SECRETARIAL AUDIT, COMPLIANCE MANAGEMENT AND DUE DILIGENCE

CS-PROFESSIONAL MODULE-II

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INDEX

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CHAPTER [illegible] COMP[illegible]IANCE [illegible]RAME[illegible]OR[illegible]

[illegible] INTRODUCTION

- C[illegible] [illegible] Management of company to ensure company's compliance with all rules and regulations as [illegible]
- A [illegible]
- C[illegible] S[illegible]

2. CORPORATE COMP[illegible]IANCE [illegible]RAME[illegible]OR[illegible]

1. C[illegible] C[illegible]M[illegible] L[illegible] business' operation. And explains how [illegible]
2. C[illegible] Ad[illegible]M[illegible] [illegible]
3. C[illegible] S[illegible]A [illegible] relating to a business' operations and outlines how compliance risk mitigation activities are [illegible]

[illegible]

A [illegible]

1. **Compliance Dashboard:** [illegible] respect to a specific purpose. Compliance dashboard is used to see a company's performance [illegible]

2. **Compliance policy and procedures:** [illegible]

3. **Access to rules and regulations:** [illegible]

[illegible]

4. **Compliance Training:** [illegible]

5. **Compliance Task Management:** [illegible]

6. **Compliance audit:** [illegible]

3. PREPARATION OF COMPLIANCE CHART

Compliance chart is a tool to ensure that all the applicable laws, rules, regulations and standards are complied with.

Compliance chart is a list of laws that are applicable to a business. The Compliance Officer is responsible for preparing the compliance chart. The Compliance Officer should be aware of all the applicable laws, regulations and standards relating to a business' operations and should ensure that such laws are complied with. The compliance chart is prepared by the Compliance Officer in consultation with the heads of various departments of the business. The heads of various departments in the business are aware of the laws that are applicable to their respective departments. For example, the Finance Manager is aware of the laws relating to taxation, the Human Resource Manager is aware of the laws relating to employees, the Marketing Manager is aware of the laws relating to advertisements, etc.

Further, such chart should be reviewed by the Compliance Officer in consultation with the Legal Department, Regulatory Authorities and Industry Associations.

a) Regulatory Authorities
b) Regulatory Mechanism
c) Compliance Mechanism
d) Compliance Requirements
e) Regulatory Framework

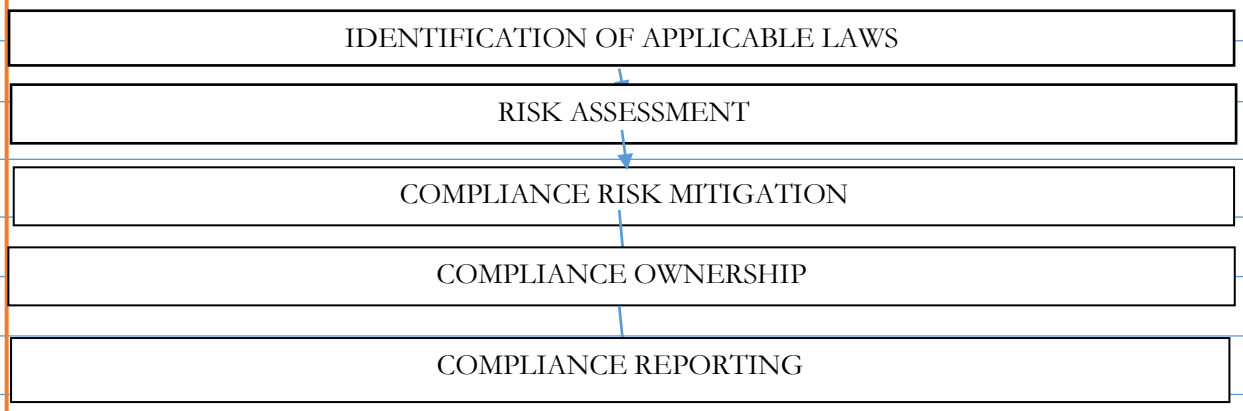
4. CONTENT OF COMPLIANCE CHART

A compliance chart should contain the following information with respect to each law:-

1. Regulatory Authority under the law (e.g., regulation, inspection, regulatory framework) and Penalties and Offences under the law.
2. Statutory Forms, Returns and Documents required to be filed with various authorities under the law and Due Dates for filing the same.
3. Registers required to be maintained under the law, if any.
4. Compliance Requirements (e.g., maintenance of registers, records and documents, filing of returns, forms or documents) under the law.
5. Officers responsible for compliance of each law.
6. Time limit for each compliance and Authority before which compliance is to be made and Frequency of compliance (e.g., annual, monthly).

5. ROLE OF COMPANY SECREATARY IN CREATION OF COMPLIANCE CHART

Compliance Secretary plays a very important role in the creation of compliance chart. The compliance chart can be developed in the following manner:



1. ***Identification of applicable rules and laws:*** The first step is to identify the applicable laws and regulations that are relevant to the business. This can be done by reviewing the company's operations, industry, and geographic location. The compliance team should also stay up-to-date with any changes in the laws and regulations that may affect the business. For example, if the company operates in the healthcare industry, it must comply with laws and regulations related to patient privacy, data security, and medical billing.

2. ***Risk Assessment:*** Risk assessment is the process of identifying, evaluating, and prioritizing risks that may affect the business. It is important to assess the likelihood and impact of each risk, as well as the company's ability to mitigate or manage the risk. Risk assessment should be conducted on a regular basis to account for changes in the business' profile. *Such changes may result because of new laws or regulations,* new business ventures or acquisitions or other reasons.

The next step is to develop risk mitigation strategies that address the identified risks. This may include implementing policies and procedures, training employees, and monitoring compliance. The

[illegible]

3. **Compliance Risk Mitigation:** [illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
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4. **Compliance Monitoring – ownership allocation:** [illegible]

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[illegible]

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- **Policies and Procedures:** The firm should develop and document clear policies and procedures that outline the requirements for client onboarding, including identification, verification, and ongoing monitoring.
- **Communication, Training, and Implementation:** The firm should communicate the AML policies and procedures to all relevant employees and provide training on how to implement them effectively. This training should be tailored to the specific roles and responsibilities of employees and should be conducted on a regular basis.
- **Ongoing Self-Assessment, Monitoring, and Reporting:** It is important for the firm to conduct ongoing self-assessments to evaluate the effectiveness of its AML program and identify any areas for improvement. This may involve monitoring client transactions, conducting periodic reviews of client files, and reporting any suspicious activity to the relevant authorities.

5. TRAINING AND IMPLEMENTATION

A well-designed training program can help to mitigate risks, by providing employees with the knowledge and skills they need to identify and report suspicious activity. Training should cover the firm's AML policies and procedures, as well as the relevant laws and regulations. It should also be tailored to the specific roles and responsibilities of employees, and should be conducted on a regular basis. A training program should include the following elements:

1. Clear learning objectives
2. Relevant and up-to-date content that reflects the latest AML risks and trends
3. Engaging and interactive delivery methods, such as case studies and role-playing exercises
4. Testing or assessment to ensure that employees have understood the material
5. Ongoing reinforcement and refresher training to keep employees' knowledge current

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□□. SECRETARIA□ AUDIT AND COMP□IANCE MANAGEMENT SYSTEM.

