company limited only on authorization by way of resolution of the members holding not less than 25% of the paid up share capital of the company.
2. A company can prepare its books of account on:
 - a. Accrual basis and according to Double Entry system
 - b. Cash basis and according to Double Entry system
 - c. Accrual basis and according to Single Entry system
 - d. Cash basis and according to Single Entry system
3. The registered office of ABC Ltd. is situated in a classified backward area of Maharashtra. The company has its corporate office in Mumbai which is conveniently located. The company can maintain its books of account at:
 - a. Corporate Office
 - b. Registered Office
 - c. Any place in India as the Board of Directors may decide
 - d. Any place in world as the Board of Directors may decide
4. The Board of Directors of ABC Ltd. resolve to maintain its books of account at a place other than its registered office. It shall file a notice with the Registrar in Form No._____ within of decision of the Board.
 - a. AOC-5, 7 Days
 - b. AOC-3, 15 Days
 - c. AOC-1, 7 Days
 - d. AOC-4, 30 Days
5. Where a company is maintaining its books in electronic mode, it shall intimate to Registrar the details of service provider on:
 - a. Annual basis at filing of financial statements
 - b. Quarterly basis
 - c. Monthly basis
 - d. Fortnightly basis

6. Mr. D is director of XYZ Ltd. and wants to inspect the books of account of the company through his agent. Decide the correct option from below:
 - a. Mr. D has absolute right to inspect the books of account of company either personally or through his agent.
 - b. Mr. D can inspect through agent only if the company has no objection to the person chosen as agent.
 - c. Mr. D can inspect the books of account only himself and he cannot do so through his agent.
 - d. Mr. D can inspect the books of account through his agent only if Court permits him to do so.
7. Mr. D is director of XYZ Ltd. and wants to inspect the books of account of the company for its branch office situated in London. Decide the correct option from below:
 - a. The company shall provide summarized quarterly returns of the books of account of London branch, maintained at the registered office of the company.
 - b. Any other financial information maintained outside the country shall be provided by the company within 15 days of receipt of request from director.
 - c. The company shall provide above information for inspection only if the director himself makes the requisition and not through any agent or attorney.
 - d. All of the above.
8. Mr. D is director of XYZ Ltd. and wants to inspect the books of account of ABC Ltd., a subsidiary company of XYZ Ltd., although Mr. D is not a director on the Board of ABC Ltd. Decide the correct option from below:
 - a. The inspection of books of account of ABC Ltd. shall be allowed only if the Board of ABC Ltd. authorises such inspection.
 - b. The inspection of books of account of ABC Ltd. shall be allowed only if the Board of XYZ Ltd. authorises such inspection.
 - c. The inspection of books of account of ABC Ltd. cannot be allowed since Mr. D is not a director in the same company.
 - d. The inspection of books of account of ABC Ltd. cannot be allowed since there is no provision in law for inspection of books of subsidiary.
9. Superb Limited is a company which has no specific regulation in its Articles of Association regarding inspection of books by its members. Mr. M, a member of the company wants to inspect the books of account of Superb Limited. Which of the following statement(s) is correct?
 - a. Mr. M can inspect the books of account in the manner determined by the Board.
 - b. Mr. M can inspect the books of account if authorised by the Board or by the company in general meeting.

- c. Both (a) and (b)
 - d. None of the above. A member of the company has no right of inspection of company's books of account.
10. The books of account of every company together with the vouchers relevant to any entry in such books of account, shall be kept in good order:
- a. Relating to a period of not less than 8 financial years immediately preceding a financial year.
 - b. Relating to a period of not less than 8 financial years including the current financial year.
 - c. Relating to a period of not less than 8 financial years immediately preceding the previous financial year.
 - d. Relating to a period of not less than 8 calendar years immediately preceding a financial year.
11. XYZ Ltd., a pharmaceutical company was having its manufacturing plant in Dehradun, Uttarakhand. The address of its registered office as informed to the Registrar of Companies was of one of its director's office, situated at Mumbai, Maharashtra. To comply with the

provisions of the Companies Act, 2013 it was keeping all its books of accounts, other relevant papers, and financial statements at its registered office. After some time, the Directors of the company found it difficult to maintain such books etc. at the registered office, so in a duly convened meeting of the Board of Directors, it was decided that the books of accounts and other relevant papers would be kept at the office situated in Dehradun. Within which time period the Registrar must be given notice about such decision of the Board'? (Nov 23)

- a. Within 30 days from the date of taking a decision by the board.
- b. Within 15 days from the date it starts maintaining its books of accounts at the office situated at Dehradun.
- c. Within 30 days from the date it starts maintaining its books of accounts at the office situated at Dehradun.
- d. Within 7 days from the date of taking such decision by the board.

3. FINANCIAL STATEMENT [Section 129]

As per sub-section 1, the financial statement shall:

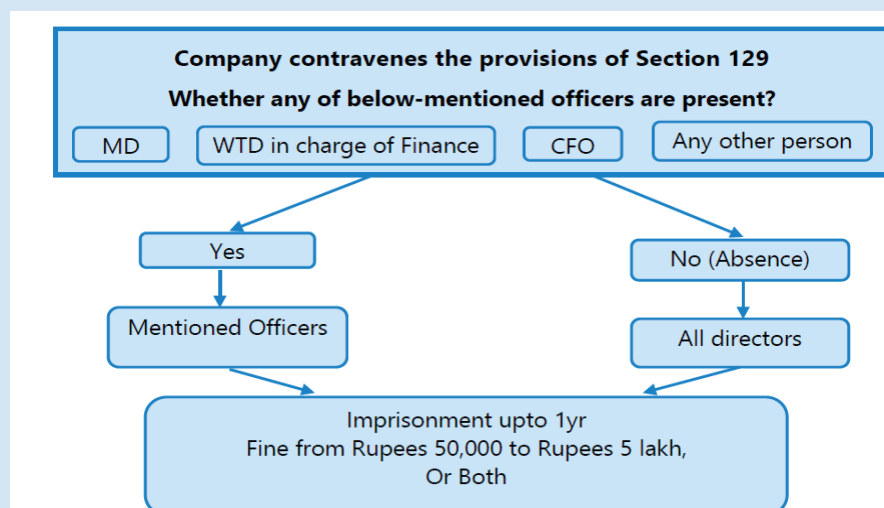
- Give a true and fair view of the state of affairs of the company or companies,
- Comply with the accounting standards notified under section 133, further the items contained in such financial statements shall be in accordance with the accounting standards and
- Shall be in the form or forms as may be provided for different class or classes of companies in Schedule III

Divisions of Schedule III	• Schedule III has been divided into two divisions: ○ Division I deals with financial statement for a company whose financial statement are required to comply with the Companies (Accounting Standards) Rules, 2021. ○ Division II deals with financial statements for a company whose financial statement is required to comply with the Companies (Indian Accounting Standards) Rules, 2015.
Exemptions from Section 128(1)	• Nothing contained in sub-section 1 to section 128 shall apply to any: ○ Insurance company or ○ Banking company or ○ Company engaged in the generation or supply of electricity, or ○ Other class of company for which a form of financial statement has been specified in or under the Act governing such class of company.
Disclosure exemption under other Acts	• Further, if matters which are not required to be disclosed by Act governing the companies specified at point 2 above such as: ○ Insurance Act, 1938; ○ Insurance Regulatory and Development Authority Act, 1999; ○ Banking Regulation Act, 1949; or ○ Electricity Act, 2003), then non-disclosure of such matters shall not be considered as not presenting a true and fair view of the state of affairs of such company.
Reference to financial statements [Section 129]	For the purposes of section 129 - • Any reference to the financial statement shall include any notes annexed to or forming part of such financial statement, • giving information required to be given and allowed to be given in the form of such notes under this Act.

LAYING OF FINANCIAL STATEMENTS AT AGM [SUB-SECTION 2]	
At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.	
CONSOLIDATED FINANCIAL STATEMENTS [SUB-SECTION 3]	
Requirement to prepare Consolidated Financial Statement (CFS)	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 (CFS) of the company and of all the subsidiaries, associate companies and joint ventures 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).
Salient features of financial statement of Subsidiaries, Associates and JVs – Form [First proviso to Sub-section 3 read with Rule 5]	• The statement containing the salient feature of the financial statement of a company's: • Subsidiary or subsidiaries, • Associate company or companies and • Joint venture or ventures under the first proviso to sub-section (3) of section 129 shall be in Form AOC-1 as per Rule 5 of the Companies (Accounts) Rules, 2014.
Manner of consolidation of Accounts [Second proviso to Sub-section 3 read with Rule 6]	• Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed under Rule 6 of the Companies (Accounts) Rules, 2014, as explained below: • Manner of consolidation of Accounts - The consolidation of financial statements of the company shall be made in accordance with the provisions of Schedule III of the Act and the applicable accounting standards.
Exception to manner stated above	• A company covered under sub-section (3) of section 129 which is not required to prepare consolidated financial statements under

	the Accounting Standards, it shall be sufficient if the company complies with provisions of consolidated financial statements provided in Schedule III of the Act. - For a company which does not have a subsidiary or subsidiaries but has one or more associate companies or Joint Ventures or both, will not be required to comply with this rule of consolidation of financial statements in respect of associate companies or joint ventures or both, as the case may be, only for the financial year commencing from the 1st day of April, 2014 and ending on the 31st day of March, 2015. - Nothing in this rule shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India commencing on or after 1st April 2014.
Exemptions from preparation of CFS	- The preparation of consolidated financial statements by a company is not required if it meets the following conditions: - It is a wholly owned subsidiary, or is a partially owned subsidiary of another company and all its other members, including those not otherwise entitled to vote, having been intimated in writing and for which the proof of delivery of such intimation is available with the company, do not object to the company not presenting consolidated financial statements; - It is a company whose securities are not listed or are not in the process of listing on any stock exchange, whether in or outside India; and - Its ultimate or any intermediate holding company files consolidated financial statements with the Registrar which are in compliance with the applicable Accounting Standards.
Preparation, Adoption and Audit of Consolidated Financial Statements [Sub-section 4] The provisions applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, also apply to the consolidated financial statements.	
Disclosure of Deviation from Accounting Standards Along with Reason and Effect Thereof [Sub-section 5]	Without prejudice to sub-section (1), where the financial statements of a company do not comply with the accounting standards referred to in sub-section (1), the company shall disclose in its financial statements:—

	• The deviation from the accounting standards • The reasons for such deviation • The financial effects, if any, arising out of such deviation
Exemption by Central Government in Public Interest [Sub-section 6]	The Central Government may, on its own or on an application by a class or classes of companies, by notification, exempt any such class or classes of companies from complying with the provisions of this section or the rules made thereunder: • If it is considered necessary in public interest • Exemption may be unconditional or subject to such conditions as specified in the notification
<i>Note: Section 129 shall not apply to the Government Companies engaged in defence production to the extent of application of relevant Accounting Standard on segment reporting</i> <i>The exceptions, modifications and adaptations provided above shall be applicable only to those Government Companies which has not committed a default in filing its financial statements under section 137 of the said act or annual return under section 92 of the said act with the registrar</i>	
Penalty for Contravention [Sub-section 7]	• If a company contravenes the provisions of this section, the following persons shall be punishable: ○ Managing Director ○ Whole-time Director in charge of finance ○ Chief Financial Officer • Any other person charged by the Board with the duty of complying with this section • In their absence, all directors shall be liable Punishment: ○ Imprisonment: Up to 1 year OR ○ Fine: Not less than ₹50,000 but may extend to ₹5,00,000 OR ○ Both imprisonment and fine



Example: Modern Furniture Limited (MFL) is required to prepare the financial statement that comply with accounting standards and shall be in form specified in Schedule III. But the financial statement prepared and presented are not in compliance with applicable accounting standards, therefore MFL is required to disclose which of following:

i. Deviation

ii. Reason of deviation

iii. Financial effects arise out of such deviation.

Options

Only i

Only i and ii

Only i and iii

All of i, ii, and iii

Answer: d

Reason: Where the financial statements of a company, which required to but do not comply with the accounting standards, the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

Refer concept clarity slide at the end of the chapter on NFRA

1. Kamy Ltd. is incorporated on 3rd January, 2021. As per the Companies Act, 2013, what will be the financial year for the company: (Mar. 22) (2 Marks)
 - a. 31st March, 2021
 - b. 31st December, 2021
 - c. 31st March, 2022
 - d. 30th September, 2022
2. Which of the following is not part of financial statements of a company?
 - (i) A balance sheet as at the end of the financial year.
 - (ii) A profit and loss account or an Income and Expenditure account for the financial year.
 - (iii) Cash flow statement for the financial year.
 - (iv) A statement of changes in equity, if applicable.
 - (v) Any explanatory note annexed to, or forming part of (i) to (iv) above.
 - (vi) Report of the Auditor.
 - (vii) Report of the Board of Directors.
 - a. (i) to (v)
 - b. (i) to (iv)
 - c. (iv) to (vii)
 - d. (vi) to (vii)
3. A cash flow statement need not be prepared as part of the financial statements of following company/ companies:
 - a. One Person Company
 - b. Small Company
 - c. Dormant Company
 - d. All of the above
4. Which of the following company/ companies need not prepare its financial statements according to Schedule III:
 - a. Insurance, Banking and Electricity companies
 - b. Company incorporate under special Act where form of financial statement is prescribed under that Act.
 - c. Both (a) and (b)
 - d. None of the above. All companies are required to follow Schedule III.
5. Avon Software Limited is a public listed company. The financial statements of the company do not comply with the accounting standards prescribed under Section 133. You as the CFO of the company should advise which of the following disclosures in the financial statements of the company?
 - a. Reasons and financial effects (if any) of such non-compliance.
 - b. Date of such non-compliance.
 - c. The person authorising such non-compliance.
 - d. Management discussion of such non-compliance.

4. PERIODICAL FINANCIAL RESULTS [Section 129A]

CG may require such class or classes of UNLISTED COMPANIES (LISTED – SEBI lays down rules for Quarterly declaring results)

- Prepare Financial results of the company on PERIODIC BASIS
- Periodic basis means **FOR LESS THAN A YEAR**
- BOD approval → Complete AUDIT → Limited Review (LR)
- COPY TO ROC WITHIN 30 DAYS OF COMPLETION OF THE RELEVANT PERIOD (Q)

Note: Students are advised to take note:

At present there are approximately over 11 lakh unlisted companies actively operating in India. Some of these are really large enough with widely-spread interests, that make corporate governance critical issue in case of such unlisted companies as well. Hence this new section inserted vide Amendment Act of 2020 aims to improve corporate governance of certain class or classes of unlisted companies by requiring them to prepare financial results on 'periodic' basis in addition to annual submission of financial reports.

Mind it, no rule has been prescribed or notification has been made as on date (30.04.2024) under the said section.

5. RE-OPENING OF ACCOUNTS ON COURT'S OR TRIBUNAL'S ORDERS [Section 130]

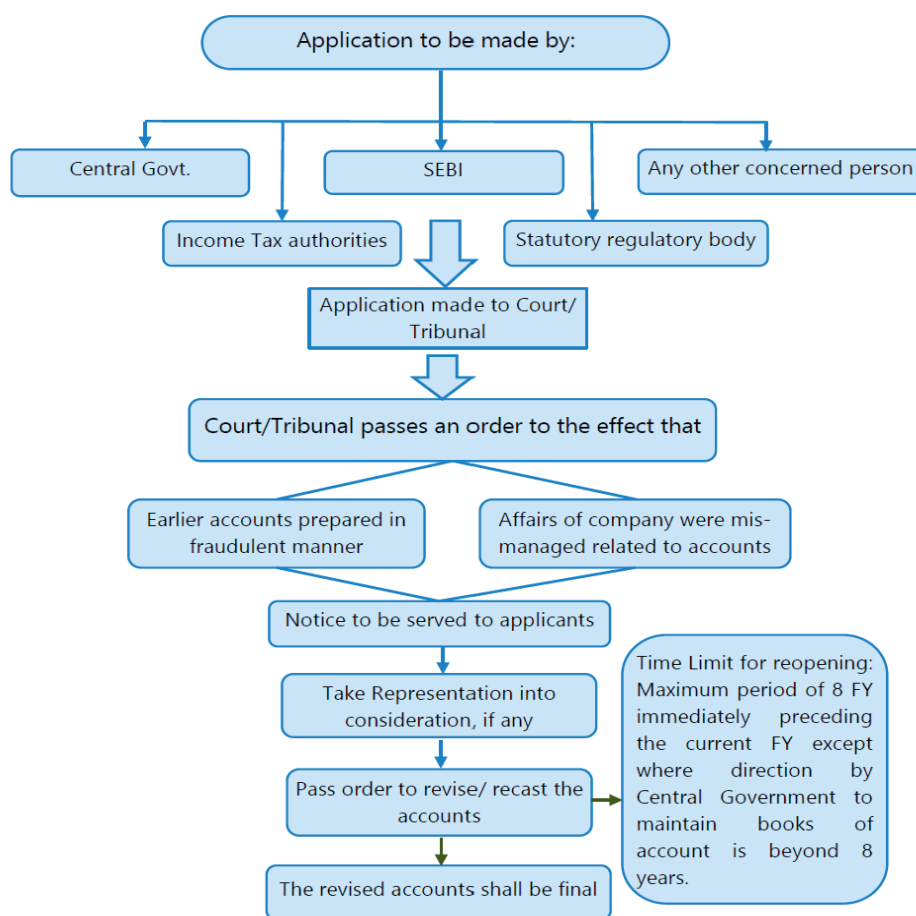
This section seeks to provide for the re-opening of books of account and recasting of financial statements.