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2. ROLE OF COMPANY SECRETARIES IN COMPLIANCE MANAGEMENT

1. *A Company Secretary is the 'Compliance Manager' of the company. He ensures that the* □□□ □□□□ □□ □□ □□□□ □□□ □□□□□□ □ □□□ □□□ r□□□□□□□r□ r□□□□□□□. C□r□r□□ d□□□□□□□r□, □ □□□□
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5. **Fraud Risk Management**

(i) We consider Fraud Risk Management Policy and Framework, document and communicate the fraud framework, organizational structure and responsibilities, fraud monitoring and reporting mechanism.

(ii) We consider Key Risk Indicators as a measurement of fraud risk and identified risks and its monitoring and reporting mechanism.

6. **Business Continuity**

We consider Disaster Recovery Policy, organizational structure and responsibilities and documented and tested business continuity plan.

7. **Succession Planning**

We consider risk of succession planning and documented and tested plan.

8. **Management Operational Review**

We consider risk of management override and ensure appropriate review and monitoring mechanism.

CHAPTER 2 COMPLIANCES

1. INTRODUCTION

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2. NEED FOR COMPLIANCE MANAGEMENT

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1. CORPORATE & ECONOMIC LAWS

Mastering all the laws mentioned under this head is very important for the following courses:

- Company Secretary
- Specialized Company Secretaryship Course for Students of ICSI, ICAI, ICMAI
- Foreign Exchange Management Act, 1999
- Foreign Contribution (Regulation) Act, 2010
- Competition Act, 2002
- Securities and Exchange Board of India Act, 2005
- Prevention of Money Laundering Act, 2002.

2. SECURITIES LAWS

- SEBI Act, 1992
- Securities Contracts (Regulation) Act, 1956 and rules, regulations, circulars issued thereunder
- Various rules, regulations, circulars, guidelines issued and notifications issued by SEBI
- Depositories Act, 1996
- Prevention of Money Laundering Act and Rules

3. COMMERCIAL LAWS

- Indian Contract Act, 1872
- Transfer of Property Act, 1882
- Arbitration and Conciliation Act, 1996
- Negotiable Instruments Act, 1881
- Sale of Goods Act, 1930
- Intellectual Property Rights Laws

4. MISCALLANEOUS LAWS

- Income Tax Act, 1961
- Customs Act, 1962
- Goods and Service Tax (GST)

5. LABOUR LAWS

- Minimum Wages Act, 1948
- Payment of Bonus Act, 1965
- Payment of Gratuity Act, 1972
- Employees' Provident Funds and (Misc. Provisions) Act, 1952
- Employees' State Insurance Act, 1948
- Factories Act, 1948
- Maternity Benefit Act, 1961
- Industrial Disputes Act, 1947

6. POLLUTION & ENVIRONMENT RELATED LAWS

- Air (Prevention and Control of Pollution) Act, 1981
- Water (Prevention and Control of Pollution) Act, 1974
- Water (Prevention and Control of Pollution) Cess Act, 1974
- Environment (Protection) Act, 1986
- Public Liability Insurance Act, 1991
- National Green Tribunal Act, 2010.

7. INDUSTRY SPECIFIC LAWS

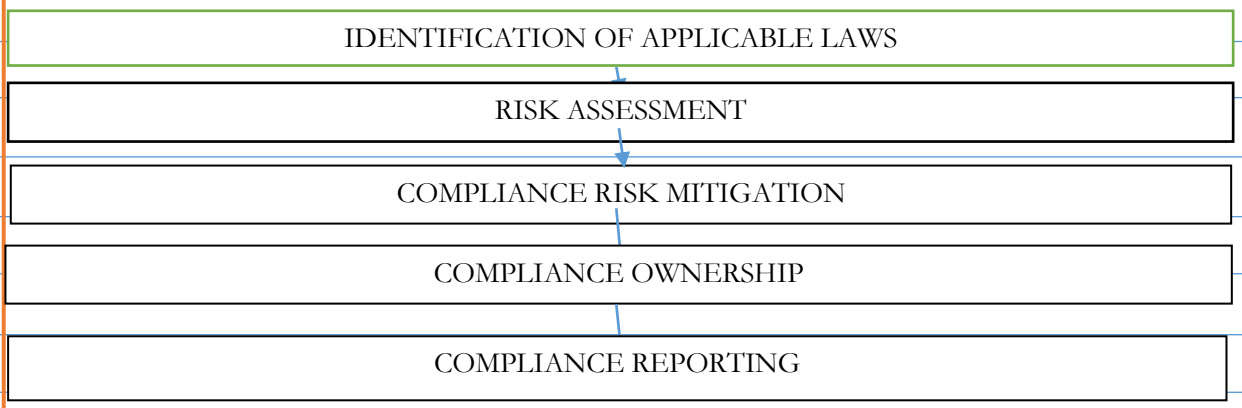
Laws applicable to industries dealing in Textiles, Power, FMCG, Healthcare, Information Technology, Electricity, Petroleum & Gas, Transportation, Insurance, Food, etc.

8. LOCAL LAWS

Town and Municipal Corporation Act, Religious Trust Act, Municipal Corporation Laws, Shops and Establishment Act, etc.

9. ESTABLISHMENT OF COMPLIANCE MANAGEMENT FRAMEWORK

Companies should implement appropriate compliance management framework to ensure that all the applicable laws are complied with and non-compliances are detected and corrected in time.



PROCESS OF CORPORATE COMPLIANCE REPORTING

1. For example, the compliance officer should be responsible for reporting to the Board of Directors. For each non-compliance, the compliance officer should report to the Board of Directors, recommending the corrective action to be taken.
2. Each of the compliance officers should have the responsibility of reporting to the Chief Compliance Officer or the Head of the Department.
3. The corrective action should be taken after the approval of the Board of Directors. The compliance officer should report to the Board of Directors, the corrective action taken, and the time-frame within which it should be taken.
4. The corrective action should be reported to the Chief Compliance Officer.
5. The non-compliance should be reported to the Board of Directors and to the shareholders, depending upon the nature of non-compliance, and the corrective action taken, and the time within which it should be taken.
6. The role of Chief Compliance Officer is very important in the reporting process and he should have the knowledge of Management Information System (MIS).

ENTITY WISE COMPLIANCES

1. Every company incorporated in India is governed by the Companies Act, 2013. The Companies Act, 2013, has defined the duties of directors, responsibilities, penalties, punishments, etc. The directors, key managerial personnel, promoters, etc. should ensure compliance with the provisions of the Companies Act, 2013.

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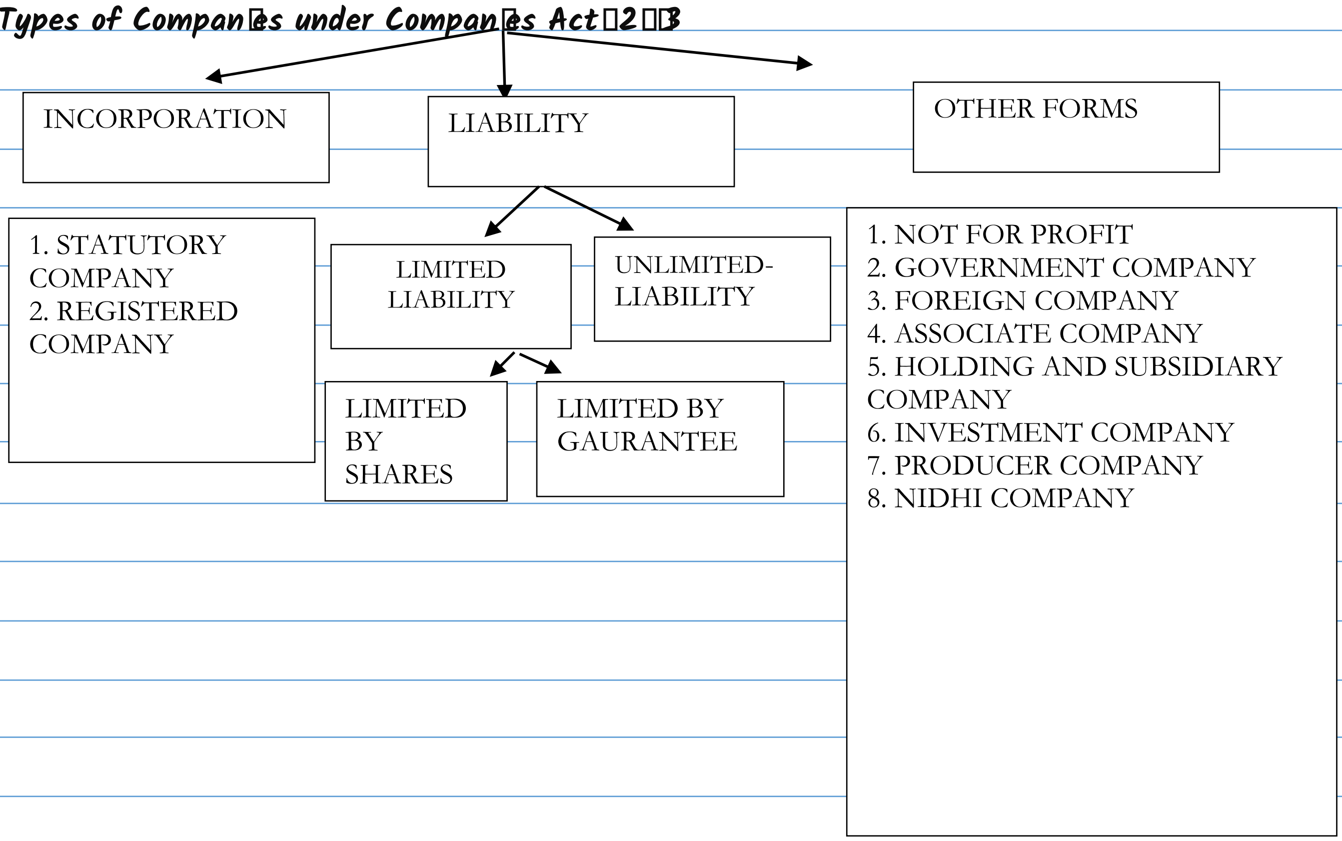

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1. SECTOR WISE COMPLIANCES

For some sectors, the following compliances are also required to be complied with:

1. Agriculture and Allied Activities
2. Manufacturing - Construction
3. Power
4. Electricity Generation
5. Gas & Water
6. Mining and Quarrying
7. Financial Sector
8. Real Estate
9. Trading
10. Gas & Petroleum
11. Professional & Specialized Services
12. Transport, Storage & Communication
13. Food
14. Insurance Sector

The above mentioned compliances are required to be complied with under the Companies Act, 2013 including rules, regulations, circulars, notifications, orders and directions issued by the concerned authorities from time to time.

2. INDUSTRY SPECIFIC COMPLIANCES

In order to ensure the sustainable development, the government, in addition to the above mentioned, has also prescribed certain compliances for the following industries. Some of the compliances are mentioned below:

1. **Agriculture, Forestry and Fishing:** Production, sale and purchase, transportation, import and export of certain agricultural products.
2. **Mining and Quarrying:** Mining, quarrying, transportation, sale and purchase of minerals, including petroleum, natural gas and atomic minerals.

3. **Electricity, gas, steam and air conditioning supply:** Electricity, gas, steam, hot water, cold air and similar products, the provision of infrastructure for, or the supply of, electricity, gas, steam and air conditioning.

4. **Construction:** Buildings, roads, railways, utility projects, land improvement, development of building projects, construction, alteration, repair, maintenance, demolition of buildings and roads, erection of scaffolding, site preparation, test drilling and boring, installation of building services, building completion, finishing, specialized construction activities.

5. **Trade:** Wholesale, retail, repair of motor vehicles, motorcycles.

6. **Transport and storage:** Land, water, air transport, mail, courier, pipeline, warehousing, support activities for transportation, postal, courier activities.

7. **Accommodation and Food Service:** Activities of households as employers, undifferentiated goods, services producing activities of households for own use, hotels, inns, guest houses, clubs, canteens, provision of food, beverages, preparation, serving of meals, beverages, cafes, restaurants, bars, canteens.

8. **Education:** Primary, secondary, higher education, technical, vocational education, cultural education, sports education, driving school, other education, educational support activities.

9. **Hospital and Medical Care:** Human health activities, residential care, social work activities, without accommodation, hospital, medical, dental practice activities, other human health activities, residential nursing care, residential care activities for mental retardation, mental health and substance abuse, residential care activities for the elderly and disabled, other residential care, social work activities without accommodation.

10. **Arts, entertainment and recreation:** Creative, arts and entertainment activities, libraries, archives, museums, other cultural activities, gambling and betting, sports, amusement, recreation activities, membership organization, repair of computers, personal, household goods, other personal service activities.

11. STATE AND LOCAL LAWS COMPLIANCES

The state and local laws compliances are applicable to the companies which are operating in the state and local area.