Court/Tribunal Order for Re-opening of Accounts [Sub-section 1]

A company shall not:

- re-open its books of account and recast its financial statements,
- Unless an application in this regard is made by:
 - The Central Government,
 - The Income-tax authorities,

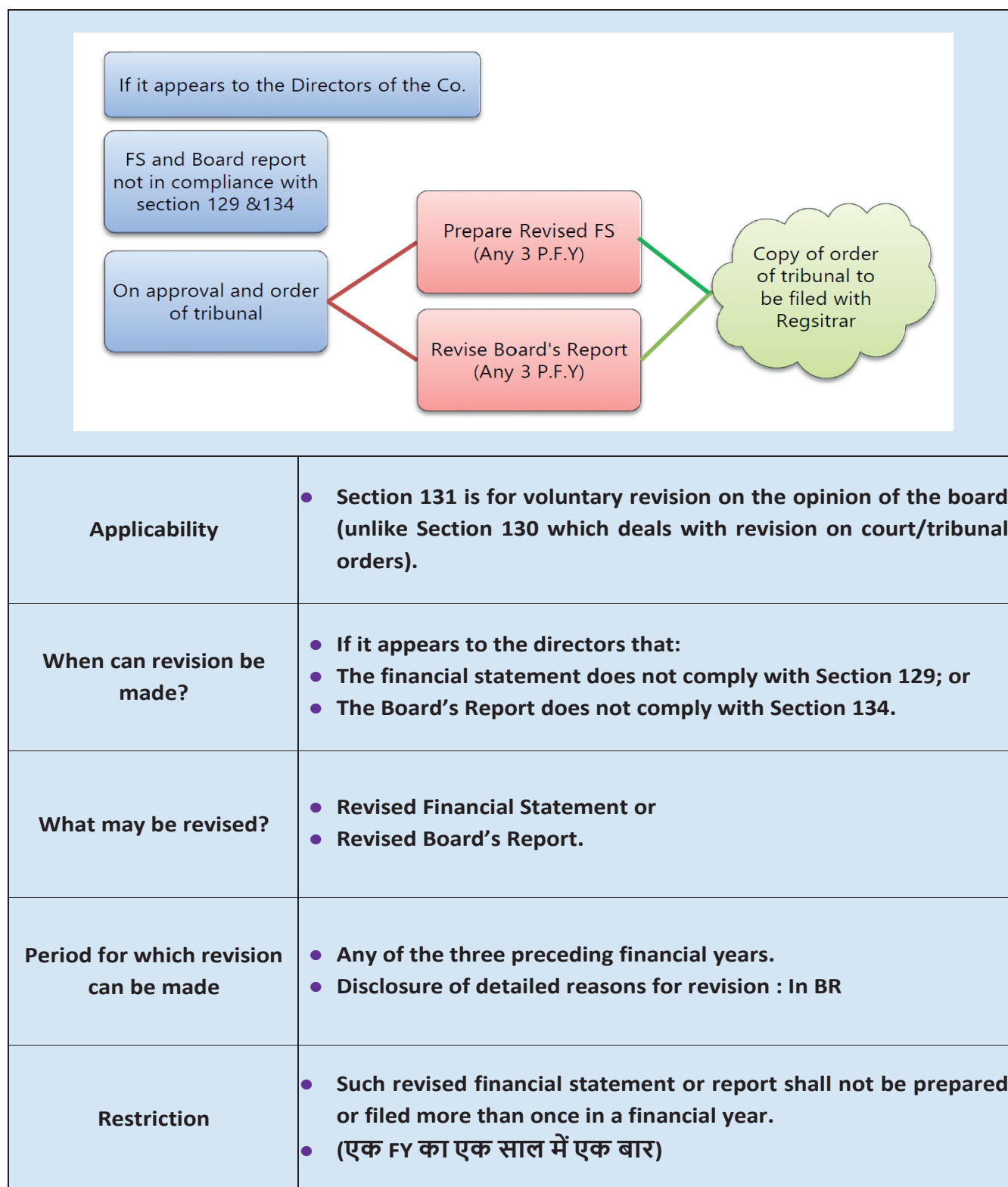
	○ The Securities and Exchange Board of India (SEBI), ○ Any other statutory regulatory body or authority or ○ Any person concerned And an order is made by a court of competent jurisdiction or tribunal to the effect that the relevant earlier accounts were prepared in a fraudulent manner; or ○ The affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements. ○ To the court or Tribunal in the form NCLT-9
GROUND • Relevant earlier accounts were prepared in fraudulent manner OR • Affairs were mismanaged during the relevant period.	
Notice and Representation [Proviso to Section 130(1)]	This requires the Court or Tribunal, as the case may be, shall: ● Give notice to the Central Government, Income-tax authorities, SEBI, or any other statutory regulatory body or authority concerned, or any other person concerned; and ● Take into consideration the representations, if any, made by them before passing any order under this section.
Finality of Revised Accounts [Sub-section 2]	● This is a sort of saving clause that provides, without prejudice to the provisions of this Act, the accounts so revised or re-casted shall be final.
Time Limit [Sub-section 3]	● Order of re-opening of books of account shall only relate to 8 financial years immediately preceding the current financial year. ● But where a direction has been issued by the Central Government (under the proviso to section 128(5)) for keeping of books of account for a period longer than eight years, ● the books of account may be ordered to be re-opened within such longer period.



6. VOLUNTARY REVISION OF FINANCIAL STATEMENTS OR BOARD'S REPORT [Section 131]

This section seeks to provide for the re-opening of books of account and recasting of financial statements.

Content of Board's Report



Approval required from and in ?	• Tribunal (NCLT). • Form No. NCLT-1.
Timeline for application	• Within 14 days of the decision taken by the Board.
Filing of Tribunal order	• Certified copy of the Tribunal's order to be filed with Registrar of Companies (ROC) within 30 days of receipt.
Rule 77 – NCLT Rules, 2016: Details to be Included in Application	
Required Details in Application	
• Financial year or period to which such accounts relate	
• Name and contact details of Managing Director, CFO, Directors, CS, and officer responsible for books of account	
• If audited, name and contact details of auditor/former auditor	
• Copy of Board resolution authorising revision	
• Grounds for seeking revision	
• Disclosure if majority of directors or auditor changed before decision to apply under section 131	
Advertisement and Hearing Procedure	
Advertisement	• Company shall advertise the application at least 14 days before the date of hearing.
Notice to Auditor	• Tribunal shall issue notice to the auditor of the original financial statements and hear him.

Tribunal's Powers	• Tribunal may pass appropriate orders after considering:• • Application • Hearing the auditor • Hearing other persons
Notice to Authorities	• As per first proviso to Section 131(1), Tribunal shall also give notice to: • Central Government • Income Tax Authorities And • consider their representations before passing the order.
Post Tribunal Approval Procedure	
General Meeting	• May be called to adopt revised financial statements.
Newspaper Notice	• Notice of general meeting + reasons for revision to be published: - ○ In English newspaper ○ In Vernacular language
Board's Report Disclosure	• As per third proviso to Section 131(1), detailed reasons for revision to be disclosed in Board's Report of the relevant financial year.
Documents for Consideration in GM	• Revised Financial Statements • Statement of Directors • Statement of Auditors
Filing after GM	• Revised financial statements/Board's Report to be filed with ROC within 30 days of GM approval.
Scope of Revisions – Sub-section (2)	
If previous financial statements or Board's Report have already been:- • Sent to members • Delivered to Registra • Laid before GM Revisions must be confined to: • Corrections for non-compliance with Section 129 • Corrections for non-compliance with Section 134 • Necessary consequential alterations only	

1. ABC Limited has its shares listed on a recognized stock exchange in India. During the current financial year ending on 31st March 2021, the securities and exchange board of India (SEBI) has found some irregularities in the filings made by the company. Accordingly, SEBI proposes to make an application to the Tribunal for reopening of the books of accounts of the Company. You, as an expert, are called upon by SEBI to advise with which last financial year for reopening of books of accounts an application can be made?

(April 22)(2 Marks)

- a. 2016-2017
 - b. 2014-2015
 - c. 2011-2012
 - d. 2012-2013
2. During the half year ended September 2021, the board of directors (BOD) of New Era Limited has made an application to the Tribunal for revision in the accounts of the company for the financial year ended on March 2019. Further during the year ended March 2022, the BOD has again made an application to the Tribunal for revision in the board's report pertaining to the year ended March 2021. You are required to state the validity of the acts of the Board of directors.
- a. The act of the BOD is valid only to the extent of application made for revisions in accounts as board's report are not eligible for revision.
 - b. The act of the BOD is valid as application made for revision in the accounts and board's report pertains to two different financial year.
 - c. The act of the BOD is invalid as the law provides for only one time

application to be made in a financial year for revision of accounts and boards report.

- d. The act of the BOD is invalid as to the application made for revision in accounts pertains to a period beyond 2 years immediately preceding the year 2022. The application made for revision in the Board report is however valid in law.

(2 Marks) (MTP Oct. 22)

3. A company shall not reopen its books of account and not recast its financial statements, unless an application in this regard is made by:
- a. Central Government or Income tax authorities or SEBI or any other statutory regulatory body
 - b. Court or Tribunal
 - c. Both (a) and (b)
 - d. Either (a) or (b)
4. The Court or Tribunal can make order under Section 130 for revision/recast in respect of Books of account of a company. Relating to which period such order can be made?
- a. Within 8 financial years immediately preceding the current financial year.
 - b. Earlier than 8 financial years immediately preceding the current financial year, if a direction has been issued by the Central Government under Section 128(5) for keeping of books of account for a period longer than 8 years.
 - c. Both (a) and (b)
 - d. None of the above

5. A company may voluntarily revise its financial statements or the Board's Report under Section 131 of the Companies Act, 2013. Relating to which year such revision can be made?
- Any 3 financial years immediately preceding the current financial year.
 - Any 8 financial years immediately preceding the current financial year.
 - Any financial year earlier than 8 financial years immediately preceding the current financial year, if a direction has been issued by the Central Government under Section 128(5) for keeping of books of account for a period longer than 8 years.
 - None of the above

7. CONSTITUTION OF NATIONAL FINANCIAL REPORTING AUTHORITY - NFRA [Section 132]

CONSTITUTION OF NFRA - [Sub-section 1] The Central Government may, by notification, constitute the National Financial Reporting Authority (NFRA) to provide for matters relating to accounting and auditing standards under this Act.	
Date of Constitution & HQ	NFRA was constituted on 1st October 2018, with its head office at New Delhi (as per sub-section 12).
Applicability (Rule 3 of NFRA Rules, 2018)	NFRA's powers to monitor, enforce, oversee, and investigate apply to auditors of the following: - Listed companies (India or abroad) - Unlisted public companies with: - Paid-up capital $\geq$ ₹500 crore, OR - Turnover $\geq$ ₹1,000 crore OR - Loans/Debentures/Deposits $\geq$ ₹500 crore (as on 31st March of previous FY) - Insurance, banking, electricity, or companies under special Acts or incorporated by an Act (Sec 1(4)(b)–(f)) - Any body corporate/company/person referred by Central Government in public interest - Foreign subsidiaries/associates of above entities if income/net worth > 20% of consolidated income/net worth of the Indian parent

Functions & Duties [Sub-sections 1A and 2]	NFRA performs its functions through divisions (as prescribed). As per Section 132(2) and Rules 4, 6 to 9 of NFRA Rules, 2018, NFRA shall: ● Protect public interest and interests of investors, creditors, etc. by ensuring high quality accounting and auditing standards. ● Maintain auditor details of companies governed by NFRA ● Recommend accounting/auditing standards to CG ● Monitor and enforce compliance with such standards ● Oversee quality of audit services and suggest improvements ● Promote awareness about standards ● Cooperate with national and international audit regulators ● Perform other related or necessary duties
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Note on NERA Rules & Provisions

Rule 6 – Recommending Accounting/Auditing Standards

For recommending standards to the Central Government:

- *NFRA shall receive proposals from ICAI (new standards or amendments).*
- *NFRA may ask ICAI for more details, if needed.*
- *NFRA will review ICAI's inputs and then make its recommendation to the Central Government.*

Rule 7 – Monitoring Compliance with Accounting Standards

NFRA may:

- *Review financial statements of companies/bodies corporate.*
- *Ask for documents, explanations, or personal presence of company officers/auditors.*
- *Publish its findings of non-compliance on its website — unless public interest requires keeping it confidential (reasons to be recorded in writing).*
- *Start investigations or enforcement if a violation of accounting standards is found or suspected.*

Rule 8 – Monitoring Compliance with Auditing Standards

NFRA may:

- *Review audit working papers, plans, and communications.*
- *Check quality control systems of auditors and how they are documented.*
- *Test audit and supervisory procedures, if needed.*
- *Ask auditors to report on their internal governance, reputation safeguards, and risk management.*
- *Seek more info or personal presence of auditors.*

- *Carry out these tasks through qualified officers/experts.*
- *Publish findings unless it's against public interest (reasons must be recorded).*
- *Keep confidential info private unless disclosure is in public interest.*
- *Send confidential reports directly to the Central Government.*
- *Investigate violations of law or professional standards by auditors*

Rule 9 – Audit Quality Improvement Measures

NFRA may:

- *Direct auditors to improve audit quality (e.g., change in processes, controls, reports) and give deadlines.*
- *Auditors must comply and send a report to NFRA explaining how they followed the directions.*
- *NFRA will monitor progress and take action based on the improvements.*
- *NFRA may refer cases to Quality Review Board (QRB) or ask for reports/information from QRB.*
- *NFRA may take help from experts for oversight and monitoring.*

Power of Central Government

- *The Central Government can delegate any of its powers/functions to NFRA except the power to make rules.*
- *This delegation is done by notification, and may include conditions, limits, or restrictions.*

Section 132(2) – Overriding Effect

- *The provisions of NFRA override any other law, in case of conflict.*

Composition [Sub-sections 3, 3A, 3B]	● NFRA shall consist of a Chairperson (expert in accountancy/auditing/finance/law) and up to 15 members (part-time or full-time) ● Each division shall be led by the Chairperson or a full-time member authorized by him/her ● An executive body shall include the Chairperson and full-time members ● Appointments made by CG as per NFRA (Appointment & Terms) Rules, 2018 ● Chairperson/members must declare no conflict of interest or lack of independence ● Full-time members cannot associate with any audit/consulting firm during term and for 2 years after leaving office
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Part-Time Members (Ex-officio and Others)	Following are appointed as part-time members: ● MCA – Officer not below Joint Secretary (ex-officio) ● CAG – Officer not below Accountant General or Principal Director (ex-officio) ● RBI – Officer not below Executive Director (ex-officio) ● SEBI – Officer not below Executive Director (ex-officio) ● President, ICAI (ex-officio) ● Chairperson, ICAI Accounting Standards Board (ex-officio) ● Chairperson, ICAI Auditing and Assurance Standards Board (ex-officio) ● Two experts in accountancy, auditing, finance or law
<i>Note: No other institute or body shall initiate or continue any proceedings in such matters of misconduct where the NFRA has initiated an investigation under this section.</i> <i>For the purposes of this sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it as given under section 22 of the Chartered Accountants Act, 1949.</i> <i>Sub-section 4 has overriding effects anything contained in any other law for the time being in force.</i>	
Support Staff [Sub-section 11]	● The Central Government may appoint a Secretary and other employees as needed for NFRA's efficient functioning. ● Their terms of service shall be as prescribed.
Power to Investigate [Sub-section 4]	● NFRA can investigate professional or other misconduct by any CA or CA firm registered under the Chartered Accountants Act, 1949. ● It may act suo moto or on a reference from the Central Government (as per Rule 10 of NFRA Rules, 2018).
Quasi-Judicial Powers [Section 132(4)(b)]	NFRA has powers of a civil court under CPC, 1908, including: ● Discovery/production of documents ● Summoning and examining persons on oath ● Inspection of books/documents ● Issuing commissions for examination of witnesses/documents
Order by NFRA [Section 132(4)(c)]	If misconduct is proved, NFRA may:- ● Impose Penalty: ○ Individual – Min ₹1 lakh; Max 5× audit fees ○ Firm – Min ₹5 lakh; Max 10× audit fees

	- Debar Auditor/Firm from being appointed or performing audit/valuation: - Min: 6 months - Max: 10 years
Appeal [Sub-section 5]	- Any person aggrieved by an order passed under Section 132(4)(c) may file an appeal before the Appellate Tribunal, - in the prescribed manner and on payment of prescribed fee.
Meetings of NFRA [Sub-section 10]	NFRA shall meet at times/places and follow procedures as per Rule 3 of NFRA (Meetings) Rules, 2019 Note: It may also meet at other places in India as deemed fit.
Books of Account & Audit [Sub-sections 13 & 14]	- NFRA shall maintain books of account in a form/manner prescribed by CG in consultation with CAG - NFRA's accounts shall be audited by CAG at prescribed intervals - The certified accounts and audit report shall be sent annually to CG
Annual Report [Sub-section 15]	- NFRA shall prepare an Annual Report for each financial year in the prescribed form and timeline. - CG shall lay this report, along with CAG's audit report, before both Houses of Parliament.
Note: Every existing body corporate other than a company governed by these rules, shall inform the NFRA within 30 days of the commencement of NFRA rules, in Form NFRA-1, the particulars of the auditor as on the date of commencement of these rules. A company or a body corporate other than a company governed under NFRA Rules shall continue to be governed by the NFRA for a period of 3 years after it ceases to be listed or its paid-up capital or turnover or aggregate of loans, debentures and deposits falls below the limit stated therein [i.e. mentioned in points (a) to (e) above]. Punishment in case of non-compliance - If a company or any officer of a company or an auditor or any other person contravenes any of the provisions of NFRA Rules, the company and every officer of the company who is in default or the auditor or such other person shall be punishable as per the provisions of section 450 of the Act.	
Refer concept clarity slide at the end of the chapter on NFRA	

8. CENTRAL GOVERNMENT TO PRESCRIBE ACCOUNTING STANDARDS - [Section 133]

- Section 133 of the Companies Act, 2013 empowers the Central Government
- to prescribe the accounting standards or any addendum thereto,
- as recommended by the ICAI
- in consultation with and after examination of the recommendations made by the NFRA.
- Proviso to section 133 suggests, until the NFRA is constituted under section 132 of the Companies Act, 2013,
- the Central Government may prescribe the standards of accounting or any addendum thereto,
- as recommended by the ICAI in consultation with and after examination of the recommendations made by the National Advisory Committee on Accounting Standards (NACAS) constituted under the previous company law.
- Since NFRA constituted in 2018, hence this proviso lost its operating effects.

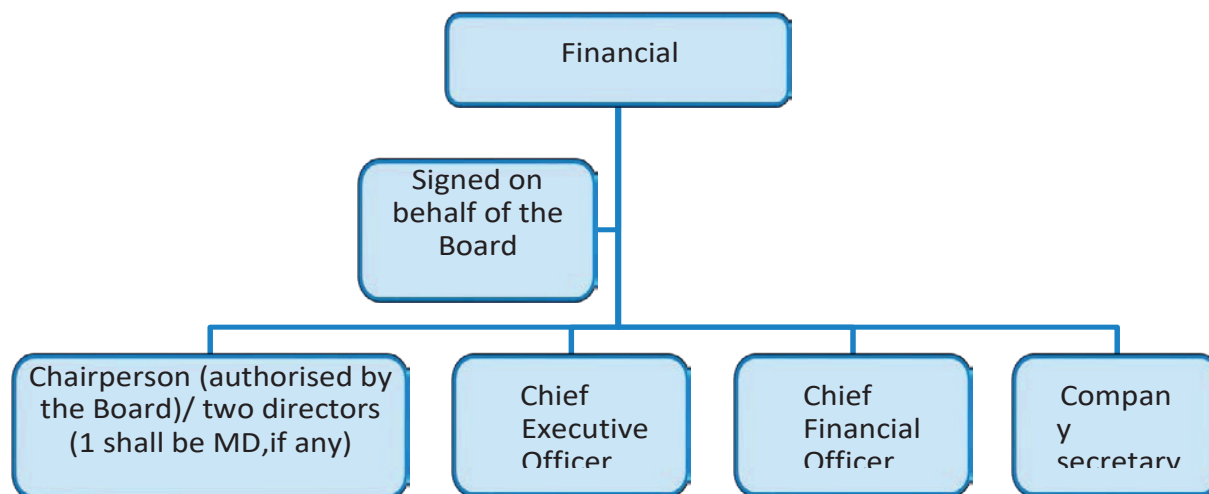
Note -

Exercising the powers conferred under section 133, the MCA on behalf of Central Government so far has notified:

- *Companies (Accounting Standards) Rules, 2021 and*
- *Companies (Indian Accounting Standards) Rules, 2015.*

Regulation 48 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 supplement the provisions to section 133 of this Act by providing that, the listed entity shall comply with all the applicable and notified Accounting Standards from time to time.