12. COMPLIANCES UNDER COMPANIES ACT 2013

I. PRIVATE LIMITED COMPANY

a) **Disclosures by director of his interest:** Every director shall disclose his concern or interest in any company, companies, bodies corporate, firms, or other association of individuals which shall include his shareholding at the first meeting of the board in which he participates as a director and thereafter whenever there is any change in the disclosures already made.

b) **Disqualifications of Directors:** [illegible] director [illegible] d[illegible] [illegible] re-[illegible]d.

c) **Annual Return:** Every Company [illegible] Annual Return [illegible] 60 days [illegible] AGM [illegible] AGM [illegible] 60 days [illegible] AGM [illegible] AGM. Annual Return [illegible] Every Private Company [illegible] director [illegible] secretary, [illegible] secretary, [illegible] secretary [illegible] Practice.

d) **Placing of the annual return on website:** [illegible] website and address of such website has to be provided in Board's Report.

e) **Certification of Annual return:** The annual return [illegible] Rs. 10 Crores [illegible] Rs. 50 [illegible] Company Secretary [illegible] Practice.

f) **Financial Statements:**

i) **Circulation of Financial Statement & other relevant Documents:** Company [illegible] Company, [illegible] directors [illegible] d, [illegible] Financial Statement [illegible] 21 [illegible] days [illegible] Annual General Meeting.

ii) **Notice of AGM:** Notice of Annual General Meeting [illegible] Directors, Members, Auditors, [illegible] d [illegible].

iii) **Board Meetings:** Every Company [illegible] 4 Board [illegible] 120 days. Company [illegible] 1 Board Meeting [illegible] d [illegible].

iv) **Notice of Board Meeting:** [illegible] Board [illegible] directors [illegible] 7 days [illegible] registered address [illegible] directors [illegible] delivery, [illegible].

k) **Appointment of Auditor:** Auditor [illegible] appointed for 5 years [illegible] AGM. The [illegible] auditor [illegible] Registrar [illegible] 15 days [illegible] auditor [illegible] E-form ADT-1.

l) **Appointment of Company Secretary**: Private Company, Public Company, Listed Company, Board of Directors, Rule 10, Director, Key Managerial Personnel, Secretarial Standards.

m) **Register of members**: Section 88, Depositories Act, Register of Members, Register of Debenture-holders, Register of Beneficial Owners, Section 90.

QUESTION:

Mr. R is a director and shareholder of XYZ Ltd. He is also a director in ABC Ltd.

1. Whether he can attend meeting of MPI Ltd on behalf of XYZ Ltd?
2. Whether MPI Ltd should disclose his interest in ABC Ltd?

2. SMALL COMPANIES UNDER COMPANIES ACT, 2013

a) **Board Meeting**: Every Small Company, Private Company, Board of Directors, Director, Meeting, Board, Section 173, Companies Act, 2013, Section 173(1), Proviso, 90 days.

b) **Notice of Board Meeting**: A meeting of the Board shall be called by giving not less than 7 days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by electronic means; Provided that a meeting of the Board may be called by giving shorter notice to any director or directors and it is duly attended by such director or directors.

c) **Notice of AGM and sending notice of AGM**: Every Notice of Annual General Meeting shall be sent to every Member, Auditor and Director, in the manner authorised by section 101 of Companies Act, 2013 and Secretarial Standard – 2 issued by Institute of Company Secretaries of India, as may be applicable to the Company, Director, Member, Auditor, Debenture Trustee or Key Managerial Personnel.

d) **Appointment of Auditor**: Auditor shall be appointed at every Annual General Meeting. The first Auditor shall be appointed by the Board of Directors within 30 days from the date of registration of the Company, and the Auditor so appointed shall hold office from the conclusion of that meeting till the conclusion of the first Annual General Meeting. Form ADT-1.

e) **Circulation of Financial Statement and Other**: Company, Financial Statement, Board's Report, Auditor's Report, Company, Section 129, Section 134, Financial Statement, Annual General Meeting, 21 days, Annual General Meeting.

f) **Financial Statement:** Company shall prepare its financial statement, which shall include balance sheet as at the end of the financial year, profit and loss account for the financial year, cash flow statement for the financial year, statement of changes in equity for the financial year, and any explanatory note annexed to, or forming part of, any document referred to in the above clauses, and shall lay before each annual general meeting of the company. Within 30 days from the date of the AGM or the last date by which the company should have held its AGM, whichever is earlier, the E-form AOC-4. However, in the case of one person company only the financial statement duly signed by the person, if required to be audited, shall be filed with the Registrar within 180 days from the closure of the financial year, otherwise the same shall be filed within 30 days from the date of the annual general meeting in which the financial statement is laid.

g) **Annual Return:** Every company shall prepare the Annual Return within 60 days from the date of the AGM or if no AGM is held, the last date by which the AGM should have been held within 60 days or the date on which the AGM was actually held, whichever is earlier and file with the Registrar within 60 days from the date of the AGM, the E-form MGT-7A. A company which is not required to obtain a CS in practice shall not be required to sign the Annual Return, or a director or key managerial personnel, as the case may be, shall sign the

h) **Place of the Annual Return on the website:** Every company shall place the Annual Return on the website of the company, if any, and the weblink shall be disclosed in the Annual Return required to be mentioned in the Board's Report.

i) **Disclosure by a director of his interest:** Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year, disclose his concern or interest. However, a director may at any time update the disclosure as he deems fit, and it shall be his duty to disclose any change in the interests or shareholding.

j) **Disqualifications of the Director:** Every director shall ensure that he is not disqualified under section 164 of the Act and intimated to the Registrar in the E-form DIR-8.

k) **Board's Report:** Board's Report should be prepared and signed by the "Chairperson" of the Board. However, in the case of one person company, it shall be signed by at least 2 Directors out of which one shall be an independent director or in the case of single director company it shall be signed by One Director.

l) **Register of Members:** Company shall maintain and keep at its registered office a Register of Members, Register of debenture-holders and Register of any other security holders, unless all such registers are kept with the

3. ONE PERSON COMPANY UNDER THE COMPANIES ACT 2013

a) **Board Meetings:** In the case of One Person Company, the provisions relating to holding meetings of the Board of Directors and the number of meetings to be held in a year and the gap between two meetings are not applicable. However, in accordance with section 173 of the Act, at least one meeting of the Board of One Person Company shall be held in each half of a calendar year and the gap between two meetings shall not be less than 90 days. However, in accordance with section 174 read with rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014, in the case of One Person Company, the requirement of holding meetings of the Board of Directors is not applicable.

b) **Notice of Board Meetings:** A notice of meeting of the Board shall be given to every director at least 7 days' notice in writing to every director at his address registered with the company and such notice shall be sent by hand delivery or by post or by registered post or by speed post or by courier or by electronic means. However, a meeting of the Board may be called by giving shorter notice to the directors provided one director

c) **Annual General Meeting:** In case of OPC, it is not required to hold AGM. Hence, the provisions relating to holding annual general meeting.

d) **Appointment of Auditor:** Auditor shall be appointed at first AGM. The first auditor shall hold office from the conclusion of first AGM till the conclusion of sixth AGM. The Board of Directors shall within a period of 30 days from the date of incorporation of the company, shall inform the Registrar of such appointment in Form ADT-1.

e) **Financial Statement:** The financial statements shall be prepared in the manner specified in Schedule III and shall give a true and fair view of the state of affairs of the company, comply with the accounting standards notified under section 133 and shall be approved by the Board of Directors before they are sent for auditing and shall be signed by the person as per section 134 of the Act. The Board shall approve the financial statements before the AGM and shall annex the following documents with the financial statements, namely: Board's report referred to in sub-section (3) of section 134 of the Act; Auditor's report on the financial statements of the company; any qualifications, reservations or adverse remarks made by the auditor in his report and any qualifications, reservations or adverse remarks made by the auditor in his report; the Board shall explain in its report the clear reasons for such qualifications, reservations or adverse remarks; any explanation that the Board of Directors may furnish in response to such qualifications, reservations or adverse remarks.

f) **Annual Return:** OPC shall file the Annual Return within 60 days from the date of the annual general meeting. However, in case of OPC, it is not required to hold AGM. Annual Return of One Person Company shall be signed by director and company secretary, or director and key managerial personnel, who shall certify that all the requirements of the Act and the rules made thereunder in respect of all matters required to be done, have been complied with.

g) **Disclosure by a director of his interest:** Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year, disclose his concern or interest in any company or companies or bodies corporate, firms or other association of individuals which shall include his shareholding, at the meeting of the Board in which the contract or arrangement is discussed.

[illegible]

[illegible]) **Disqualifications of the Director:** E[illegible] d[illegible] [illegible] 164 [illegible] E-[illegible] DIR-8.

[illegible]) **Director's Report:** Directors' Report shall be signed by only one director containing [illegible]

[illegible]) **Register of Members:** C[illegible] R[illegible] M[illegible], R[illegible] d[illegible]-[illegible] [illegible]

B. COMPLIANCES BY LIMITED LIABILITY PARTNERSHIP (LLP)

A[illegible] 3 [illegible] LLP Act, 2008 [illegible] L[illegible] P[illegible]

- A [illegible] LLP [illegible] P[illegible]
- A [illegible]
- A[illegible]

A [illegible] L[illegible] partnership is popularly known as an "LLP", and has become an alternative business vehicle [illegible] LLP [illegible]

1. LLP [illegible] N[illegible]

2. T[illegible]

3. In order to ensure that the partners of the LLP perform their duties and exercise their powers honestly and diligently, the LLP Act, 2008 provides that every LLP shall be required to maintain proper books of accounts with respect to the matters specified in the Act.

4. LLP is a corporate body and thus, has perpetual succession. Any change in the partners of the LLP will not affect the existence, rights or liabilities of the LLP.

5. Registration of the LLP is mandatory and not optional.

6. Only the name of the partner is required to be given in the incorporation document and not the name of the partners.

Contribution of the partners in the LLP

As per the provisions of Section 32 of the Limited Liability Partnership Act, 2008, the partners may agree to the mode of contribution to the LLP and in the absence of such agreement, the contribution may consist of any tangible or intangible or other benefit to the LLP. In the absence of such agreement, the Registrar may value the contribution.

In a partnership firm, the partners bring in capital and the profits are shared in the agreed ratio. In the LLP, the partners may bring in any benefit to the LLP.

1. The LLP is required to maintain proper books of accounts.
2. For the F.Y. 2020-21, the LLP has to file its Annual Return in Form 11 within 30 days of the end of the financial year.
3. In addition to 1 and 2 above, the LLP is required to file a statement of account and solvency in Form 8 every year, which is due on 30th October of every year.

Q1. Prashant is a partner in the LLP named Limited Liability Partnership.

Q2. Mr. Shyam is a partner in the LLP. Mr. Gupta is the friend of Mr. Shyam and he wants to join the LLP. Can he join the LLP? Can she join Mr. Shyam's LLP?

A. Without Mr. Shyam's consent, he cannot be admitted as a partner in the LLP.

a) **Contribution:** The partners of the LLP may agree to the mode of contribution to be brought by the partners in the LLP. In the absence of such agreement, the contribution may consist of any tangible or intangible or other benefit to the LLP.

b) **Books of Accounts:** The LLP is required to maintain proper books of accounts with respect to the matters specified in the Act. The books of accounts are required to be kept on accrual basis and according to the double entry system of accounting.

c) **Particulars of Books of Accounts:** The LLP shall maintain such books of accounts and other relevant documents in relation to its business for such financial year as may be prescribed, at its registered office.

- The books of accounts may be kept at such other place in India as may be decided by the designated partners and approved by a resolution passed at a meeting of the partners.
- Proper books of account for all transactions.
- Books of account and other relevant documents maintained on an accrual basis and a true and fair view of the state of affairs of the LLP and explain its transactions.

d) **Statement of Account and Solvency:** Every LLP shall maintain such books of accounts and other relevant documents and prepare a Statement of Account and Solvency as on 31st March every year in Form 8 and file with the Registrar, within a period of 30 days of the end of the financial year to which the statement relates. The statement shall be signed by designated partners of the LLP and in case they are not able to sign any partner may sign the statement.

e) **Annual Return:** Every LLP shall file with the Registrar an Annual Return as on the financial year ending on 31st March in such form and manner and within such time i.e. 60 days of the closure of the financial year as may be prescribed in Form 11.

f) **Audit of Accounts:** The LLP shall get its books of accounts audited by auditor, in accordance with the rules prescribed by the Central Government, if the contribution of the LLP exceeds five lakh rupees, or turnover exceeds forty lakh rupees during the financial year.

g) **Appointment:** A Company shall appoint an individual or a firm as its auditor who shall hold office from the conclusion of one annual general meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting.

h) **Additional Certificates:** Additional certificates may be required by the Central Government from the designated partners, which shall be complied with by the LLP as specified in the SO order.

i) **Preservation of Books:**

➢ Records to be maintained by LLP:

(a) Information and explanation

(b) Minutes of meetings

(c) Information relating to Limited Liability Partnership Agreement and any amendment thereof

d) Name and address of partners shall be maintained by the LLP at its registered office.

➢ Records to be maintained for 21 Years: All books of account, returns, certificates and documents required to be maintained under any of the provisions of this Act shall be preserved in good order for a period of not less than 21 years.

➢ Records to be maintained for 5 Years:

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□□. COMP□IANCES UNDER SECTION 8 COMPANY

a) **Genera□ Meet□□□□** I□ □□□□ □□ S□□□□□ 8 C□□ □□□□□□ 14 □□□r d□□□ □□□□□□ □□ □□□□□□□□□□ □r □ □□□r□□ □ □□□□□.

□) **M□utes of Meet□□□** □□□□□□ 8 □□□ □□□□□□ □r □□□ r□□□□d □□ □r □ □□□□□□ □□ G□□r□□ M□□□□□ □□d □ □rd M□□□□□ □□□□□ □r□□□□□ □□ □□□□□□□□□□□□ □r□d□ □r □□□□□□ □□□□ □□ □ □□□□□□ □□ □□□□□□□□.

c) **Copy of □□anc□ Statements** M□□ □r□ □□□ □□□□□□ □□□□ □□ □□□□□□□□ □□□□□ □□□ 14 □□□r d□□□ □□□r□ □□□ □□□r□□ □ □□□□□.

d) **Num□er of D□ectors** □r□□□□□□□ r□□□□d □□ □ □□□ □□ □□□ □r □□ d□□□□r□ □d □r □□□□□□d□r □r □□□□□ d□□□□r □□□□d 15 □□ □□□ □□□□□□□□□□ □□ □□□□□□ 8 □□□ □□□□□.

e) **Independent D□ectors** □r□□□□□□□ r□□□□□ □□ □d□□□d□ d□□□r□ □r□d□d □d□r □□□□□□ 149 □d □□□□□□ 150 d□□ □□□ □□□□ □□ □□□□□□ 8 □□□ □□□□.

f) **Board Meet□□s** □rd □□ D□□□□r□ r□ r□□□□d □□ □d □□□ 1 □rd □□□□□□ □□ □□r□ 6 □□□□.