9. FINANCIAL STATEMENT, BOARD'S REPORT, ETC. [Section 134]



Approval of Financial Statement - [Sub-section (1)]

Before submitting financial statements to the auditor, they must be **approved by the Board of Directors**, and signed **at least by** the following:

- The **Chairperson** of the company – if authorized by the Board **OR**
- **Two directors**, out of which **one shall be the Managing Director (if any)**;
- **AND ALSO BY:**
 - The **Chief Executive Officer (CEO)** – *if appointed*
 - The **Chief Financial Officer (CFO)** – *if appointed*
 - The **Company Secretary (CS)** – *if appointed*

Attachment of Auditor's Report – [Sub-section (2)] - The **auditor's report** must be **attached to every financial statement**.

Circulation or Publication of Signed Copy – [Sub-section (7)] - A **signed copy** of every financial statement (including consolidated financial statements, if applicable) must be **issued, circulated, or published along with:**

- Any **notes** annexed to or forming part of the financial statement
- The **auditor's report**
- The **Board's Report** as referred to in **Sub-section (3)**

Note: Consolidated financial statement, if any also need to be approved in similar manner.

In the case of one person company financial statements shall be approved only by one director.

Example - The Board of Directors of ABC Ltd. wants to circulate unaudited accounts before the Annual General Meeting of the shareholders of the Company. Whether such an act of ABC Ltd. is tenable?

Answer

Section 129(2) of the Companies Act, 2013 provides that at every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year. Further section 134(7) provides that signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of:

- Any notes annexed to or forming part of such financial statement;
- The auditor's report; and
- The Board's report.

It, therefore, follows that unaudited accounts cannot be sent to members or unaudited accounts cannot be filed with the Registrar of Companies. So, such an act of ABC Ltd., is not tenable.

10. BOARD'S REPORT AND IT'S CONTENT [Section 134 AND RULE 8]

Board's report shall be attached to statements laid before a company in general meeting.

Content of Board's Report

Contents of Board's Report [Section 134(3) read with Rule 8]	● The web address, if any, where annual return referred to in sub-section (3) of section 92 (i.e., Annual Return) has been placed ● Number of meetings of the Board ● Directors' responsibility statement ● Details in respect of frauds reported by auditors under sub-section (12) of section 143 (i.e. Powers and duties of auditors....), other than those which are reportable to the Central Government ● A statement on declaration given by independent directors under
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	sub-section (6) of section 149 (i.e., Company to have board of directors in relation to independent director) ● In case of a company covered under sub-section (1) of section 178 (i.e., Nomination and Remuneration Committee and Stakeholders Relationship Committee), company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178 ● Explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made: ○ By the auditor in his report; and ○ By the company secretary in practice in his secretarial audit report; ● Particulars of loans, guarantees or investments under section 186 ● Particulars of contracts or arrangements with related parties referred to in section 188 (1) (i.e., Related Party Transactions) in the form AOC-2; ● The state of the company's affairs ● The amounts, if any, which it proposes to carry to any reserves ● The amount, if any, which it recommends should be paid by way of dividend ● Material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report ● The conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed ● A statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company ● The details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year ● In case of a listed company and every other public company having such paid-up share capital of twenty five crore rupees or more calculated at the end of the preceding financial year shall include, in the report by its Board of directors, 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;
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Other Matters as Prescribed [Rule 8 of the Companies (Accounts) Rules, 2014]	● The financial summary or highlights ● The change in the nature of business, if any ● The details of directors or key managerial personnel who were appointed or have resigned during the year ● A statement regarding opinion of the Board with regard to integrity, expertise and experience (including the proficiency) of the independent directors appointed during the year. Explanation: For the purposes of this clause, the expression “proficiency” means the proficiency of the independent director as ascertained from the online proficiency self-assessment test conducted by the institute notified under sub-section (1) of section 150 (i.e., Manner of selection of Independent Directors and maintenance of databank of independent directors) ● The names of companies which have become or ceased to be its subsidiaries, joint ventures or associate companies during the year ● The details relating to deposits such as accepted during the year; remained unpaid or unclaimed as at the end of the year; whether there has been any default in repayment of deposits or payment of interest thereon during the year and if so, number of such cases and the total amount involved at the beginning of the year, maximum during the year, and at the end of the year ● The details of deposits which are not in compliance with the requirements of Chapter V (i.e., Acceptance of Deposits by Companies) of the Act ● The details of significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company’s operations in future ● The details in respect of adequacy of internal financial controls with reference to the Financial Statements ● A disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of this Act, is required by the Company and accordingly such accounts and records are made and maintained ● 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; ● The details of application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 during the year along-with their status as at the end of the financial year
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	• The details of difference between amount of the valuation done at the time of one-time settlement and the valuation done while taking loan from the Banks or Financial Institutions along with the reasons thereof.
Note	• Rule 8 of the Companies (Accounts) Rules, 2014 shall not apply to One Person Company or Small Company. Instead rule 8A is applicable upon them that is detailed on next page.
Abridged Board's Report for One Person Company and Small Company [Section 134(3A) read with Rule 8A]	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:- • The web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed • Number of meetings of the Board;- Directors' Responsibility Statement as referred to in sub-section (5) of section 134 • 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 • Explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report • The state of the company's affairs • The financial summary or highlights • 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 • The details of directors who were appointed or have resigned during the year • 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 • The particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.
Board's Report in case of OPC [Section 134(4)]	• In case of a One Person Company, the report of the Board of Directors to be attached to the financial statement under this section shall,

	- mean a report containing explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report. - Note: After insertion of sub-section 3A to section 134 and rule 8A to the Companies (Accounts) Rules, 2014 the importance of sub-section 4 reduced substantially.
Notes: Exemptions for Government Companies: - Clause (e) (related to policy on appointment/remuneration of directors) does NOT apply to Government Companies. - Clause (p) (related to annual evaluation of Board's performance) does NOT apply to Government Companies. - Government Companies engaged in producing defence equipment are exempted from disclosures under Clause (m) (related to CSR policy) Conditions for availing these exemptions: - The Government Company must NOT have defaulted in filing: - Financial statements under Section 137, or - Annual return under Section 92 of the Act Disclosures in Financial Statement = No Repetition in Board's Report: - If required disclosures under Section 134(3) are already included in the financial statements, then they need not be repeated in the Board's Report — only a reference is sufficient. - Note: This benefit was earlier only for IFSC public/private companies, but from 31.07.2018, it applies to all companies. Policies under Clause (e) or (o): Website Disclosure Simplification - If the policy under Clause (e) or Clause (o) is available on the company's website, then: - The Board's Report needs to mention only: - A brief summary of the policy or changes, and - The web address where the full policy can be accessed. Board's Report to be Based on Standalone Financials: - The Board's Report must be prepared based on standalone financial statements. - It should also highlight: - The performance of subsidiaries, associates, and joint ventures, and - Their contribution to the overall performance of the company during the reporting period	
Directors' Responsibility Statement	The Directors' Responsibility Statement referred to in 134(3)(c) shall state that:-

[Section 134(5)]	• In the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures; • The directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period; • The directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities; • The directors had prepared the annual accounts on a going concern basis; • The directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively; and • The directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.
<i>Note: The term “internal financial controls” for clause e specified above means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company’s policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information.</i>	
<i>Example: Modern Furniture Limited a listed entity has internal financial controls in place, during the financial year a failure in control system has been reported; controls were reinstated soon after such incident. Whether directors in Director’s Responsibility Statement can state that controls are adequate and operating efficiently?</i> Answer: <i>Adequacy refers to the design of the control/system and signify whether the control/system that is in place, is fit for purpose or not.</i>	

Operating effectively refers to whether the control/system in place has the desired effect of mitigating the risk or not.

Here, adequacy and operating effectively together shall be read as adequate, operating effectively and applicable throughout also.

Therefore, directors of Modern Furniture Limited in Director's Responsibility Statement can't state that controls are adequate and operating efficiently.

Signing of Board's Report [Section 134(6)]	The Board's report and any annexures thereto shall be signed by: ● Chairperson of the company if he is authorised by the Board; and ● Where he is not so authorised, shall be signed by: - ○ At least two directors, one of whom shall be a managing director, or ○ The director where there is one director.						
Contravention and Penalty [Section 134(8)]	If a company is in default in complying with the provisions of this section: ● The company shall be liable to a penalty of ₹3,00,000; and ● Every officer of the company who is in default shall be liable to a penalty of ₹50,000. <table border="1"> <thead> <tr> <th>Persons liable</th><th>Punishment</th></tr> </thead> <tbody> <tr> <td>Company</td><td>Rs. 3,00,000</td></tr> <tr> <td>Every officer of the company who is in default</td><td>Rs. 50,000</td></tr> </tbody> </table>	Persons liable	Punishment	Company	Rs. 3,00,000	Every officer of the company who is in default	Rs. 50,000
Persons liable	Punishment						
Company	Rs. 3,00,000						
Every officer of the company who is in default	Rs. 50,000						
Example: ABC Company is a one-person company and has only one director. Who shall authenticate the balance sheet and statement of profit & loss and the Board's report? Answer: <i>In case of a One Person Company, the financial statements shall be signed by only one director, for submission to the auditor for his report thereon. So, the financial statements signed by one director shall be considered in order.</i>							
Refer concept clarity slide at the end of the chapter on Section 134 - Board Report							

1. The financial statements of the company needs to be authenticated by:
 - (i) Chairperson of the company, if he is authorised by the Board
 - (ii) Any 2 directors out of which one shall be Managing Director, if any
 - (iii) Chief Executive Officer, wherever he is appointed
 - (iv) Chief Financial Officer, wherever he is appointed
 - (v) Company Secretary, wherever he is appointed
 - a. (i) or (ii), (iii), (iv) and (v)
 - b. (i), (iii), (iv), (v)
 - c. (ii), (iii), (iv), (v)
 - d. (i) to (v)
2. Which of the following statements/ documents is/are required to be attached to the financial statements when circulated to company's members?
 - a. Notes annexed to or forming part of such financial statements
 - b. The Auditor's Report
 - c. The Board's Report
 - d. All of the above
3. The Board's Report and any Annexure thereto under Section 134(3) shall be signed by:
 - a. Chairperson of the company, if he is authorised by the Board
 - b. At least two directors, one of whom shall be a Managing Director
 - c. Both (a) and (b)
 - d. Either (a) or (b)

11. CORPORATE SOCIAL RESPONSIBILITY [Section 135]

The provisions under Section 135 of the Companies Act, 2013 relating to CSR must be read along with the Companies (Corporate Social Responsibility Policy) Rules, 2014, also referred to as the CSR Rules.

Corporate Responsibility Beyond Shareholders	- The corporate (as a legal person) uses a variety of other capitals along with economic capital (provided by shareholders) to generate revenue, earn profits, survive, and grow. - So, it is not only responsible to fund providers but to a wider range of stakeholders, including society and the environment (as per the Triple Bottom Line concept).
India as a Global Leader	- India became a torchbearer for the rest of the world by giving a legal mandate to CSR. - It introduced Section 135 in the Companies Act, 2013, making it mandatory for companies to spend a prescribed percentage of their profits on specified areas of social upliftment as part of their social responsibility.

Meaning of CSR (Broadly)	- CSR broadly implies a concept where companies choose to contribute to - A better society, and - - A cleaner environment. - It is a concept where companies integrate social and useful concerns into their business operations for the benefit of stakeholders and society in general.
Corporate Social Responsibility (CSR) (Rule 2(d))	- CSR means activities done by a company as part of its statutory obligation under Section 135 and in accordance with CSR Rules. - But CSR does not include: - Activities in normal course of business - Activities outside India (except training of Indian sports personnel at national/international level) - Contribution to any political party u/s 182 - Activities benefiting employees (as defined in Code on Wages, 2019) - Sponsorship-based activities for marketing - Activities done to fulfil any other statutory obligation under any law in India
Note: Any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that; - Such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act; - Details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report.	
CSR Policy (Rule 2(f))	CSR Policy means a statement that includes: - The approach and direction given by the Board, based on CSR Committee recommendations, and - Guiding principles for selection, implementation, monitoring, and annual action plan.
Administrative Overheads (Rule 2(b))	- Administrative overheads are the general management and administration expenses of CSR functions. - It does not include costs directly related to designing, implementing, monitoring, or evaluating a specific CSR project.

Net Profit (Rule 2(h) read with Explanation to Section 135)	● Net profit means profit as per company's financial statements, calculated under Section 198. ● It excludes: ○ Profits from any overseas branch ○ Dividends from other Indian companies already complying with Section 135
Ongoing Project (Rule 2(i) read with Explanation to Section 135)	Ongoing Project means: ● A multi-year CSR project (not exceeding 3 years excluding the starting FY) ● A project initially not multi-year but later extended beyond 1 year by the Board with valid reasons
Example: <i>Modern Furniture Limited (MFL) undertake a CSR project in light of its CSR policy; of placing and installing benches as public parks and gardens in supervision of district administration. Initially it was estimated that project will be completed in a span of 8-10 months; but due to renovation of half a dozen of parks the task of installing benches there postponed till the construction is completed (which was expected to take further couple of quarters). Board of MFL considering the circumstances declare the project an ongoing project, extend the duration beyond one year; and also provided reasonable justification. Whether board of MFL correctly re-categories the project as ongoing project or not?</i> <i>Rule 2(i) of the CSR rules provides that projects which are initially of less than a year's time (therefore not registered as multi-year project) but duration of which extended beyond the one-year period, by board based on reasonable causes or justification; shall be re-categories as ongoing project. Hence, decision of board of MFL is legal and valid.</i>	
Public Authority (Rule 2(j))	● Public Authority means as defined in Section 2(h) of the Right to Information Act, 2005.

CSR COMMITTEE**A. Applicability – When CSR Committee is Required [Section 135(1), Rule 3(1)]****B. Composition of CSR Committee [Section 135(1), Rule 5(1)]****C. Duties of CSR Committee [Section 135(3) & Rule 5(2)]****Applicability – When CSR Committee is Required****CSR Committee - Rule 2(e)**

CSR Committee means the Corporate Social Responsibility Committee of the Board as referred in Section 135(1) of the Companies Act, 2013.

When is CSR Committee required?	● If in the immediately preceding financial year, the company has: ○ Net worth $\geq$ ₹500 crore, OR ○ Turnover $\geq$ ₹1,000 crore, OR ○ Net profit $\geq$ ₹5 crore
Who is covered?	As per Rule 3(1): ● Every company, including its holding or subsidiary company, and ● Every foreign company (defined in Section 2(42)) with branch/project office in India, if it meets the above financial criteria.

Note: Net-worth and Turnover is defined in clause (57) and (91) to section 2 of the Act, respectively; same are stated under chapter 1 of this module. Whereas Net Profit is defined under the Rule 2(h) of the CSR Rules read with explanation to section 135 of the Act.

The net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of clause (a) of sub-section (1) of section 381 and section 198 of the Act.

Example: ABC Ltd is a company with a turnover of more than ` 1000 crore in each of the preceding three financial years and have incurred a loss in one of the preceding three financial years. Will it be required to constitute CSR committee?

Answer:

As per section 135(1) of the Act, if any one of the three criteria (whether net worth, or turnover or net profit) gets satisfied then the company is mandatorily required to constitute CSR committee and comply with other CSR provisions. Hence, ABC Ltd. will be required to constitute CSR committee and comply with other CSR provisions based on its turnover. The mere fact that company has incurred loss in one of the preceding three financial years will not be considered for determining the applicability of CSR to the companies.

CSR Committee still required if Unspent CSR balance exists	As per Proviso to Rule 3(1): ● If a company has any balance in Unspent CSR Account (Sec 135(6)), ● it must form a CSR Committee and comply with Sub-sections (2) to (6) of Section 135.
Exception (No CSR Committee Required)	Under Section 135(9): ● If the total amount required to be spent under Section 135(5) is ≤ ₹50 lakh, then: ● CSR Committee is not mandatory, and ● Board of Directors will perform the CSR Committee's duties.
Composition of CSR committee	
General Rule	● CSR Committee must have ≥ 3 directors, and at least 1 independent director.
If no Independent Director is required u/s 149(4)	● Committee shall have ≥ 2 directors, ● even if no independent director is present.
Private company with only 2 directors	● CSR Committee shall consist of those 2 directors.

Note -

Independent Director is defined under section 2(47) of the Act, same is stated under chapter 1 of this module.