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[illegible] Section 8 [illegible]

[illegible]

[illegible]

i) **Nomination and Remuneration Committee and Stakeholder's committee:** [illegible] 8 [illegible]

j) **Election of directors:** Section 160 [illegible] Section 160 [illegible] 8 [illegible]

k) **Minimum paid up share capital:** [illegible] 8 [illegible]

15. COMPLIANCES UNDER SEBI (LODR) REGULATIONS 2015

COMMON OBLIGATIONS TO LISTED ENTITY

a) **Submission of Compliance Certificate:** A C[illegible] C[illegible] [illegible] S[illegible] E[illegible] [illegible] R[illegible] [illegible] 30 d[illegible] [illegible]

b) **Appointment / Alteration of Share Transfer Agent:** C[illegible] S[illegible] Tr[illegible] F[illegible] [illegible] S[illegible] Tr[illegible] A[illegible] [illegible] S[illegible] E[illegible] [illegible] 7 d[illegible]

c) **Grievance Redressal Mechanism:** T[illegible] [illegible] 21 d[illegible] [illegible]

1. T[illegible]
2. T[illegible]
3. D[illegible]
4. T[illegible]

2. OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SPECIFIED SECURITIES EQUITY OR CONVERTIBLE SECURITIES

a) **Prior Intimation to SE about Board Meeting** In case of any proposal to declare any dividend or any proposal for buyback of securities or any proposal for fund raising by way of further public offering or rights issue of specified securities or any other matter as may be specified by SEBI from time to time, at least 2 working days in advance.

b) **Prior Intimation to SE about Board Meeting** In case of any proposal to declare any dividend or any proposal for buyback of securities, at least 2 working days in advance.

- Consideration of Accounts
- Declaration or recommendation of Interim Dividend and/or Final Dividend
- Fund raising by way of Public Offer, Rights Issue, American Depository Receipt, Global Depository Receipt, Foreign Currency Convertible Bond, Qualified Institutional Placement, Warrant or any convertible instrument or any other mode
- Buyback of Securities
- Issuance of Convertible Securities
- Delisting of Securities

c) **Prior Intimation to SE about Board Meeting** Any Alteration in terms or nature of any right or privilege of the holders of any class of shares of the listed entity or creation of any new class of shares ranking pari passu or senior to existing class of shares of the listed entity, at least 11 working days in advance.

d) **Intimation Regarding Result of General Meeting** Outcome of meeting of the shareholders of the listed entity within 48 hours of conclusion of the meeting.

e) **Annual Secretarial Compliance Report** The listed entity shall submit a secretarial compliance report on its compliance with applicable SEBI Regulations and circulars/guidelines issued thereunder, within 60 days from the end of the financial year.

f) **Quarterly Compliance Report on Corporate Governance** The listed entity shall submit a compliance report on corporate governance in the prescribed format, within 21 days from the end of the quarter to the SE.

j) **Quarterly Financial Results**: The listed entity shall submit unaudited financial results on quarterly basis within 45 days from the end of each quarter.

k) **Annual Financial Results**: The listed entity shall submit audited financial results on standalone basis for the financial year, within 60 days from the end of financial year.

l) **Annual Report**: Annual report containing audited financial statement, director's report etc shall be submitted to stock exchange within 21 days from the date of annual general meeting (AGM). The requirement to submit annual report is applicable for financial year 2021-22 and onwards, however, for financial year 2022-23, top 100 companies by market capitalization shall submit business responsibility report and top 1000 companies by market capitalization shall submit ESG report on voluntary basis. For more details refer Annual Report.

m) **Annual Information Memorandum**: The listed entity shall submit annual information memorandum to stock exchange within 30 days from the end of financial year. Memorandum should be submitted in case of debt securities.

k) **Draft Scheme of Arrangement and Scheme of Arrangement**: Listed entity shall submit draft scheme of arrangement before approaching to court to stock exchange for obtaining observation letter, report shall be submitted to stock exchange after approval of Tribunal.

l) **Issue of share certificates**: Listed entity shall submit certificate to stock exchange within 2 days from the date of issue.

m) **Record Date**: Notice of Record Date for the purpose of dividend or rights issue shall be submitted to stock exchange at least 7 days prior to the record date.

n) **Statement of deviation or variation**: Where the proceeds of public issue, rights issue, preferential issue etc is utilized in a manner different from that stated in the offer document or explanatory statement, the listed entity shall submit statement of deviation or variation to stock exchange within 10 days from the end of quarter.

3. OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS NON-CONVERTIBLE DEBT SECURITIES OR NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES OR BOTH

a) **Interest/Redemption due**: The listed entity shall submit certificate to stock exchange within 1 day from the due date of interest/redemption.

b) **Information to raise funds** In case listed entity proposes to raise funds through qualified institutions placement, it shall disclose to the stock exchange(s) the following information in advance of the meeting of the Board in which the proposal is to be considered:

c) **Recommendation to Board Meeting** Listed entity shall ensure that the recommendation of any committee of the Board in which any proposal of fund raising is considered, is made available to the Board at the meeting in which the proposal is considered.

1. In case of qualified institutions placement, and
2. Any other recommendation of any committee in relation to which the shareholders' approval is required, including but not limited to issuance of convertible securities or qualified institutions placement, shall not be considered by the Board unless the same is in accordance with the pricing formula provided in the regulations.

d) **Half yearly Financial Results** The listed entity shall ensure that the financial results in relation to the first and second quarter of each financial year, is published within 45 days from the end of the quarter.

e) **Annual Financial Results** The listed entity shall ensure that the financial results in relation to the last quarter and financial year is published within 60 days from the end of the financial year.

f) **Record Date** The listed entity shall ensure that adequate notice of record date or dividend declaration date is given to the stock exchange(s), such that notice shall be issued at least seven working days prior to such record date.

B. OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS INDIAN DEPOSITORY RECEIPTS

a) **Indian Depository Receipt holding pattern & Shareholding details** The listed entity shall submit to the Indian Depository in which it has listed its Indian Depository Receipts, the shareholding pattern in such form and such manner as specified by the Indian Depository from time to time.

b) **Financial Results** The listed entity shall ensure that the financial results are published in accordance with the provisions of regulation.

c) **Annual Report** The listed entity shall ensure that the annual report is sent to the holders of Indian Depository Receipts in accordance with the provisions of regulation.

d) **Corporate Governance** The listed entity shall ensure that the provisions of corporate governance as specified in regulation are complied with in respect of the listed entity which has listed its Indian Depository Receipts.

e) **Record Date** Notwithstanding the provisions of regulation, the record date or book closure date shall be fixed in accordance with the provisions of regulation.

5. OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SECURITISED DEBT INSTRUMENTS

a) **Issue new securities** In case of issue of any class of debt securities or non-convertible preference shares that are proposed to be listed, the issuer shall also simultaneously make application to the recognised stock exchange(s) for listing of such securities.

b) **Information** The issuer shall provide all information to the debenture trustee, in such manner as specified by the Board from time to time, to enable the debenture trustee to submit the half yearly certificate to the recognised stock exchange(s) within 2 months from the date of the half year ending.

c) **Balance Information** For debt securities issued on private placement basis, the issuer shall submit a statement within 7 days from the end of each quarter to the recognised stock exchange(s).

d) **Record Date** Not less than 15 days' prior intimation shall be given to the recognised stock exchange(s) of the record date for the purpose of payment of interest or redemption or for conversion or for exercise of any option attached to debt securities.

11. REGISTER, RETURNS, BOOKS AND OTHER RECORDS TO BE KEPT BY COMPANIES

- Register of Members – MGT-1
- Register of debenture holders or other security holders – MGT-2
- Annual Return – MGT-7
- Proxies – MGT-11
- Minutes of AGM
- Register of Directors & Key Managerial Personnel and their shareholding – MBP-1
- Notice of interest of Directors – MBP-1
- Register of Loans, Guarantees, Securities – MBP-2
- Register of Charges – CHG-7
- Register of Deposits-Employees – 1 day before 7 days of AGM
- Register of Share or other Security Certificates
- Register of Employee Stock Option – SH-6
- Register of Sweat Equity Shares – SH-3
- Minutes of proceedings of Creditors' Committee – PAS-5
- Original Documents relating to title of immovable property and other documents as specified in MOA, AOA.

DISCLOSURES TO BE MADE AT WEBSITE OF THE COMPANY

In the case of unlisted public company, which has not issued any security to the public, the following disclosures shall be made on the website of the company, if any, and shall be updated as and when there is any change in the information:

a) **Companies registered under section 8 seeking conversion into any other kind of** Notice in Form INC-19 regarding the proposed conversion shall be displayed.

b) **Publication of name by company.** Every company shall display its name and the corporate identity number on the outside of every office or place in which its business is carried on, in a conspicuous position in letters easily legible and shall also have its name, address and the corporate identity number printed in all its business letters, billheads and letter papers and in all its notices and other official publications and shall also be engraved on its seal.

c) **Circular for Inviting Deposits from the public.** Every circular issued by or on behalf of the company inviting deposits from the public shall be displayed on the website of the company.

d) **Closure of Register of Members or Debenture Holders or other Security Holders.** The notice of closure of register of members or debenture holders or other security holders shall be displayed on the website of the company at least 7 days before the date of closure, in the manner as prescribed in the rules.

e) **Notice of the General Meeting.** The notice of the general meeting of a company and the explanatory statement annexed thereto shall be displayed on the website of the company, if any, in such manner as may be prescribed in the Companies (Management and Administration) Rules.

f) **Disclosures about Corporate Social Responsibility Policy.** The Board of every company shall disclose the composition of the Corporate Social Responsibility Committee and the Corporate Social Responsibility Policy of the company and any revision thereof on the website of the company, if any, in such manner as may be prescribed in the Companies (Corporate Social Responsibility Policy) Rules, on the Company's website.

g) **Notice of Resignation of director.** The Company shall upload the notice received from a director in 30 days of the date of resignation of the director, on the website of the Company, if any. Form DIR-12 and the letter of resignation of the director.

h) **Advertisement of the notice of the meeting pursuant to exercise of power to Compromise or make arrangements with creditors and members.** The notice of the meeting of the creditors or class of creditors under section 230 of the Act, shall be published on the website of the company, if any, in addition to Form No. CAA.2 at least 30 days before the date fixed for the meeting and shall be published, where the company has been ordered to be wound up, in addition to SEBI and recognised stock exchanges where the securities of the company are listed.

- **Unpaid Dividend** – The Company shall, within 90 days from the date of declaration of any dividend, transfer the total amount of dividend which remains unpaid or unclaimed in a special bank account, to be opened by the Company in that behalf in any scheduled bank, called Unpaid Dividend Account. The Company shall, after the transfer of unpaid dividend to Unpaid Dividend Account, send a statement in the prescribed form to the Authority showing the names, their last known addresses and other particulars of the persons in respect of whom the amounts have been transferred to the said account.
- **Fraction** – In case the dividend payable to any member or warrant or cheque representing dividend payable to any member cannot be paid to him for any reason, the Company shall transfer the dividend to Unpaid Dividend Account.

In the case of joint holders, the dividend payable to them may be paid to the first named holder or to his order.

15. Any money transferred to Unpaid Dividend Account which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the Company along with interest accrued, if any, thereon to the Investor Education and Protection Fund established under section 125 of the Act, and the Company shall send a statement in respect of such amount in the prescribed form to the Authority.
16. No claim shall lie against the Company in respect of any amount which was unpaid or unclaimed for a period of seven years from the date of transfer to Unpaid Dividend Account and which has been transferred by the Company to the Investor Education and Protection Fund along with interest thereon.
17. The Company shall prepare a statement containing the name, their last known address and folio number or DP and Client ID number of the persons in respect of whom any amount is due but unpaid or unclaimed and the dividend for the year in respect of which the amount was due and the date from which such dividend was unclaimed and due to be paid and such statement shall be kept updated on the website of the Company as on 31st March, 2021 and a web link thereto shall be provided in the Annual Report of the Company as on 31st March, 2022.
1. Shareholders may claim the unpaid amount from the Company.
2. Dividend may be paid by cheque or demand draft or transfer to bank account of the shareholder wherever the bank details are available with the Company.
3. Dividend may be paid by cheque or demand draft to the registered shareholder whose name appears in the Register of Members as on the record date or 19 days before the date of the Annual General Meeting in respect of shares held in physical form after giving effect to valid transmission or transposition requests lodged with the Company as on that date.
4. Dividend may be paid in cash to employees subject to TDS as per Income Tax Act, 1961 or any statutory modification thereto.
5. Shareholders are requested to dematerialise their shares to avoid inconvenience.
6. Dividend shall be paid to the shareholders in proportion to their paid-up capital.
7. As mandated by Securities and Exchange Board of India (SEBI), vide Circular No. CIR/MRD/DP/10/2013 dated

8. NEWSPAPER ADVERTISEMENTS REQUIRED TO BE GIVEN/PUBLISHED BY THE PRIVATE COMPANIES UNDER THE PROVISIONS OF COMPANIES ACT, 2013

a) Application for Grant of Licence under section 8 by existing company: [illegible] Form No. INC26 [illegible]

b) Change in registered office from the jurisdiction of one Registrar to another within the same state: [illegible]

c) Change in registered office from One State to another: Ad[illegible] Form No. INC.26 [illegible]

d) Acceptance of Deposits: [illegible] Form DPT-1 [illegible]

e) Closure of Register of Members or debenture holders, Shareholders or other Security holders: A [illegible] 7 days [illegible]

f) Voting through Electronic means: A [illegible]