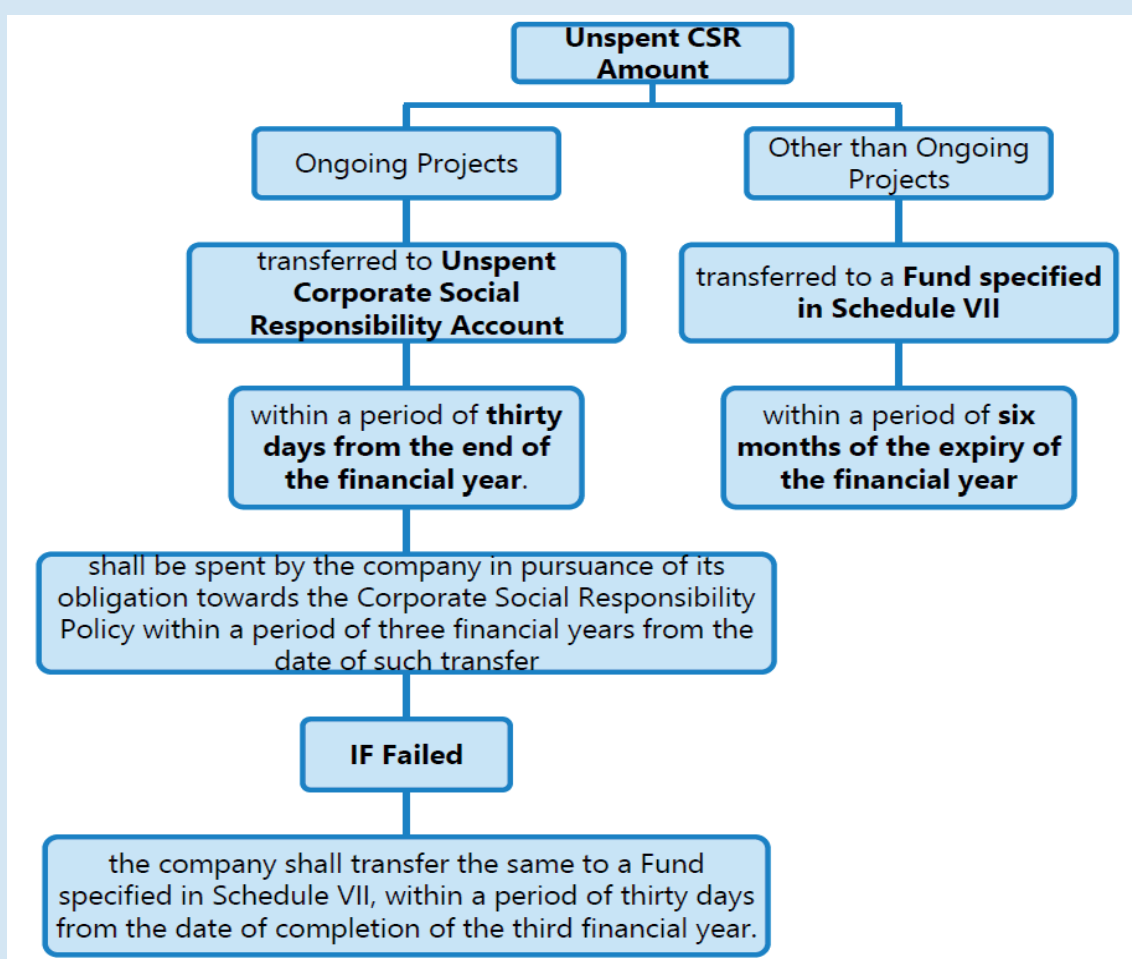
As per section 135(2), the Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

Foreign company	Committee shall include: - One person under Sec 380(1)(d) (i.e., resident authorized representative), and - One nominee of the foreign company.
Duties of CSR Committee - CSR Committee Must :	
Formulate and recommend CSR Policy	Policy should specify activities to be undertaken in areas listed in Schedule VII.
Recommend CSR expenditure	Recommend the amount to be spent on CSR activities.
Monitor CSR Policy	Ensure regular monitoring of CSR Policy implementation.
Prepare and recommend Annual Action Plan (Rule 5(2))	Plan must include: - List of approved projects/programmes in Schedule VII areas - Manner of execution (company itself / via Sec 8 co., etc.) - Fund usage and implementation schedule - Monitoring and reporting mechanism - Need and impact assessment details, if applicable
<i>Note: Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.</i>	

Duties of the Board (Section 135(4) read with Rule 9)	• After taking into account recommendations of CSR Committee, approve the CSR Policy. • Disclose contents of such Policy in its report. • Place CSR Policy, composition of CSR Committee and projects approved by Board on the company's website. • Ensure CSR activities as per the Policy are undertaken by the company.
CSR Expenditure Requirement (Section 135(5))	• Minimum 2% of average net profits • made during 3 immediately preceding financial years to be spent on CSR activities.
If Company < 3 Years Old	Spend 2% of average net profits of such immediately preceding financial years.
Note: Company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities. The board shall ensure that the administrative overheads shall not exceed five percent of total CSR expenditure of the company for the financial year.	
Example: Compute the minimum amount that Modern Furniture Limited is required to spend on account of Corporate Social responsibility year 2022-2023. MFL was incorporated in August 2020. Net-profit made during the financial years 2020-2021 and 2021-2022 are Rs. 20 crore, and Rs. 38 crore respectively. Options Rs. 76 lakh Rs. 1.16 crore Rs. 58 lakh Since the company has not completed the period of three financial years since its incorporation, hence no CSR spending is required. Answer: c Reason: Section 135(5).	

Surplus from CSR Activities [Rule 7(2)]	● Shall not form part of business profit. ● Be ploughed back into the same project, or ● Transferred to Unspent CSR Account and spent in pursuance of CSR policy and action plan, or ● Transferred to a Fund in Schedule VII within 6 months of expiry of FY.
Excess CSR Expenditure [Second proviso to Sec 135(5) read with Rule 7(1)]	● May set off excess against future CSR obligation for next 3 FYs. ● Surplus arising out of CSR cannot be included in excess amount. ● Board resolution to that effect is required.
Failure to Spend CSR Amount [Section 135(6) and provisos to 135(5)]	● Board to specify reasons in Board Report (Sec 134(3)(o)). ● If not related to ongoing project:- ○ Transfer to Fund in Schedule VII within 6 months of end of FY. ● If related to ongoing project: ○ Transfer to Unspent CSR Account within 30 days from end of FY.
Notes: <i>Unspent Corporate Social Responsibility Account (referred as to Unspent CSR Account) shall be operated with Scheduled bank.</i> <i>Any sum transferred to Unspent CSR Account, shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer.</i> <i>In case of failure in spending the amount transferred in Unspent CSR Account in pursuance of its obligation towards the CSR Policy within a period of three financial years from the date of such transfer, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.</i> <i>As per rule 10 of CSR Rules, until a fund is specified in Schedule VII for the purposes of subsection (5) and (6) of section 135 of the Act, the unspent CSR amount, if any, shall be transferred by the company to any fund included in schedule VII of the Act.</i>	
CSR expenditure for creation or acquisition of a capital Asset [Rule 7(4)]	CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by :- ● Section 8 Company / Registered Trust / Registered Society with CSR Registration Number, or ● Beneficiaries (e.g. self-help groups, collectives), or ● Public authority.

Note: Any capital asset created by a company prior to the commencement of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, shall within a period of 180 days from such commencement comply with the requirement of this rule, which may be extended by a further period of not more than 90 days with the approval of the Board based on reasonable justification.



Implementation of CSR [Rule 4]

CSR may be undertaken:-

- By the company itself, or
- Through:
 - Section 8 Co. / Trust / Society (exempted under Sec 10(23C)(iv-via) or 12A and approved under 80G), established by company
 - Section 8 Co. / Trust / Society established by CG / SG.
 - Statutory body under Act of Parliament/State Legislature.
 - Entity under (1) above with minimum 3 years of track record.

Note:

1. *CSR activities should be undertaken by the companies in project/ programme mode. One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. would not be qualified as CSR expenditure.*
2. *Expenses incurred by companies for the fulfillment of any Act/ Statute of regulations (such as Labour Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act.*
3. *Registered Trust would include Trusts registered under Income Tax Act 1961, for those states where registration of Trust is not mandatory.*
4. *Contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure as long as (a) the Trust/ society/ section 8 companies etc. is created exclusively for undertaking CSR activities or (b) where the corpus is created exclusively for a purpose directly relatable to a subject covered in Schedule VII of the Act.*

Registration Requirement [Rule 4(2)]	- Entities to file Form CSR-1 electronically. - Applicable from 01st April 2021. - Not applicable to projects approved prior to 01st April 2021. - CSR-1 to be digitally verified by a CA/CS/CMA in practice. - CSR Registration Number generated automatically.
International Organisations [Rule 4(3)]	May be engaged for designing, monitoring, evaluation of CSR projects and capacity building.
<i>Note - Expenditure incurred by Foreign Holding Company for CSR activities in India will qualify as CSR spending of the Indian subsidiary, if, the CSR expenditures are routed through Indian subsidiaries and if the Indian subsidiary is required to do so as per section 135 of the Act</i>	
Collaboration [Rule 4(4)]	Companies may collaborate on projects, ensuring CSR Committees can report separately.
Onus on Board [Rule 4(5)]	Board to ensure proper utilisation of funds and CFO or responsible person to certify.

Ongoing Projects [Rule 4(6)]	Board to monitor implementation with reference to approved timelines and year-wise allocation.- Competent to modify for smooth implementation.
Example: <i>Can an international organisation be engaged for implementation of CSR project?</i> Answer: <i>Yes, an international organisation may be engaged for implementation of CSR projects; but engagement shall be restricted to the designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR, as per rule 4(3) of CSR rules.</i>	
CSR Reporting [Rule 8(1), (2)]	- Annual report on CSR to be included in Board's Report. - For foreign company: Balance Sheet filed u/s 381(1)(b) to include annual CSR report.
Note: Note: <i>Annexure I and II are provided to the CSR rules as format for such annual reporting.</i> <i>Annexure I provides the format for the annual report on CSR activities to be included in the board's report for financial year commencing before the 1st day of April, 2020.</i> <i>While Annexure II prescribes the format for the annual report on CSR activities to be included in the board's report for financial year commencing on or after the 1st day of April, 2020.</i>	
Impact Assessment [Rule 8(3)]	- Mandatory if:- - Average CSR obligation $\geq$ ₹10 Cr in 3 preceding FYs, for projects $\geq$ ₹1 Cr completed $\geq$ 1 year prior. - Report to be placed before Board and annexed to annual CSR report. - Expense towards impact assessment can be booked as CSR expenditure up to 2% of total CSR expenditure or ₹50 Lakhs, whichever is higher.
Penal Provisions [Section 135(7)]	Company: Penalty = lesser of: - Twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be or ₹1 crore.

	Officer in default: Penalty = lesser of: • one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be or • ₹2 lakhs.
Central Government Directions [Section 135(8)]	• CG may issue general or special directions to ensure compliance, which must be followed.
Schedule VII – CSR Activities	• Eradicating hunger, poverty, malnutrition, health care, sanitation, safe drinking water • Education, skill development, livelihood • Gender equality, women empowerment, homes/hostels for orphans, old age homes etc. • Environmental sustainability, protection of flora and fauna, Clean Ganga Fund • Protection of national heritage, art, culture; libraries, arts & handicrafts • Armed forces veterans, CAPF & CPMF, dependents • Rural and Olympic sports promotion • PMNRF, PM CARES, Funds for SC/ST/OBC/minorities/women welfare • R&D contributions to approved Govt. incubators & institutions (e.g., IITs, DRDO, CSIR) • Rural development projects • Slum area development(xii) Disaster management, including relief, rehabilitation and reconstruction
<i>Note: The statutory provision and provisions of CSR Rules, 2014, is to ensure that while activities undertaken in pursuance of the CSR policy must be relatable to Schedule VII of the Companies Act, 2013, the entries in the said Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said Schedule. The items enlisted in the amended Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities</i>	

COVID-19 Clarifications (MCA Circulars)	● 23 March 2020 (10/2020): COVID-related healthcare and disaster mgmt. activities under items (i) & (xii) eligible. ● 13 Jan 2021 (01/2021): Awareness/public outreach on vaccination covered under (i), (ii), (xii). ● 22 Apr 2021 (05/2021): Setting up COVID hospitals/temporary care – eligible under (i), (xii). ● 05 May 2021 (09/2021): Creation of health infra, oxygen plants etc. covered under (i), (xii). ● 28 Mar 2021 (OM): Contribution to PM CARES qualifies as CSR.6. 30 Jul 2021 (13/2021): Vaccination for non-employees is CSR under (i), (xii).
‘Har Ghar Tiranga’ Campaign (Circular 08/2022)	● Mass-scale production/supply of national flag, outreach & awareness under item (ii) – promotion of education relating to culture.
<i>Note: In case of specified IFSC public company²⁰ and specified IFSC private company²¹ the section 135 shall not apply for period of 5 years from the commencement of business of a specified IFSC public company and specified IFSC private company</i>	
Refer concept clarity slide at the end of the chapter on CSR	

1. As per the provisions of the Companies Act, 2013, which of the following statement is correct with respect to the surplus arising out of the CSR activities: (Mar. 22) (1 Mark)
 - a. The surplus cannot exceed five percent of total CSR expenditure of the company for the financial year.
 - b. The surplus shall not form part of the business profit of a company
 - c. The surplus cannot exceed 10 percent of total CSR expenditure of the company for the financial year.
 - d. The surplus shall form part of the business profit of a company
2. CSR Committee of the Board of shall consist of:
 - a. Directors forming 1/3rd of the total no of directors.
 - b. At least 2 directors out of which one shall be independent director.
 - c. 3 or more directors out of which one shall be managing director.
 - d. 3 or more directors, out of which at least 1 director shall be an independent director.
3. Provisions of CSR are applicable to:
 - a. Companies with net worth of ₹ 250 crore or more but less than 500 crore.
 - b. Companies with turnover of ₹ 1000 crore or more.
 - c. Companies with net profit of ₹ 1 crore or more but less than ₹ 5 crore in any financial year
 - d. Companies having aggregate outstanding loans and deposits Exceeding ₹ 50 crore or more in any financial year.
4. Ayush Power Limited has reported a net profit of ₹ 6 crore, ₹ 7.5 crore and ₹ 3 crore for the financial year(s) ended on March 2017, March 2018 and March 2019 respectively. The board's report of the company for the year ended March 2020 did not disclose the composition of the CSR Committee on the grounds that company is not required to constitute CSR committee as net profit during the immediately preceding financial year is less than the statutory requirements laid down in section 135. You are required to examine in the given scenario whether the act of non-composition and non-disclosure of the composition of CSR committee in the Board's Report is valid in law?
 - a. No, the act of the company is not valid in law as every company is required to constitute a CSR committee and disclose the constitution of same in the board's report in every financial year irrespective of the profits earned by the company.
 - b. Yes, the act of the company is valid in law as the net profit of the company is less than ₹ 5 crore in the immediately preceding financial year.
 - c. No, the act of the company is not valid in law as composition and disclosure of composition of CSR Committee will be required only if the profits of the company are not less than ₹ 5 crore for a consecutive period of 3 financial years.
 - d. The act of the company is valid only to the extent of nondisclosure of the composition of CSR committee as the net profit of the company is less than ₹ 5 crore in the immediately preceding financial year.

5. The activities which may be included by companies in their Corporate Social Responsibility Policies are provided in:
 - a. Schedule III to Companies Act, 2013
 - b. Schedule VII to Companies Act, 2013
 - c. Annexure-1 to Companies (CSR Policy) Rules, 2014
 - d. As notified by Ministry of Company Affairs from time to time

6. It is mandatory for a company to constitute a CSR Committee of the Board if during any financial year, it is having:
 - a. Net Worth of 500 Crore or more
 - b. Turnover of 1,000 Crore or more
 - c. Net Profit of 5 Crore or more
 - d. Any one of above

7. The turnover of KLM Private Limited has been on the declining trend and it has been making losses for last 5 years. For the financial year 2017-2018, 2018-2019 and 2019-2020, its turnover was 1,200 Crores, 1,050 Crores and 700 Crores, respectively. The company is of the opinion that for the financial year 2020-2021, it does not require the CSR Committee. Which of the following statements given below is correct?
 - a. The company need not constitute CSR Committee since its turnover in the preceding financial year is below 1,000 Crores.
 - b. The company need not constitute CSR Committee since its average turnover in the preceding 3 financial years is below 1,000 Crores.
 - c. The turnover in financial year 2017-18 and 2018-19 exceed 1,000 Crores and therefore CSR committee constituted earlier would be required to continue till the company ceases to be covered under Section 135(1) for 3 consecutive financial years.
 - d. None of the above. The requirement of CSR committee is not applicable to Private Companies.

8. Which of the following company/ companies is/are not required to constitute CSR Committee?
 - a. A company which ceases to be a company covered under Section 135(1) of the Act for 3 consecutive financial years.
 - b. A foreign company defined under Section 2(42) of the Act having its branch office or project office in India.
 - c. A Private Limited Company
 - d. All of the above

9. Which of the following amounts shall not qualify as CSR Expenditure?
 - a. Salaries and wages paid to employees and workers during the National lockdown declared during COVID-19 pandemic
 - b. Expenditure incurred for eradication of poverty and slum rehabilitation in Syria
 - c. Amount contributed to the ruling political party at Centre
 - d. All of the above

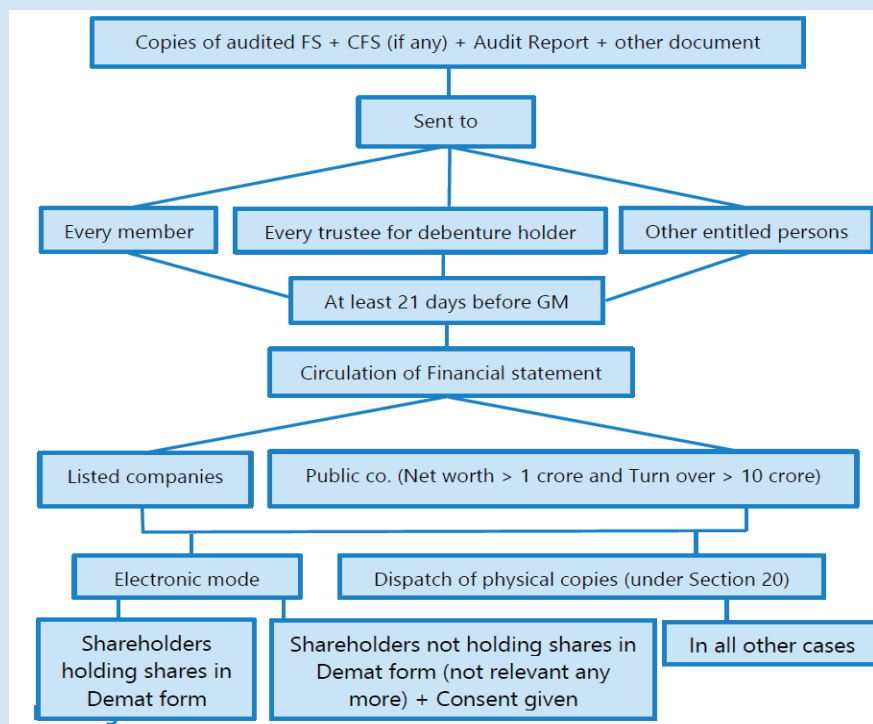
12. RIGHT OF MEMBERS TO COPIES OF AUDITED FINANCIAL STATEMENT [Section 136]

Section 136 read with Rule 10 & 11 of Companies (Accounts) Rules, 2014

What to Circulate?	Financial statements including: ● Consolidated Financial Statement (if any) ● Auditor's Report ● All documents required by law to be annexed to the financial statements ● Also, separate audited/unaudited financials of each subsidiary (on request by any member).
To Whom?	● Every member of the company ● Every trustee for debenture holders ● Any other person entitled to receive (Example : legal heir, bankers, lenders, institutes etc.)
When to Send?	● At least 21 days before the meeting ● Shorter notice - If agreed by: ○ Members holding 95% of voting power (in case of no share capital) ○ Majority in number holding 95% of paid-up share capital (in case of share capital) Note: For Section 8 Companies, replace "21 days" with "14 days".
Note: In case of section 8 company the words "twenty-one days", shall be substituted by the words "fourteen days".	
Mode of Circulation [Rule 11]	● Listed Companies & public companies with Net worth > ₹1 Cr AND Turnover > ₹10 Cr: ○ By electronic mode to members whose emails are available ○ Others: → Physical copies via recognised delivery modes under Section 20

<table border="1"> <tr> <td>Shareholding is in dematerialized format</td><td>Whose email are registered with Depository for communication purposes</td></tr> <tr> <td>Shareholding is in Otherwise than by dematerialized format</td><td>But they have positively consented in writing for receiving by electronic mode (this may not be relevant considering that shareholding is not held otherwise than by dematerialized form anymore)</td></tr> </table>		Shareholding is in dematerialized format	Whose email are registered with Depository for communication purposes	Shareholding is in Otherwise than by dematerialized format	But they have positively consented in writing for receiving by electronic mode (this may not be relevant considering that shareholding is not held otherwise than by dematerialized form anymore)
Shareholding is in dematerialized format	Whose email are registered with Depository for communication purposes				
Shareholding is in Otherwise than by dematerialized format	But they have positively consented in writing for receiving by electronic mode (this may not be relevant considering that shareholding is not held otherwise than by dematerialized form anymore)				
Listed Company – Summary Statement Option	Provisions deemed complied if: • Full documents available for inspection at Registered Office during working hours for 21 days before meeting • A summary (Form AOC-3 or AOC-3A) or copy of documents is sent to members & debenture trustees 21 days before meeting • Full financial statements shall be sent only if demanded by shareholders				
Mandatory Website Upload (Listed Company)	Upload full financial statements including: • Consolidated Financials (if any) • Separate audited accounts of each subsidiary • All other attached documents • For foreign subsidiaries: → ○ If law requires consolidated FS: Upload on company website ○ If audit not required & not done: Upload unaudited FS ○ If in another language: Upload translated English version				
Inspection Rights	• Members and debenture trustees can inspect all documents at the company's registered office during business hours				
Penalty for Contravention	• Company: ₹25,000 penalty • Officer in Default: ₹5,000 penalty				
MCA Circular Clarification	• Financials may be circulated at shorter notice if meeting is held at shorter notice under Section 101 • Format of foreign subsidiary accounts should follow Companies Act, 2013 as far as possible; else give reason for deviation				

Summary



Example:

RELM Industries Limited, a company incorporated under the Companies Act, 2013, has its shares listed on a recognized Stock Exchange in India. One of the subsidiaries of RELM Industries Limited is a foreign company incorporated outside India. In the annual general meeting of the company, RELM Industries Limited has placed its audited financial statement including consolidated financial statement on its website. RELM Industries Limited has also placed on its website separate audited accounts of all its subsidiaries located in India except one subsidiary, which is a foreign company and located outside India on the grounds that such foreign company is not required to get its financial statement audited under the company law of its country of incorporation. You are required to examine whether RELM Industries Limited has complied with the provisions of section 136?

Answer:

No, RELM Industries Limited has not complied with the provisions of section 136 because RELM Industries Limited is also required to place unaudited financial statement of its foreign subsidiary on its website even if such foreign subsidiary is not required to get its financial statement audited as per the provisions of section

136. The holding Indian listed company (RELM Industries Limited in this case) may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.

Note - In case of Nidhi company²⁴

Section 136 (1) shall apply, subject to the modification that, in the case of members who do not individually or jointly hold shares of more than one thousand rupees in face value or more than one per cent, of the total paid-up share capital, whichever is less, it shall be sufficient compliance with the provisions of the section if an intimation is sent by public notice in newspaper circulated in the district in which the Registered Office of the company is situated stating the date, time and venue of AGM and the financial statement with its enclosures can be inspected at the registered office of the company and the financial statement with enclosures are affixed in the notice board of the company and a member is entitled to vote either in person or through proxy.

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| <ol style="list-style-type: none"> 1. Rema formed and occupied the office of director in Rem Stationers (OPC) Private Limited which deals in manufacturing and trading of various items of stationery. Rema noticed a changed provision which mandates that from the Financial Year 2020-21 onwards, an OPC shall file its Annual Return in MGT - 7A. Rema is also one of the directors in another company which too is required to file its Annual Return in MGT - 7A. Which is that 'other company' where Rema also occupies the office of director in addition to OPC. <ol style="list-style-type: none"> a. That other company is a 'small company' where Rema also occupies the office of director in addition to OPC. b. That other company is an 'associate company' where Rema also occupies the office of director in addition to OPC. c. That other company is a 'subsidiary company' where Rema also occupies the office of director in addition to OPC. d. That other company is a 'dormant company' where Rema also occupies the office of director in addition to OPC. | <ol style="list-style-type: none"> 2. A copy of the audited financial statements, including CFS, along with any notes, Auditor's Report etc. is required to be circulated to the members not less than before the date of the meeting in which the financial statements are to be laid. <ol style="list-style-type: none"> a. 21 days b. 15 days c. 14 days d. 30 days 3. In case of Section 8 Company, the financial statements etc. are required to be circulated to the members not less than before the date of the meeting in which the financial statements are to be laid. <ol style="list-style-type: none"> a. 21 days b. 15 days c. 14 days d. 30 days |
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- | | |
|--|--|
| <p>4. A company can circulate its financial statements to its members at a shorter notice if:</p> <ol style="list-style-type: none"> Majority of members in number, who are entitled to vote agree Members having not less than 95% of paid up capital which gives right to vote at the meeting agree Either (a) or (b) Both (a) and (b) | <p>5. Which of the following companies can circulate its financial statements by electronic mode?</p> <ol style="list-style-type: none"> All listed companies Public companies having a Net Worth of more than 1 Crore and Turnover of more than 10 Crore Both (a) and (b) None of the above |
|--|--|

13. COPY OF FINANCIAL STATEMENT TO BE FILED WITH REGISTRAR [Section 137]

Section 137 read with Rule 12 of Companies (Accounts) Rules, 2014 and Rule 3 of Companies (Filing of Documents and Forms in XBRL) Rules, 2015.	
What needs to be filed?	● A copy of the financial statements ● including consolidated financial statement (if any), ● along with all documents required to be attached under the Act, ● duly adopted at the AGM.
Due Date of Filing	● Within 30 days of AGM (except for OPC) ● OPC (no AGM required): ● Within 180 days from the closure of the financial year.
If Financial Statements Not Adopted in AGM	● Unadopted financials to be filed within 30 days of the AGM. ● Will be considered provisional till adoption in adjourned AGM. ● If adopted in adjourned AGM, file within 30 days of that date.
If AGM Not Held	● File signed financial statements and documents ● with reasons ● for not holding AGM within 30 days of ● the last date by which AGM should have been held.

Example : The AGM of R Ltd., for laying the Annual Accounts there at for the year ended 31 March 2024, was not held. What remedy is available with the company regarding compliance of the provisions of section 137 of the Companies Act, 2013 for filing of copies of financial statements with the Registrar of Companies?

Answer:

In the present case, though AGM was not held, it ought to be held by 30 September 2024 under sections 96 of the Companies Act, 2013.

Therefore, under the provisions of section 137(2), the financial statements along with the documents required to be attached under this Act, duly signed along with the statement of facts and reasons for not holding the AGM shall be filed with the Registrar within thirty days of the last date before which the AGM should have been held i.e. by 30 October 2024 along with such fees or additional fees as may be prescribed.

Example: (In continuation to above illustration)

Will it make any difference in case the Annual Accounts were duly laid before the AGM held on 27 September 2024 but the same were not adopted by the shareholders?

Answer:

Since the AGM has been held in time on 27 September 2024, the un-adopted financial statements along with the required documents under sub-section (1) of section 137 shall be filed with the Registrar within thirty days of the date of AGM and the Registrar shall take them in his records as provisional till the financial statements are filed with him after its adoption in the adjourned AGM for that purpose.

Filing Forms and Mode	File with prescribed forms and fees: ● Form AOC-4 (Standalone) ● Form AOC-4 CFS (Consolidated FS) ● Form AOC-4 NBFC (Ind AS) ● Form AOC-4 CFS NBFC (Ind AS) ● CSR-2 (as addendum for companies under Sec 135 from FY 2020-21 onward)
XBRL Filing (Rule 3 of XBRL Rules, 2015)	The following companies shall file in AOC-4 XBRL: ● Companies listed with stock exchanges in India and their Indian subsidiaries ● Every public company - ○ paid-up capital $\geq$ ₹5 crore or ○ turnover $\geq$ ₹100 crore or ○ Companies preparing financials as per Ind AS

Note: The companies which have filed their financial statements under Rule 3(1) of the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015 and erstwhile rules (i.e., the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011) shall continue to file their financial statements and other documents though they may not fall under the class of companies specified therein in succeeding years. Meaning thereby once company started reporting in XBRL format shall continue to report in XBRL format in succeeding years also, even if criteria mentioned above is not met in succeeding years.

Example : Amazon Company Limited, a company incorporated under the Companies Act, 2013, has a turnover of 150 crore and 90 crore during the financial year ended 31st March 2023 and 31st March 2024 respectively. Now Amazon Company Limited shall continue to file the financial statements and other documents under section 137 in e-form AOC-4 XBRL for the financial year ended 31st March 2024 even if the company does not fall in the class of companies provided under Rule 3 of the Companies (Filing of documents and forms in Extensible Business Reporting Language) Rules, 2015.

**In case of Foreign
Subsidiary**

- If a company has a foreign subsidiary not having business in India:
- Attach its accounts with Indian company's financials.
- If no audit is done as per foreign laws, then unaudited accounts can be filed with a declaration.
- If not in English, a translated English version must be attached.
- Accounts format should follow Companies Act, 2013 as far as possible; if not, provide reason for deviation.

Example:

Vandana Ltd., based in India, has many subsidiaries in India and outside India. It also had associates and joint ventures. For the purpose of finalization of the consolidated financial statements of the company for the year ended 31st March 2024, the company's management requested its foreign subsidiary, based out of Italy, to provide its standalone financial statements. The Italian subsidiary company prepares its financial statements in the local language of the country and the same is provided to the Indian parent company as unaudited as the audit is not required by the Italian subsidiary company. Please advise how the Indian parent should deal with this financial statement.

Answer:

Vandana Ltd. would have to get the standalone financial statements of Italian subsidiary company translated in English language and also get those aligned as per its accounting policies for the purpose of consolidation.

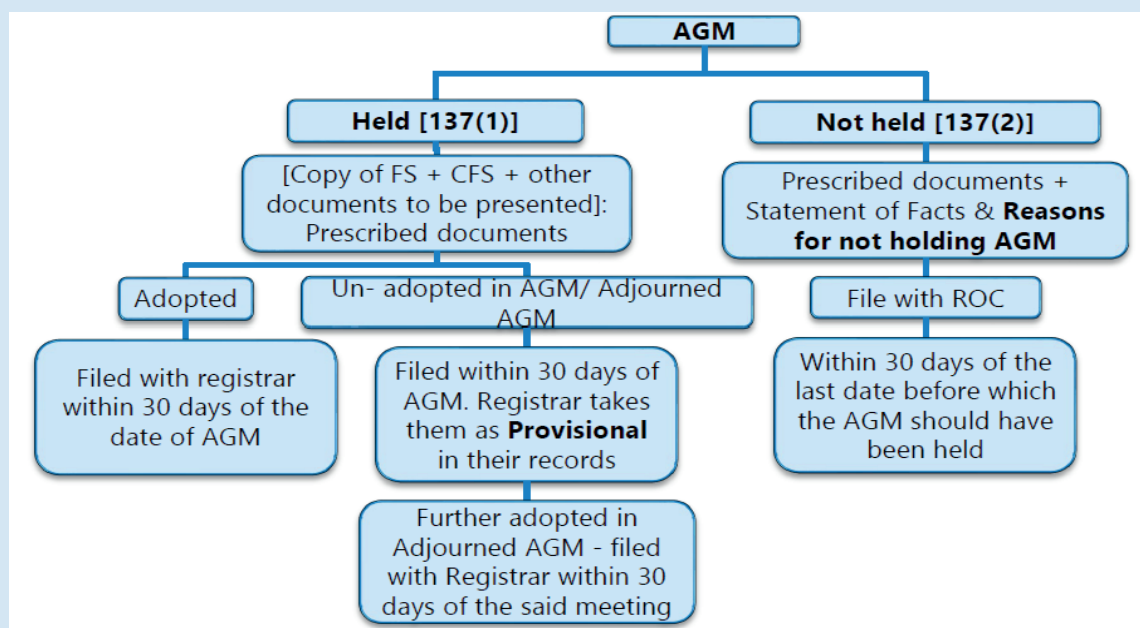
Further, as per the requirements of section 137(1) of the Companies Act, 2013, Vandana Ltd. would need to file such unaudited financial statement of Italian subsidiary company along with a declaration to this effect along with a translated copy of the financial statement in English.

Further, the format of accounts of Italian subsidiary company should be, as far as possible, in accordance with requirements under the Companies Act, 2013. In case this is not possible, a statement indicating the reasons for deviation may be placed/ filed along with such accounts.

**Penalty for Non-Compliance
(Sub-section 3)**

- **Company:**
 - Penalty of ₹10,000 + ₹100/day (max ₹2,00,000)
- **MD and CFO of the company, if any;**
 - In their absence - Any other director who is charged by the Board with the responsibility;
 - In its absence - All the directors of the company.
 - ₹10,000 + ₹100/day (max ₹50,000)

Summary of Sub-section 1 and 2 to section 137



14. INTERNAL AUDIT [Section 138]

Legal Provision - Section 138 read with Rule 13 of the Companies (Accounts) Rules, 2014, deals with the requirement of internal audit in certain companies.

Companies Required to Appoint an Internal Auditor
(Section 138(1) read with Rule 13(1))

- Every listed company
- Every unlisted public company having any of the following in the preceding financial year:
 - Paid-up share capital of ₹50 crore or more, or
 - Turnover of ₹200 crore or more, or
 - Outstanding loans or borrowings from banks or public financial institutions exceeding ₹100 crore at any time, or
 - Outstanding deposits of ₹25 crore or more at any time
- Every private company having:
 - Turnover of ₹200 crore or more, or
 - Outstanding loans or borrowings from banks or public financial institutions exceeding ₹100 crore at any time

Note: An existing company covered under any of the above criteria shall comply with the requirements of section 138 and this rule within 6 months of commencement of such section.

Who Can Be Appointed as Internal Auditor?
(Section 138(1) read with Rule 13(1))

- The internal auditor can be:
 - A Chartered Accountant, or
 - A Cost Accountant, or
 - Any other professional as decided by the Board.

Note for students: “Chartered Accountant” or “Cost Accountant” includes those in practice or not in practice. • The internal auditor may or may not be an employee of the company.

Manner and Frequency of Internal Audit
(Section 138(2) read with Rule 13(2))

- Central Government may prescribe rules for how and how often internal audits are to be done and reported to the Board.
- Rule 13(2) states that the Audit Committee or Board (in consultation with the internal auditor) must decide the:
 - Scope of audit
 - Working method
 - Frequency (periodicity)
 - Audit methodology

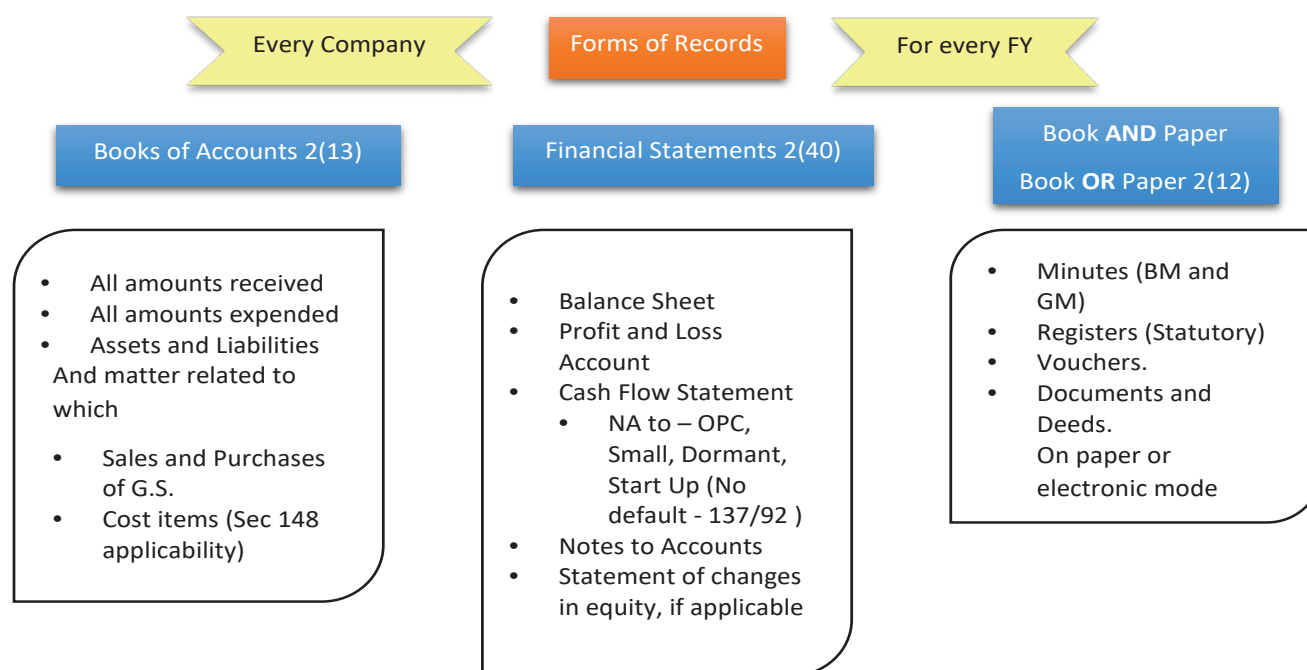
IFSC Companies	For specified IFSC public and private companies, Section 138 shall apply only if their Articles provide for internal audit.
Illustration : <i>Perfect Ltd is a listed company. The company is in the business of manufacturing of steel and had its head office at Karnataka. The company's operations are spread out across India. The company appointed a firm of Chartered Accountants, N & Co. LLP, as its internal auditors for the year ended 31st March 2024. However, for the financial year 2024-25, the company is planning to have an in-house internal audit system commensurate with its size and operations. If the company does that then it is planning not to continue with N & Co. LLP as its internal auditors. Please advise.</i> Answer: <i>In the given situation, if the internal audit function of the company is fine as per its size and operations then it may decide not to continue with N & Co. LLP.</i>	

- Which of the following persons cannot be appointed as an internal auditor of the company?
 - A Chartered Accountant
 - A Cost Accountant
 - A Company Secretary
 - None of the above
- Which of the following persons cannot be appointed as an internal auditor of the company?
 - Statutory Auditor of the company
 - Cost accountant who is not engaged in practice
 - Chartered Accountant holding a part-time certificate of practice
 - All of the above
- The following class of companies shall be required to appoint an internal auditor which may be either an individual or a partnership firm or a body corporate, namely:
 - Every listed company.
 - Every unlisted public company having paid up capital of '50 Crore or more or Turnover of 200 Crore or more during the preceding financial year.
 - Every unlisted public company having outstanding loans from banks or public financial institutions exceeding 100 Crore or more or outstanding deposits of 25 Crore or more at any point of time during the preceding financial year.
 - All of the above
- A private company does not require to appoint an internal auditor provided:
 - The turnover of the company is below 200 Crores during the preceding financial year.
 - Outstanding loans or borrowings from banks or public financial institutions does not exceed 100 Crore at any point of time during the preceding financial year.
 - Either (a) or (b)
 - Both (a) and (b)

128. FORMS OF RECORDS TO BE KEPT BY COMPANY

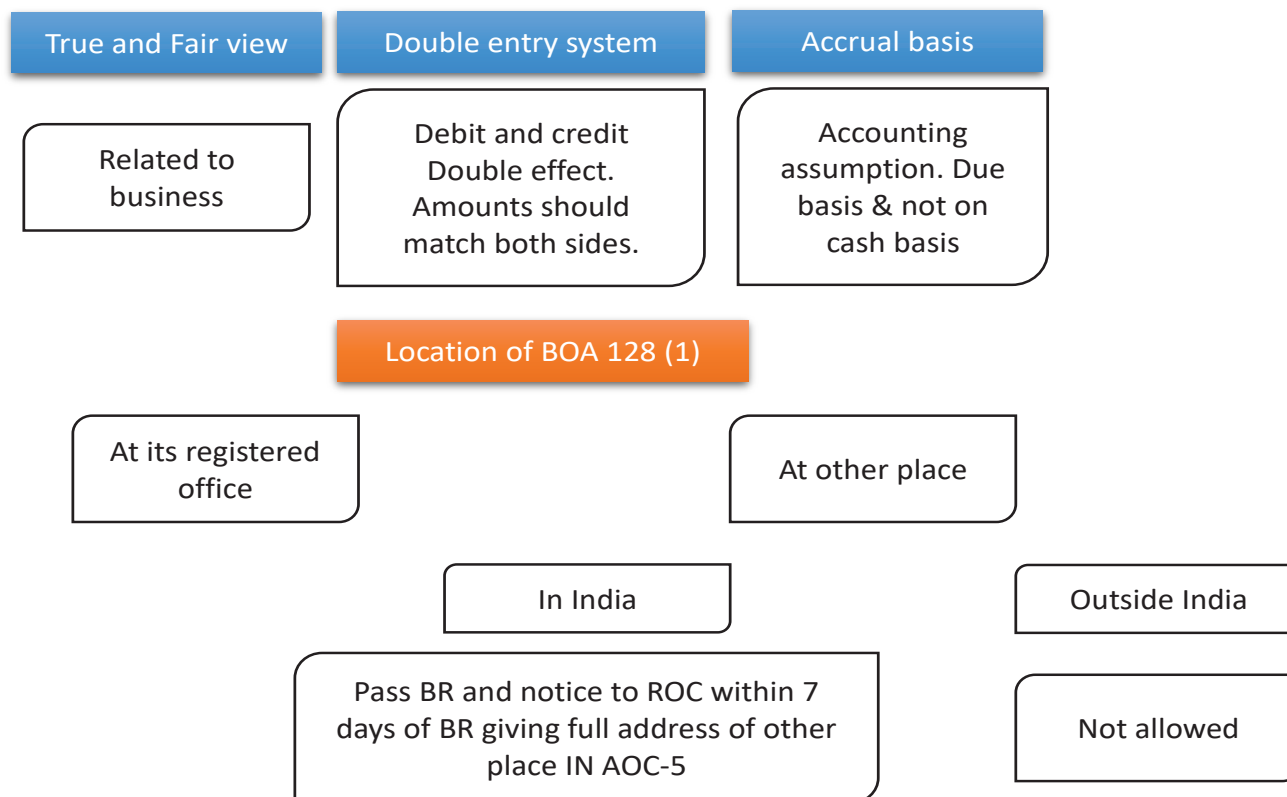
Need for these sections ?

Need for **disclosing** the Annual information **to** the shareholders **by** the directors about the working & financial position of the company. So act lays down various provision for maintenance of **PROPER BOA**.



128. METHOD OR MANNER OF PREPARATION

When books are DEEMED to be kept properly ?



ELECTRONIC FORM - RULE 3 AND BRANCH OFFICE

Rule 3

Example : ERP, SAP and Tally

Branch office

Accessible in India

Format : originally generated, sent and received.

Information should be **complete and unaltered**

Proper system for :

- Retrieval
- Storage
- Display
- Printout

Legible form

If data is on **cloud** Google Drive, Dropbox, Office 365 etc

In India or Outside India

Summarised return / reports

Data from **branches** should not be altered

Back up

- on servers
- physically located in India
- on DAILY basis

Intimate to ROC annually:

- Name of service provider
- IP Address
- Location of SP

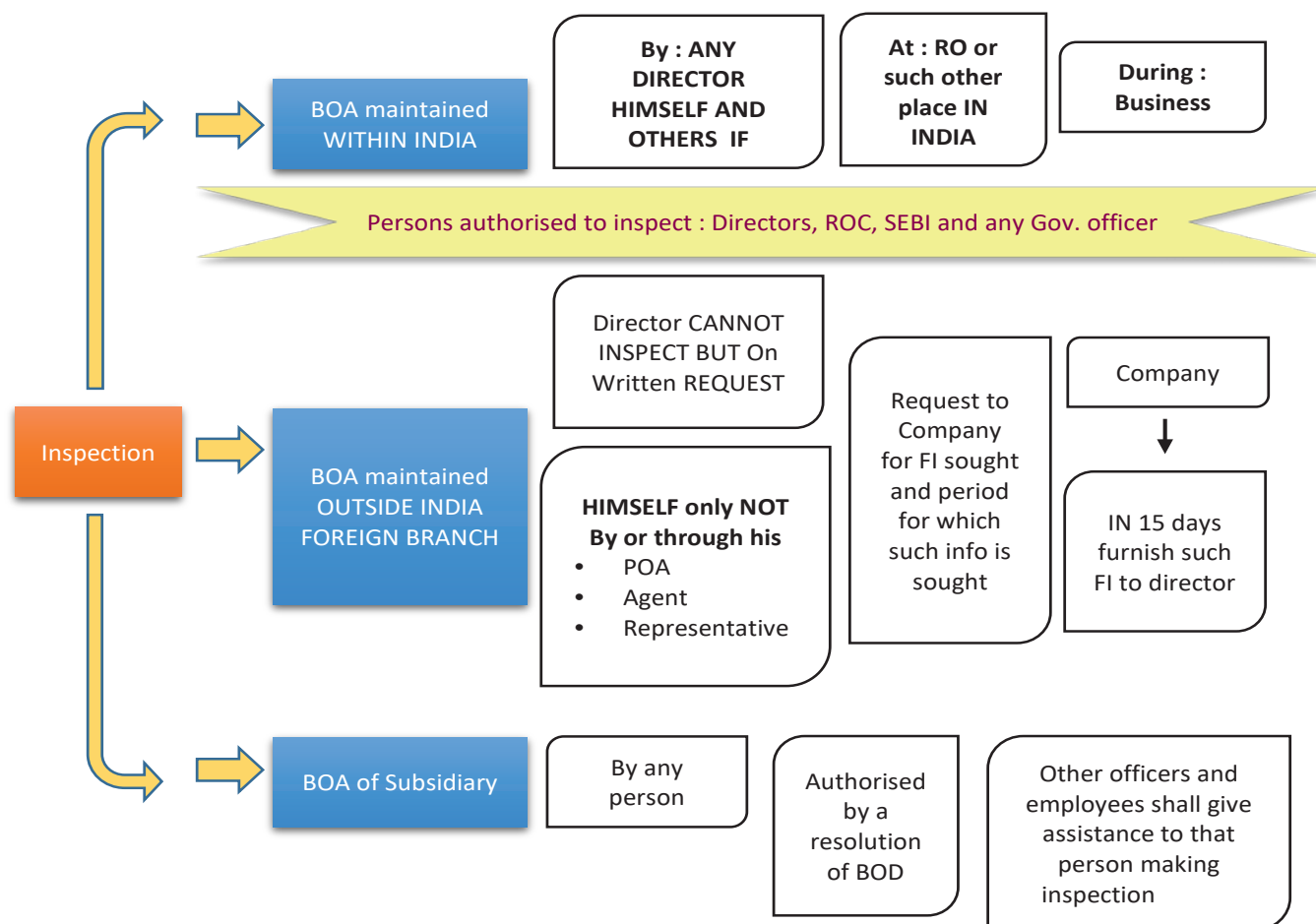
Send periodically : Quarterly

To Company at Registered office

Companies using - ACCOUNTING SOFTWARE (From 1st April 2023)

- Recording Audit trail of EACH TRANSACTION
- Creating an EDIT LOG
- Ensuring the AUDIT TRAIL cannot be disabled

128 (3/4) INSPECTION OF BOA



129 CFS - FORM AND MANNER

Form of Financial Statements

- True and Fair view
- Schedule III (Division 1 and 2 – AS and IndAS)
- Comply with AS or Ind AS - As applicable
- If do not comply with AS then disclosure in FS :
 - Deviations
 - Reason for deviation
 - Financial effect

Laying of FS

- At every AGM
- Laid by the Board
- What ? – Standalone FS (Branches) and Consolidated FS (HSA) if any.

Manner of Consolidation 129(2)

- Company has to prepare Consolidated FS including its subsidiary includes Associate & JV
- HC will attach separate statement containing salient features of its SC, AC, JV - **Form AOC-1**
- CFS should be in accordance to AS or Ind AS - As applicable
- If company not required to prepare CFS under AS then under schedule III will be sufficient.
- Power with CG to make rules for CFS (Rule 6)

Provisions related to Holding Co. FS MUTATIS MUTANDIS apply to CFS

129 (3) - CONSOLIDATED FS - EXCEPTIONS

Case 1

To Wholly owned subsidiary
OR

Partially owned subsidiary
AND

- All members have been intimated **in writing**
- Proof of which is available
- They do not object to non preparation of CFS

Case 2

UNLISTED COMPANY

It is a company whose securities are not listed
OR

Not in the process of being listed
Whether in INDIA or Outside INDIA

Case 3

If its Ultimate OR Intermediate HC files CFS then Ultimate SC is not required to file CFS

A

(Ultimate holding)

B

(Intermediate holding)

C

(Ultimate Subsidiary)

132 NATIONAL FINANCIAL REPORTING AUTHORITY (NFRA)

FUNCTIONS -

- Maintain details of Auditors in Co./BC
- NFRA has enhanced powers to recommend (for formulations)
- Monitor and enforce the Accounting and auditing standard
- Oversee the quality of service of the professionals perform
- Investigate the professionals as well
- Such other functions

Quasi Judicial powers

Same as Civil Court

- Discovery,
- Production,
- Summon,
- Attendance
- ,
- Inspection

Penalty

Debarred the member
or the firm –

Min 6 months and

Fine

IND - Min : 1,00,000 to 5 times of the fees
received

FIRM - Min : 5,00,000 to 10 times of the fees
received

SEC 134 - APPROVAL AND SIGNING OF FS/BR

FS including CFS

Approved by :

- BOD
- Signed on behalf of BOD
- Submit to auditor
- FS is issued and circulated : With AR + BR + Notes

Contravention :
Company – 3 Lacs
Every officer – 50,000

Signing of FS and CFS

If OPC – Only one director

Other case –

- Chairperson – if he is authorised by board
- OR

If he is not authorised then
2 directors – 1 should be MD

AND

- | | |
|--|--------------|
| <ul style="list-style-type: none"> • CEO • CFO (If director) • CS | If appointed |
|--|--------------|

Signing of BR

If OPC – Only one director

Other case –

- Chairperson – if he is authorised by board
- OR

If he is not authorised then
2 directors – 1 should be MD

SEC 134 - CONTENT OF BOARD REPORT - PART - I (RULE 8)

SECTIONS CLUB	DIRECTOR CLUB	AFFAIR STORY	SINGLE POINT
Dividend recommended u/s 123		Numbers of BM	Material changes or commitment
Amount transferred to reserves	DRS	Affairs of Company	Affecting financial position of company
CSR initiatives taken u/s 135	Declaration by Independent directors	Extract on Annual return (Section 92)	Occurred between
Details of fraud reported by auditors u/s 143(12)	Policy on director's remuneration and appointment NA to Gov co	Explanation or comments by board on	End of FY & Date of Audit report
Loans, guarantees or investment u/s 186 register		every qualification, adverse remark or disclaimer	Conservation of energy, technology and FE earnings and outgo
RPT u/s 188 register in (AOC 2)	Also includes DRS (Refer upcoming slides)	Made by auditor and CS in their reports	Such other matters (Refer next slide)

Section 134 : CONTENT OF BOARD REPORT - PART - II (RULE 8)

NA to Gov co engaged in producing defence equipment

ENERGY	TECHNOLOGY	FOREIGN EXCHANGE	OTHERS
Steps	Efforts made and benefits derived		Financial highlights
Impact of steps	R&D Expense		If change in nature of business
Alternate source	If technology imported :	Earned	KMP/Directors appointed and resigned
Capital investments on conservation equipment	Details and year of Import	Outgo	Companies that ceased to be S/JV/A
	Fully absorbed		Orders passed by court and tribunal impacting GC
	If not then why and where		IFC

SEC 134 - CONTENT OF BOARD REPORT - PART - III (RULE 8)

NA to Gov Co.

Deposits disclosure	+ disclosure in BR for certain companies	Disclosure only for Listed companies	DRS 134 (5)
Accepted during FY	Listed companies	IFC	AS followed ?
Unpaid and Unclaimed as the end of the FY	Every public PSC $\geq$ 25 Cr	Adequate / effective ?	Accounting policies consistently applied ? – T/F ?
Any default ?	Statement of	IFC means : Policies and procedure to ensure	Only for Listed Companies Sufficient care for SAFAR
In repayment of deposit and interests	Annual evaluation made by board of -	(SAFAR) Safeguard Assets	Proper system to check compliance of Law
Disclose number and total amount involved	Own performance, committee	Fraud detect	FS on Going Concern basis
At beginning; Max; End	Individual directors	Accounting Records – complete and accurate	IFC

SEC 135 - CSR - CC SLIDE 1

Meaning and Definition

CSR means and includes – Project and programs relating to areas and subjects under

- Schedule VII
- Undertaken by BOD in pursuance of recommendations by CSR Committee subject to schedule VII

Applicability of CSR

EVERY Co. – Including H/S and FOREIGN CO having

- 500 Cr. Or more – Net Worth **OR**
- 1000 Cr. Or more – Turnover **OR**
- 5 Cr. Or more – Net profit – As per section 198

During **preceding FY** shall constitute CSR Comm.

Board and CSR Committee

Committee will make policy and Board will ensure that activities in the policy are undertaken by the company.

Net Profit (PBT)

At least 2% of Average Net profit of immediately preceding three years in each FY.

Calculation as per section 198 and **should not include :**

- Overseas branch profit ,
- Dividend received from other Sec 135 companies.

If spent in excess then You can adjust or set off from any of the next 3 FYs by passing BR

SEC 135 - CSR - CC SLIDE 2

CSR Committee

Committee COMPOSITION – (Directors)

- At least 3 or more & 1 should be ID (NA to a Company where ID is not required to be appointed)
- Pvt co having 2 directors can form with 2.
- Foreign company at least 2 and 1 should be resident.

Committee Duties

- Formulate and recommend activities to Board.
- Recommend the amount to be spend.
- Monitor the CSR Policy from time to time.

Company should give preference to local areas first and areas where it operates for spending amounts

Reporting (Rule 8)

- Board Report should include an annual report on CSR and constitution of Committee.
- Host on the website as well.
- In case of foreign companies – Balance sheet filed u/s 381(1)(b) shall contain annexure on CSR.
- If co fails to contribute 2% then specify reasons for not spending in BR.

Penalty on the COMPANY
TWICE the amount of Sch. VII – Fund or
Unspent CSR
or 1 Crore –
whichever is less

Penalty on the OFFICERS
 $1/10^{\text{th}}$ of the amount of Sch. VII – Fund or
Unspent CSR
or 2 Lakhs –
whichever is less

SEC 135: CSR - CC SLIDE 3

CSR Implementation (Rule 4)

- A company can do on its own OR through a -
- Section 8 Co. , Registered society or TRUST
 - Estd. by COMPANY either singly or with other companies.
 - Estd. by CG or SG or any other established under act
- Any Section 8 Co. , Registered society or TRUST other than specified above shall have track record of 3 years in such programs or similar activities
- If in collaboration with other CSR companies then both should be able to report their work separately.
- Co may build their own CSR capacity of personnel but expense on that including admin expenses should be < 5% of total CSR expenditure for FY.

If the amount to be spent on CSR does not exceed 50 lakhs there is no requirement for constitution of CSR committee.

Exception to CSR Activities

- Activities undertaken outside India (Except spent on training of any personnel for state or UT at N/INT level)
- Activities that benefit only employees and their families.
- Contribution directly or indirectly to political party u/s 182.
- As per CSR Policy but activities taken in ordinary and normal course.
- Activities by the companies on sponsorship basis to derive marketing benefits for its own products and services
- Activities carried out to fulfil any other statutory obligation under any law.

SEC 135 : CSR - CC SLIDE 4

Areas and Subjects under Schedule VII

- Eradicating hunger, malnutrition, poverty and making safe drinking water available.
- Contribution to Swachh Bharat Kosh
- Promoting education and employment.
- Promoting gender equality.
- Ensuring environment stability including clean Ganga fund

- Protecting National heritage.
- Benefit for armed forces (Military)
- Promote rural sports.
- Contribution to PM National Relief or PM CARES Fund
- Contribution to technology incubators (Gov Research)
- Rural development projects.
- Slum area development.

MCA Clarifications

- Activities should be in project and programme mode. Eg : Marathons, TV ad would not qualify.
- Expenses for fulfilment of Act or Statute (Labour law etc.) would not qualify.
- Salaries to CSR regular staff and to volunteers should be factored into project costs.
- Contribution to Corpus funds of Trust/Sec 8/Society will qualify as CSR expenditure :
 - They are created exclusively for CSR activities
 - Corpus fund is created exclusively for direct purpose of Schedule VII activities.
 - Expenses by foreign HC for CSR in India - Only if routed through Indian SC & it is required to do so u/s Sec 135.

Problem Kya Hai? Question Bank

ICAI Module Descriptive Questions

Section 128 Books of Accounts

1. The registered office of the Bharat Ltd. is situated in a classified backward area of Maharashtra. The Board wants to keep its books of account at its corporate office in Mumbai which is conveniently located. The Board seeks your advice about the feasibility of maintaining the accounting records at a place other than the registered office of the company. Advice.

Solution:

According to section 128(1) of the Companies Act, 2013, every company is required to prepare and keep the books of accounts and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting.

The proviso to section 128(1) further provides that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place. Further company may keep such books of account or other relevant papers in electronic mode as per the Rule 3 of the Companies (Accounts) Rules, 2014.

Therefore, the Board of Bharat Ltd. can keep its books of account at its corporate office in Mumbai by following the above-mentioned procedure.

Section 128

2. (i) Ravi Limited maintained its books of account under Single Entry System of Accounting. Is it permitted under the provisions of the Companies Act, 2013?
- (ii) State the persons responsible for complying with the provisions regarding maintenance of Books of Account of a company.
- (iii) Whether a company can keep books of Account in electronic mode accessible only outside India?

Solution:

- (i) According to Section 128(1) of the Companies Act, 2013, every company shall prepare “books of account” and other relevant books and papers and financial statement for every financial year. These books of account should give a true and fair view of the state of the affairs of the company, including that of its branch office(s). These books of account must be kept on accrual basis and according to the double entry system of accounting. Hence, maintenance of books of account under Singly Entry System of Accounting by Ravi Limited is not permitted.
- (ii) **Persons responsible to maintain books:** As per Section 128 (6) of the Companies Act, 2013, the person responsible to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of account etc. shall be:

- (a) Managing Director,
 - (b) Whole-Time Director, in charge of finance
 - (c) Chief Financial Officer
 - (d) Any other person of a company charged by the Board with duty of complying with provisions of section 128.
- (iii) A Company has the option of keeping such books of account or other relevant papers in electronic mode as per Rule 3 of the Companies (Accounts) Rules, 2014. According to such Rule,
- (a) The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference.
 Provided that for the financial year commencing on or after the 1st day of April, 2022, every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled.
 - (b) There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate and such records shall not be disposed of or rendered unusable, unless permitted by law.
 - (c) The back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a periodic basis.
- Hence, a company cannot keep books of account in electronic mode accessible only outside India.

Section 129 Financial Statement (FS)

3. Herry Limited is a company registered in Thailand. SKP Limited (Registered in India), a wholly owned subsidiary company of Herry Limited decided to follow different financial year for the consolidation of its accounts outside India. State the procedure to be followed in this regard.

Solution:

Where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year. Any application pending before the Tribunal as on the date of commencement of the Companies

(Amendment) Ordinance, 2018, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement. Also, a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause. SKP Limited is advised to follow the above procedure accordingly.

Section 130 Revision on Financial Statement

4. The Income Tax Authorities in the current financial year 2023-24 observed, during the assessment proceedings, a need to re-open the accounts of Chetan Ltd. for the financial year 2012-13 and, therefore, filed an application before the National Company Law Tribunal (NCLT) to issue the order to Chetan Ltd. for re-opening of its accounts and recasting the financial statements for the financial year 2012-13. Examine the validity of the application filed by the Income Tax Authorities to NCLT.

Solution:

As per section 130 of the Companies Act, 2013, a company shall not re-open its books of account and not recast its financial statements, unless the Central Government makes an application in this regard, the Income-tax authorities, the Securities and Exchange Board, any other statutory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to the effect that:

- (i) The relevant earlier accounts were prepared fraudulently; or
- (ii) The affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:

However, no order shall be made in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year.

In the given instance, an application was filed for re-opening and re-casting of the financial statements of Chetan Ltd. for the financial year 2012-2013 which is beyond 8 financial years immediately preceding the current financial year.

Though application filed by the Income Tax Authorities to NCLT is valid, its recommendation for reopening and recasting of financial statements for the period earlier than eight financial years immediately preceding the current financial year i.e. 2023-2024, is invalid.

Section 134 Signing of Financial Statement

5. The Board of Directors of Vishwakarma Electronics Limited consists of Mr. Ghanshyam (Director), Mr. Hyder (Director) and Mr. Indersen (Managing Director). The company has also employed a Company Secretary.

The financial statements of the company were signed by Mr. Ghanshyam and Mr. Hyder. Examine whether the authentication of financial statements of the company was in accordance with the provisions of the Companies Act, 2013?

Solution:

According to section 134(1) of the Companies Act, 2013, the financial statements, 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.

In the instant case, the Balance Sheet and Profit and Loss Account have been signed only by Mr. Ghanshyam and Mr. Hyder, the directors. In view of Section 134(1) of the Companies Act, 2013, Mr. Indersen, the Managing Director should be one of the two signing directors. Since, the company has also employed a Company Secretary, he should also sign the financial statements.

Section 137 Filing of F.S. with ROC

6. A Housing Finance Ltd. is a housing finance company having a paid-up share capital of ₹ 11 crore and a turnover of ₹ 145 crore during the financial year 2023-24. Explain with reference to the relevant provisions and rules, whether it is necessary for A Housing Finance Ltd. to file its financial statements in XBRL mode.

Solution:

As per Rule 3(1) of the Companies (Filing of Documents and forms in Extensible Business Reporting Language) Rules, 2015, following class of companies shall file their financial statements and other documents under section 137 of the Act with the Registrar in e-form AOC-4 XBRL as per Annexure-I:

- (i) Companies listed with stock exchanges in India and their Indian subsidiaries;
- (ii) Companies having paid up capital of five crore rupees or above;
- (iii) Companies having turnover of one hundred crore rupees or above;
- (iv) All companies which are required to prepare their financial statements in accordance with Companies (Indian Accounting Standards) Rules, 2015.

Provided further that non-banking financial companies, housing finance companies and companies engaged in the business of banking and insurance sector are exempted from filing of financial statements under these rules.

Hence A housing Finance Ltd., being a housing finance company, is exempted from filing its financial statement in XBRL mode.

Section 137

7. The Government of India is holding 51% of the paid-up equity share capital of Sun Ltd. The Audited financial statements of Sun Ltd. for the financial year 2022-23 were placed at its annual general meeting held on 31st August 2023. However, pending the comments of the Comptroller and Auditor General of India (CAG) on the said accounts the meeting was adjourned without adoption of the accounts. On receipt of CAG comments on the accounts, the adjourned annual general meeting was held on 15th October, 2023 whereat the accounts were adopted. Thereafter, Sun Ltd. filed its financial statements relevant to the financial year 2022-23 with the Registrar of Companies on 12th November, 2023. Examine, with reference to the applicable provisions of the Companies Act, 2013, whether Sun Ltd. has complied with the statutory requirement regarding filing of accounts with the Registrar?

Solution:

According to first proviso to section 137(1) of the Companies Act, 2013, where the financial statements are not adopted at annual general meeting or adjourned annual general meeting, such un-adopted financial statements along with the required documents shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose.

According to second proviso to section 137(1) of the Companies Act, 2013, financial statements adopted in the adjourned AGM shall be filed with the Registrar within thirty days of the date of such adjourned AGM with such fees or such additional fees as may be prescribed. In the instant case, the accounts of Sun Ltd. were adopted at the adjourned AGM held on 15th October, 2023 and filing of financial statements with Registrar was done on 12th November, 2023 i.e. within 30 days of the date of adjourned AGM. But Sun Ltd. has not filed its un-adopted financial statements within 30 days of the date of the annual general meeting held on 31st August 2023.

Hence, Sun Ltd. has not complied with the statutory requirement regarding filing of un-adopted accounts with the Registrar, but has certainly complied with the provisions by filing of adopted accounts within the due date with the Registrar.

RTP, MTP and PYQ Descriptive Questions

Section 128 Books of Accounts

1. (i) K Ltd. in its first year of incorporation maintained its books of account under Single Entry System of Accounting. Is it permitted under the provisions of the Companies Act, 2013?
- (ii) State the person responsible for complying with the provisions regarding maintenance of Books of Accounts, etc. of a Company.

(RTP Sep 24)

Solution:

- (i) According to section 128(1) of the Companies Act, 2013, every company shall prepare books of account and other relevant books and papers and financial statement for every financial year, which give a true and fair view of the state of the affairs of the company, including that of its branch office(s) if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting. Hence, maintenance of books of account under Singly Entry System of Accounting by K Ltd. is not permitted.
- (ii) Persons responsible to maintain books
As per section 128 (6) of the Companies Act, 2013, the person responsible to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of accounts etc. shall be:
 - a) Managing Director,
 - b) Whole-Time Director, in charge of finance
 - c) Chief Financial Officer
 - d) Any other person of a company charged by the Board with duty of complying with provisions of section 128

Section 2(40) Financial Statement

2. Sriram Private Limited is a start-up company. Mr. Lovely has been appointed as Accounts Manager of Sriram Private Limited. The Board meeting for approval of accounts is to be held on 1st August, 2024 and he has to prepare the financial statements for approval by the Board. Referring to section 2(40) of the Companies Act, 2013, advise Mr. Lovely about the statements that are required to be prepared.

(MTP May 25)(MTP Jan 25)

Solution :

Law : As per section 2(40) of the Companies Act, 2013, Financial Statement in relation to a company, includes—

- (i) a balance sheet as at the end of the financial year;
- (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
- (iii) cash flow statement for the financial year;
- (iv) a statement of changes in equity, if applicable; and

(iv) any explanatory note annexed to, or forming part of, any document referred to in sub- clause (i) to sub-clause (iv):

Exemption: As per the proviso to section 2(40), the financial statement, with respect to one person company, small company, dormant company and private company (if such private company is a start-up) may not include the cash flow statement.

Conclusion: In the instant case, Mr. Lovely has to prepare the above financial statements except Cash Flow Statement; since Sriram Private Limited is a start-up private company.

Section 2(40)

3. Vishal Limited is an unlisted public company, having five directors in its board which includes two independent directors.

Sam (P) Limited, is subsidiary company of Vishal Limited, actively carrying on its business, having paid up capital of ₹ 1.5 crore with 40 members and turnover of ₹ 18 crore, respectively and the said company is not a start-up company.

It is also provided that Sam (P) Limited is not a start up company.

In the context of aforesaid case-scenario, please answer to the following question(s):-

Whether Sam (P) Limited is mandatorily required to prepare cash flow statement for the financial year as a part of its financial statements?

Provide your answer by analyzing Sam (P) Limited into following category of companies:-

- (i) Small company, and
- (ii) Dormant company, respectively.

(RTP Jan 25)

Solution:

Law: According to section 2(40) of the Companies Act, 2013, Financial statement in relation to a company, includes:

- (i) a balance sheet as at the end of the financial year;
- (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
- (iii) cash flow statement for the financial year;
- (iv) a statement of changes in equity, if applicable; and
- (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):

Provided that the financial statement, with respect to one person company, small company, dormant company and private company (if such private company is a start-up) may not include the cash flow statement.

Conclusion:

For considering the applicability of preparation of cash flow statement in case of Sam (P) Limited, it is required first to analyze that Sam (P) Limited does not fall in the following categories:

- (i) Small company – A company which is a subsidiary company cannot be categorized as a small company as per proviso to section 2(85). Thus, even though its paid up capital and turnover are within the prescribed limits, as Sam (P) Limited is a subsidiary company of Vishal Limited, it cannot be considered as small company.
- (ii) Dormant company – It is given that the company is actively carrying on its business, so it cannot be also categorized as a dormant company based upon the facts given.

So, Sam (P) Limited shall be deemed to be a public company as it is subsidiary of Vishal Limited, an unlisted public company and so it will not fall into this category of exemption as well.

Thus, it can be concluded that Sam (P) Limited is mandatorily required to prepare cash flow statement for the financial year as a part of its financial statements as it does not fall in any of the categories of companies mentioned under proviso to section 2(10) of the Companies Act, 2013.

Section 129 Financial Statement

4. Madan Pvt. Ltd. is a partially owned subsidiary of Puri Ltd., holding 90% of its shares. The company does not have any listed securities and is not in the process of listing on any stock exchange. Puri Ltd., the holding company, prepares and files consolidated financial statements (CFS) with the Registrar in compliance with applicable Accounting Standards.

Considering the above, analyze and examine the following situations:

1. Is Madan Pvt. Ltd. required to prepare its own consolidated financial statements? What are the requisite conditions for the same?
2. How does it matters, if Madan Pvt. Ltd. had securities listed on a recognized stock exchange?

(RTP May 25)

Solution :

Law: As per section 129 of the Companies Act, 2013, where a company has one or more subsidiaries or associate companies, it shall (in addition to financial statements prepare a consolidated financial statement (CFS) of the company and of all the subsidiaries, associate companies and joint ventures in the same form and manner as that of its own and in accordance with applicable accounting standards. Such CFS shall also be laid before the annual general meeting of the company along with the laying of its financial statement.

Exemptions from preparation of CFS

According to section 129(3), the preparation of consolidated financial statements by a company is not required if it meets the following conditions:

- (i) It is a wholly owned subsidiary, or is a partially owned subsidiary of another company and all its other members, including those not otherwise entitled to vote, having been intimated in writing and for which the proof of delivery of such intimation is available with the company, do not object to the company not presenting consolidated financial statements;

- (ii) It is a company whose securities are not listed or are not in the process of listing on any stock exchange, whether in or outside India; and
- (iii) Its ultimate or any intermediate holding company files consolidated financial statements with the Registrar which are in compliance with the applicable Accounting Standards.

Conclusion: In line with stated legal requirements, following are the answers:

- (i) Madan Pvt. Ltd. may qualify for an exemption from preparing consolidated financial statements because:
 - (a) It is a partially owned subsidiary (90% ownership by Puri Ltd.).
 - (b) It does not have any listed securities and is not in the process of listing on any stock exchange i.e., have no publicly trading of securities.
 - (c) Its holding company, Puri Ltd., prepares and files consolidated financial statements with the Registrar in compliance with applicable Accounting Standards.

Since Madan Pvt. Ltd. is a partially owned subsidiary, it must ensure that all its members, including remaining shareholders (10% in this case), are informed in writing about the decision not to present CFS, and it must maintain proof of delivery of such communication. No member should object to this exemption.
- (ii) If Madan Pvt. Ltd. had its securities listed on a recognized stock exchange or was in the process of being listed, it would not qualify for the exemption and would be required to prepare and present its own consolidated financial statements as per the applicable provisions.

Section 2(41) Financial Year

5. SKP Limited (Registered in India), a wholly owned subsidiary company of Herry Limited decided to follow different financial year for consolidation of its accounts outside India. State the procedure to be followed in this regard.

(NOV 2019)

Solution:

- (i) F.Y. in relation to any company or body corporate, means the period ending on the 31st March every year.
- (ii) In case a company is incorporated on or after 1st January of a year, the period ending on the 31st March of the next year, shall be the F.Y of the F.S. of such shall company or body corporate.
- (iii) In case a holding or subsidiary or associate company of a company incorporated outside India is required to follow a different F.Y for consolidation of its accounts outside India, the company or body corporate shall apply to C.G; the C.G may allow any period as its F.Y, whether or not that period is year.
- (iv) Application for change in FY to Regional Director SKP Limited is advised to follow the above procedure accordingly.

[Note: This answer is based on the assumption that Herry limited is a foreign Company registered outside India as inferred from part (i) of the question].

Section 129A Periodic Financial Statement

6. Crystal Limited recently received a communication from the Central Government requesting the preparation of periodical financial results along with the completion of either a full audit or a limited review of these financial results. The Board of Directors, however, has raised an objection, arguing that Crystal Limited, being an unlisted company, are not obligated to prepare periodical financial results.

Analyze the situation, citing relevant provisions of the Companies Act, 2013, with respect to the company's obligation regarding the preparation of periodical financial results.

(MTP May 24) (PYQ May 2022)

Solution:

Law: Periodical Financial Results [Section 129A of the Companies Act, 2013]

The Central Government may, require such class or classes of unlisted companies, as may be prescribed:

- (i) to prepare the financial results of the company on periodical basis and in prescribed form
- (ii) to obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in the prescribed manner; and
- (iii) file a copy with the Registrar within a period of thirty days of completion of the relevant period with such fees as may be prescribed.

Conclusion: Therefore, the objection of the Board of Directors on the ground that as Crystal Limited is an unlisted company, periodical financial results need not be prepared, is not correct. Section 129A clearly specifies that even unlisted company has to prepare Periodical Financial Results.

Section 130 Revision on Financial Statement

7. The Income Tax Authorities in the current financial year 2019-20 observed, during the assessment proceedings, a need to re-open the accounts of Chetan Ltd. for the financial year 2008 -09 and, therefore, filed an application before the National Company Law Tribunal (NCLT) to issue the order to Chetan Ltd. for re-opening of its accounts and recasting the financial statements for the financial year 2008-09. Examine the validity of the application filed by the Income Tax Authorities to NCLT.

(MTP NOV 2020)(MAY 2019)

Solution:

Law: As per section 130 of the Companies Act, 2013, a company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to the effect that—

- (i) the relevant earlier accounts were prepared in a fraudulent manner; or
- (ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements.

However, no order shall be made in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year.

Conclusion: In the given instance, an application was filed for re-opening and re-casting of the financial statements of Chetan Ltd. for the financial year 2008-2009.

Though application filed by the Income Tax Authorities to NCLT is valid, its recommendation for reopening and recasting of financial statements for the period earlier than eight financial years immediately preceding the current financial year i.e. 2019-2020, is invalid.

Section 131 Voluntary Revision on Financial Statement

8. The directors of Ninu Ltd. want to voluntary revise the Financial statements of the company. They have approached you to state to them the provisions of the Companies Act, 2013 regarding voluntary revision of financial statements. **(MTP MAY 2018)**

Solution :

According to section 131 of the Companies Act, 2013,

- (i) Preparation of revised financial statement or revised report on the approval of Tribunal: If it appears to the directors of a company that—

- (a) the financial statement of the company; or
- (b) the report of the Board,

do not comply with the provisions of section 129 or section 134, they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar:

Tribunal to serve the notice: Provided that the Tribunal shall give notice to the Central Government and the Income tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section:

Number of times of revision and recast: provided further that such revised financial statement or report shall not be prepared or filed more than once in a financial year:

Reason for revision to be disclosed: Provided also that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

- (ii) Where copies of the previous financial statement or report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions must be confined to—
 - (a) the correction in respect of which the previous financial statement or report do not comply with the provisions of section 129 or section 134; and

- (b) the making of any necessary consequential alternation.
- (iii) Framing of rules by the Central Government in relation to revised financial statement or director's report: The Central Government may make rules as to the application of the provisions of this Act in relation to revised financial statement or a revised director's report and such rules may, in particular—
 - (a) make different provisions according to which the previous financial statement or report are replaced or are supplemented by a document indicating the corrections to be made;
 - (b) make provisions with respect to the functions of the company's auditor in relation to the revised financial statement or report;
 - (c) require the directors to take such steps as may be prescribed.

Section 134 Signing of Financial statement

9. Altar Limited has on its Board, four Directors viz. W, X, Y and Z. In addition, the company has Mr. D as the Managing Director. The company also has a full time Company Secretary, Mr. Wise, on its rolls. The financial statements of the company for the year ended 31st March, 2017 were authenticated by two of the directors, Mr. X and Y under their signatures.

(RTP MAY 2018) (MTP MAY 2020)

Referring to the provisions of the Companies Act, 2013:

- (i) Examine the validity of the authentication of the Balance Sheet and Statement of Profit & Loss and the Board's Report.
- (ii) What would be your answer in case the company is a One Person Company (OPC) and has only one Director, who has authenticated the Balance Sheet and Statement of Profit & Loss and the Board's Report?

Solution:

Law: In accordance with the provisions of the Companies Act, 2013, as contained under section 134 (1), the financial statements, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by at least:

- (i) The Chairperson of the company where he is authorized by the Board; or
- (ii) Two directors out of which one shall be the managing director and other the Chief Executive Officer, if he is a director in the company
- (iii) The Chief Financial Officer and the Company Secretary of the company, wherever they are appointed.

In case of a One Person Company, the financial statements shall be signed by only one director, for submission to the auditor for his report thereon.

The Board's report and annexures thereto shall be signed by its Chairperson of the company, if he is authorized by the Board and where he is not so authorized, shall be signed by at least two directors one of whom shall be a managing director or by the director where there is one director.

Conclusion:

- (i) In the given case, the Balance Sheet and Profit & Loss Account have been signed by Mr. X and Mr. Y, the directors. In view of the provisions of Section 134 (1), the Managing Director Mr. D should be one of the two signatories. Since, the company has also employed a full time Secretary, he should also sign the Balance Sheet and Profit & Loss Account. Therefore, authentication done by two directors is not valid.
- (ii) In case of OPC, the financial statements should be signed by one director and hence, the authentication is in order.

Section 134 Contents of Directors Responsibility Statement

10. State any four contents of a Directors Responsibility Statement as required under Section 134 of the Companies Act, 2013.

(MAY 2018) (MTP May 24)

Solution:

Contents of Directors Responsibility Statement [Section 134(5) of the Companies Act, 2013]: The Directors' Responsibility Statement referred to in 134(3) (c) shall state that—

- (i) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;
- (ii) the directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;
- (iii) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;
- (iv) the directors had prepared the annual accounts on a going concern basis;
- (v) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

Here, the term “internal financial controls” means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information; and

- (vi) the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

Section 135 Corporate Social Responsibility

11. Tirupati Limited, a listed company has made the following profits, the profits reflect eligible profits under the relevant section of the Companies Act, 2013.

Financial year	Amount (In ₹)
2012-13	20
2013-14	40
2014-15	30
2015-16	70
2016-17	50

- Calculate the amount that the company has to spend towards CSR for the financial year 2017-18.
- State the composition of the CSR committee unlisted company and a private company.

(RTP MAY 2018)**Solution:**

Law: Section 135 read with Companies (Corporate Social Responsibility Policy) Rules, 2014 of the Companies Act, 2013 deals with the provisions related to the Corporate Social Responsibility.

- Amount that Company has to spend towards CSR: According to section 135 of the Companies Act, 2013, the Board of every company shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its CSR Policy.

Conclusion: As per the given facts, following are the answers in the given situations-

- Accordingly, net profits of Tirupati Ltd. for three immediately preceding financial years is 150 crores (30+70+50) and 2% of the average net profits of the company made during these three immediately preceding financial years will constitute 1 crore, can be spent towards CSR in financial year 2017-2018.
- Composition of CSR Committee: The CSR Committee shall be consisting of 3 or more directors, out of which at least one director shall be an independent director.
 - an unlisted public company or a private company covered under section 135(1) which is not required to appoint an independent director, shall have its CSR Committee without such director;
 - a private company having only two directors on its Board shall constitute its CSR Committee with two such directors;

Section 135

12. Rera Ltd., a company incorporated under the Companies Act, 2013 having turnover of ₹ 100 crore, net profit ₹ 3 crore, accumulated loss of ₹ 50 crore and securities premium ₹ 300 crore as per the audited accounts of the company for the Financial Year 2016-17.

The CFO of the company informed the directors of the company that the Corporate Social Responsibility (CSR) committee is required to be constituted as per the Companies Act, 2013. The directors seek your advice as a professional regarding the criteria required to constitute CSR committee and whether it is applicable to Rera Ltd or not,

(MAY 2018)

Solution :

Law: Corporate Social Responsibility Committee: According to Section 135 of the Companies Act, 2013 read with the Companies (Corporate Social Responsibility) Rules, 2014, every company including its holding or subsidiary, and a foreign company defined under section 2(42) of the Companies Act, 2013, having its branch office or project office in India, having -

- (i) net worth of rupees 500 crore or more, or
- (ii) turnover of rupees 1000 crore or more or
- (iii) a net profit of rupees 5 crore or more

during any financial year shall constitute a Corporate Social Responsibility Committee of the Board.

"Net worth" [Section 2(57)] means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

Conclusion: In the present case,

- turnover of Rera Ltd. is ₹ 100 crore,
- net profit of ₹ 3 crore and
- net worth of ₹ 253 crore (Net profit + securities premium - accumulated loss = 3 + 300 - 50 = 253 crore).

Hence, RERA Ltd. is not fulfilling any criteria prescribed for constitution of CSR committee. So, it is not obligatory for Rera Ltd. to constitute CSR Committee.

[Note 1: - It can also be presumed that net profit of the current year has already been considered while calculating accumulated losses.]

[Note 2: Since paid-up share capital value is not given in the question, it has been presumed that accumulated losses as stated in the question is given after taking into consideration the paid-up share capital, i.e. net of accumulated losses less paid-up share capital].

Section 135

13. Quick Money Limited attracts the provisions of section 135 of the Companies Act, 2013 and it has minimum average obligation to spend Corporate Social Responsibility (CSR) amount of ₹ 15 crore during each of the preceding five years. In this connection, the Board of Directors of the company needs your expert views on the following matters:

- (i) What is the meaning of "impact assessment"?
- (ii) Whether impact assessment is required to be taken by all the companies?
- (iii) Who can conduct impact assessment?

(PYQ Jan 2025)

Solution:

Law: Rule 8(3) of the Companies (Corporate Social Responsibilities Policy), 2014 provides the class of companies that are required conduct an impact assessment.

Every company having average CSR obligation of ten crore rupees or more in pursuance of section 135(5) of the Companies Act, 2013, in the three immediately preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.

Conclusion:

(i) Meaning of Impact Assessment:

- a. The impact assessment is an exercise to assess the social, economic and environmental impact of a particular CSR project.
- b. It is the exercise of taking a retroactive view of the Corporate Social Responsibility (CSR) activities completed by the entity and assess the effects of these activities on various stakeholders like employees, customers, communities and the environment.
- c. Impact assessment is seemingly another step to encourage companies to make considered decisions before deploying CSR amounts and assess the impacts of their investments to capture the impact being generated by them.
- d. This shall not only serve as feedback for companies to plan and better allocate resources, but shall also deepen the impact of CSR.

(ii) Applicability of Impact assessment on Companies

Accordingly, Rule 8(3) of the Companies (Corporate Social Responsibilities Policy), 2014 Every company having average CSR obligation of ₹ 10 crore or more in the three immediately preceding financial years of their CSR projects having outlays of 1 crore rupees or more, and which have been completed not less than 1 year before undertaking impact assessment.

(iii) Who can conduct an impact assessment?

The impact assessment shall be conducted by an independent agency.

Section 135

14. "CSR can mean different things to different people", explain.

(MTP NOV 2017)

Solution:

Corporate Social Responsibilities (CSR) is an integrated combination of policies, programs, education, and practices which extend throughout a corporation's operations and into the communities in which they operate, about how companies voluntarily manage the business processes to produce an overall positive impact on society. CSR can mean different things to different people:

- (i) for an employee it can mean fair wages, no discrimination, acceptable working conditions etc.
- (ii) for a shareholder it can mean making responsible and transparent decisions regarding the use of capital.

- (iii) for suppliers it can mean receiving payment on time.
- (iv) for customers it can mean delivery on time, etc.
- (v) for local communities and authorities it can mean taking measures to protect the environment from pollution.
- (vi) for non-governmental organisations and pressure groups it can mean disclosing business practices and performance on issues ranging from energy conservation and global warming to human rights and animal rights, from protection of the rainforests and endangered species to child and forced labour, etc.

For a company, however, it can simply be seen as responding to the needs and concerns of people who can influence the success of the company and/or whom the company can impact through its business activities, processes and products.

Section 135

15. What is Corporate Social Responsibility? Why it is needed in Indian Business environment?

(MTP NOV 2017)

Solution:

The concept of Corporate Social Responsibility (CSR) focuses on the idea that beyond making profit, a business has social obligations. It is the responsibility of the companies to produce an overall positive impact on the society. CSR is pursued by business to balance their economic, environmental and social objectives while at the same time addressing stakeholders' expectations and enhancing shareholders' values. Stakeholders, including shareholders, analysts, regulators, labour unions, employees, community organisations and mass media expect companies to be accountable not only for their own performance but for the performance of their entire supply chain. Issues such as peace, sustainable development, security, poverty alleviation, environmental quality and human rights have a profound effect on business and its environment.

Corporate Social Responsibility is the continuing commitment by businesses to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.

Need for social responsibility:

- (i) The iron law of responsibility
- (ii) To fulfil long term self-interest
- (iii) To establish a better public image
- (iv) To avoid government regulation and control
- (v) To avoid misuse of National Resources and Economic Power
- (vi) To convert Resistances into Resources
- (vii) To minimise Environmental damage.

Section 135

16. Explain the following in brief with reference to Companies Act 2013:

- (i) National Financial Reporting Authority (NFRA)
- (ii) Corporate Social Responsibility (CSR) Committee

(3 + 3 = 6 Marks)(Nov 2020)

Solution:

- (i) National Financial Reporting Authority (NFRA)

According to section 132 of the Companies Act, 2013, the Central Government may, by notification, constitute the National Financial Reporting Authority (NFRA) to provide for matters relating to accounting and auditing standards under this Act.

Notwithstanding anything contained in any other law for the time being in force, the NFRA shall—

- (a) make recommendations to the Central Government on the formulation and laying down of accounting and auditing policies and standards for adoption by companies or class of companies or their auditors, as the case may be;
- (b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;
- (c) oversee the quality of service of the professions associated with ensuring compliance with such standards, and suggest measures required for improvement in quality of service and such other related matters as may be prescribed; and
- (d) perform such other functions relating to clauses (a), (b) and (c) as may be prescribed.

- (ii) Corporate Social Responsibility (CSR) Committee:

According to section 135(1) of the Companies Act, 2013, every company having

- (a) net worth of rupees 500 crore or more, or
- (b) turnover of rupees 1000 crore or more or
- (c) a net profit of rupees 5 crore or more

during the immediately preceding financial year 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.

Provided that 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.

- (ii) Duties of CSR Committee [Section 135(3)]:

The CSR Committee shall-

- (a) formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII;
- (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and monitor the CSR Policy of the company from time to time.

Section 137 Filing of F.S. with ROC

17. The Government of Rajasthan and Haryana are jointly holding 58% of the paid-up Equity Share Capital of Moon Ltd. The Audited financial statements of Moon Ltd. for the financial year 2021-22 were placed at its Annual General Meeting held on 31st August, 2022. However, pending the comments of the Comptroller and Auditor General of India (CAG) on the said accounts the meeting was adjourned without adoption of the accounts. Therefore, the company did not file its financial statements to the Registrar. Afterwards, on receipt of CAG comments on the accounts, the adjourned annual general meeting was held on 5th October, 2022 whereat the accounts were adopted. Thereafter, Moon Ltd. filed its financial statements relevant to the financial year 2021-22 with the Registrar of Companies on 25th October, 2022.

Examine, with reference to the applicable provisions of the Companies Act, 2013, whether, Moon Ltd. has complied with the statutory requirement regarding filing of accounts with the Registrar.

(PYQ Nov 2022)

Solution:

Law: According to first provision to Section 137(1) of the Companies Act, 2013, where the financial statements are not adopted at Annual General Meeting (AGM) or adjourned AGM, such unadopted financial statements along with the required documents shall be filed with the Registrar within thirty days of the date of Annual General Meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned Annual General Meeting for that purpose.

According to second proviso to section 137(1) of the Companies Act, 2013, financial statements adopted in the adjourned AGM shall be filed with the Registrar within thirty days of the date of such adjourned AGM with such fees or such additional fees as may be prescribed.

Conclusion: In the instant case, the accounts of Moon Ltd. were adopted at the adjourned AGM held on 5th October, 2022 and filing of financial statements with Registrar was done on 25th October, 2022 i.e. within 30 days of the date of adjourned AGM. However, Moon Ltd. has not filed its unadopted financial statements within 30 days of the date of the Annual General Meeting held on 31st August 2022.

Hence, Moon Ltd. has not complied with the statutory requirement regarding filing of unadopted accounts with the Registrar, but has certainly complied with the provisions by filing of adopted accounts within the due date with the Registrar.

Section 137

18. Form Limited is engaged in the business of manufacturing shoes for kids. It is required to hold its Annual General Meeting (AGM) for the financial year ending 31st March 2024 by 30th September 2024. However, due to internal disputes among the directors, the company was unable to convene the AGM by the due date.

Explain the relevant provisions of the Companies Act, 2013, with respect to the filing of the financial statements with the Registrar in this case.

(MTP Jan 25)

Solution:

As per section 137 of the Companies Act, 2013, where the Annual General Meeting of a company for any year has not been held, the financial statements along with the documents required to be attached, duly signed along with the statement of facts and reasons for not holding the AGM shall be filed with the Registrar within 30 days of the last date before which the AGM should have been held and in such manner, with such fees or additional fees as may be prescribed.

Section 137

19. The Government of India is holding 51% of the paid-up equity share capital of Surya Ltd. The Audited financial statements of Surya Ltd. for the financial year 2023-24 were placed at its annual general meeting held on 1st August, 2024. However, pending the comments of the Comptroller and Auditor General of India (CAG) on the said accounts the meeting was adjourned without adoption of the accounts. On receipt of CAG comments on the accounts, the adjourned annual general meeting was held on 29th September, 2024 whereat the accounts were adopted. Thereafter, Surya Ltd. filed its financial statements relevant to the financial year 2023-24 with the Registrar of Companies on 20th October, 2024. Examine, with reference to the applicable provisions of the Companies Act, 2013, whether Surya Ltd. has complied with the statutory requirement regarding filing of accounts (unadopted and adopted) with the Registrar?

(MTP Sept 24) (MAY 2019)

Solution:

Law: According to first proviso to section 137(1) of the Companies Act, 2013, where the financial statements are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose.

According to second proviso to section 137(1) of the Companies Act, 2013, financial statements adopted in the adjourned AGM shall be filed with the Registrar within thirty days of the date of such adjourned AGM with such fees or such additional fees as may be prescribed.

Conclusion: In the instant case, the accounts of Surya Ltd. were adopted at the adjourned AGM held on 29th September, 2024 and filing of financial statements with Registrar was done on 20th October, 2024 i.e. within 30 days of the date of adjourned AGM.

Hence, Surya Ltd. has not complied with the statutory requirement regarding filing of unadopted accounts with the Registrar, but has certainly complied with the provisions by filing of adopted accounts within the due date with the Registrar.

Section 138 Internal Audit

20. PQR Private Limited operates as a manufacturing company, generating a turnover of ₹ 150 crore and holds an outstanding loan of ₹ 75 crore from a public financial institution solely in the previous financial year (with a total loan availed of ₹ 110 crore, but ₹ 35 crore were repaid during the same year). The company's Board has delegated the authority to Chief Executive Officer (CEO) to designate an internal auditor to conduct internal audit. However, the CEO believes that the company is not legally obligated to have an internal auditor.

Analyse the accuracy of the CEO's perspective by referring to the provisions outlined in the Companies Act, 2013. What would be your response if the Board of Directors wanted to appoint the Mr. Nagendra (an ex- employee who is a qualified Chartered Accountant) as an internal auditor?

(RTP May 24)**Solution:**

Law: According to the provisions of section 138 of the Companies Act, 2013, read with Rule 13 of the Companies (Accounts) Rules, 2014, every private company having—

- (a) turnover of 200 crore rupees or more during the preceding financial year; or
- (b) outstanding loans or borrowings from banks or public financial institutions exceeding 100 crore rupees or more at any point of time during the preceding financial year.

shall be required to appoint an internal auditor which may be either an individual or a partnership firm or a body corporate.

Internal Auditor shall either be a Chartered Accountant or a Cost Accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

The internal auditor may or may not be an employee of the company.

Conclusion: Thus, PQR Private Limited is required to appoint an internal auditor as the outstanding loans from public financial institutions during the year have exceeded 100 crore (irrespective of the fact that the outstanding loan during the year is 75 crore rupees).

Hence, the advice of CEO is not correct.

Internal Auditor may be any professional as decided by the Board and may be even an employee of the company. Hence, the Board of Directors may appoint Mr. Nagendra, an ex- employee who is a qualified Chartered Accountant, as an internal auditor.

Section 138

21. ABC Private Limited was incorporated on 30th September 2020. It has a paid-up share capital of ₹ 45 crore. The company had a turnover of 250 crore for the financial year 2023- 24. The accounts manager of the company has intimated to the company that they are not required to appoint internal auditor for the financial year 2024-25. The management of the company have approached you to advise them about the appointment of internal auditor, as per the provisions of the Companies Act, 2013.

(MTP May 25)

Solution:

Law: According to section 138 read along with Rules of the Companies Act, 2013, every private company having:

- (A) turnover of 200 crore rupees or more during the preceding financial year; or
- (B) outstanding loans or borrowings from banks or public financial institutions exceeding 100 crore rupees or more at any point of time during the preceding financial year.

shall be required to appoint an internal auditor which may be either an individual or a partnership firm or a body corporate.

Conclusion: In the given question, the company has a paid-up capital of ₹ 45 crore and turnover of ₹ 250 crore for the financial year 2023-24.

Since, the company is fulfilling the criteria of turnover (i.e. more than ₹ 200 crore), hence, it is required to appoint an internal auditor for the financial year 2024-25.