[illegible]

- **Resolution requiring Special Notice** When any matter requiring consideration at a meeting, a resolution giving notice of intention to propose the resolution at the meeting is called a resolution requiring special notice. Special notice is required for a resolution to remove a director before the expiration of his period of office, appointing directors or reappointing a director who has retired at the age of 70 or more, removing an auditor before the expiration of his term of office, appointing as auditor a person other than a retiring auditor and filling the casual vacancy of an auditor who was appointed by the Central Government.
- **Power to compromise or make arrangements with creditors and members** The provisions of section 230 of the Act and Rule 2 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 deal with the power of the company to enter into compromise or arrangement with its creditors or members or any class of them, or between two or more companies and also provides for the procedure for the same. Such compromise or arrangement may be proposed for the purposes of reconstruction of any company or companies or amalgamation of two or more companies.

CHAPTER 3: DOCUMENTATION AND MAINTENANCE OF RECORDS

1. INTRODUCTION

In the course of performing professional services, the CS professional generates information that is recorded and retained for a period of time. The records may be required to be produced, or may be referred to, in the event of a dispute between the client and the CS professional or between the CS professional and a third party. Apart from this, the CS professional may also be required to maintain records as per the requirements of various laws. Hence, it is important that the CS professional has a system in place for the proper maintenance of records.

The CS professional should maintain adequate records to support professional judgments, recommendations, representations, conclusions, and communications with clients. Maintaining adequate records helps the CS professional to demonstrate that he has exercised professional judgment in accordance with the standards, and that his conclusions and communications are appropriate in the circumstances.

2. PURPOSE OF DOCUMENTATION

Proper documentation and maintenance of records serves the following purposes:

1. **Client Service:** Documentation helps the CS professional to render effective professional service to the client. It helps in providing continuity in the professional service rendered.
2. **Communication:** Documentation helps the CS professional to communicate clearly and effectively with the client and other professionals.
3. **Accountability:** Documentation helps the CS professional to maintain adequate records to demonstrate that he has exercised professional judgment and due care in the performance of his professional services.
   It helps him to defend himself against allegations, if any.
4. **Professional Responsibility:** Documentation helps the CS professional to meet his professional responsibility to exercise due care in the performance of professional services.
5. **Legal Requirement:** Professional Standards or regulations may require the CS professional to prepare documentation to demonstrate his compliance with applicable requirements, such as, maintaining a register of members.
6. **Quality:** Documentation helps the CS professional to provide evidence of his professional services in response to inquiries from clients or regulators.

7. **Research:** Documentation can be a valuable source of information for research purposes. It can provide insights into past projects, successful strategies, and lessons learned.
8. **Resource Management:** Accurate and detailed documentation can help in effective resource management. It can provide information about the availability and allocation of resources.

3. GUIDING PRINCIPLES OF GOOD DOCUMENTATION

The following guiding principles should be considered when creating documentation to ensure that it is effective, efficient, and meets the needs of its intended audience. These principles can help to improve the quality of documentation, reduce errors, and increase user satisfaction. The principles should be applied throughout the documentation process, from planning to publication, and should be reviewed and updated regularly. The following principles should be considered:

1. Clarity
2. Consistency
3. Use of standards
4. Completeness and accuracy
5. Accessibility and usability
6. Currency
7. Use of appropriate tools
8. Collaboration and feedback
9. Compliance with regulations
10. Confidentiality

4. EXAMPLES OF POOR AND GOOD DOCUMENTATION PRACTICES

The following examples illustrate some of the common poor documentation practices and their corresponding good documentation practices:

1. Documentation that is inaccurate, incomplete, or outdated
2. Documentation that is difficult to understand or navigate
3. Documentation that is inconsistent in terminology, formatting, or style
4. Documentation that is not easily accessible or available to those who need it

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AD□ANTAGES O□ E□ECTRONIC RECORDS

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4. **Searchability:** Through OCR, electronic data can be searched easily and quickly, even for a single word, phrase or combination of words in a document.
5. **Portability:** Electronic data can be easily carried from one place to another on storage devices like pen drive, CD, DVD etc. Thus, data can be accessed anywhere and anytime.
6. **Version tracking:** It is very easy to track different versions of electronic data. We can easily find out who has changed what in a document.

DISADVANTAGES OF ELECTRONIC RECORDS

1. **Software risk:** The data stored in electronic form is dependent on software and hardware. Any change in software or hardware may make the data unreadable. For example, a document created in MS Word 2007 may not be opened in MS Word 2003 version.
2. **Format risk:** In order to save space, we use different formats to store data like PDF or JPEG etc. There are many formats in which a document can be saved or converted. For example, a PDF file can be converted into Word document, but the formatting may be lost.
3. **Media Compatibility:** Some of the data is stored in floppy disks but user don't have floppy drive in computer. Thus, data is not accessible.
4. **Readability:** Paper is readable by human beings but electronic data is not readable by human beings. It requires machine to read it. We need eyes to be able to read paper. It's a good idea to have most vital data stored in paper form, since computers and software change rapidly and may not be able to read it.
5. **Portability:** data stored in electronic format can be easily transferred. It's very easy to copy or illegally distribute data. There is no control on data. Data can be misused.
6. **Conversion Expense:** It's very expensive to convert paper documents to digital images and then to usable computer data. Many times, data loss occurs during conversion.

1. MAINTENANCE AND INSPECTION OF DOCUMENTS IN ELECTRONIC FORM UNDER COMPANIES ACT 2013

Section 120 of the Companies Act, 2013 read with **Rule 27 of Companies (Management and Administration) Rules, 2014** provides that every company shall keep and maintain all registers, books and papers in accordance with all the applicable provisions of this Act, in physical or electronic form and in such manner as may be prescribed. In addition, the rule provides that the books of account and other relevant books and papers maintained in electronic mode shall be kept in such manner as to provide adequate safeguards against falsification or destruction in accordance with the provisions of section 128 of the Act, to ensure that the financial statements and other records reflect a true and fair position and that the back up of the books of account and other books and papers maintained in electronic mode is kept in servers physically situated in India on a periodic basis.

The rule 27 further provides that the company may keep such books of account or other relevant books and papers in electronic mode outside India, if a copy of the same is brought into India and kept in servers physically situated in India within a period of seven days from the date of closure of financial statements or date of the annual general meeting, as the case may be. However, such requirement shall not apply to a company in respect of such books of account or other relevant books and papers maintained in electronic mode as may be specified by the Central Government in consultation with the Reserve Bank of India in respect of any class of companies which are required to maintain books of account or other relevant books and papers in electronic mode only.

Such books of account or other relevant books and papers maintained in electronic mode shall be accessible in India at all times so as to be usable for subsequent reference and the company shall take all such steps as may be necessary to secure that its books of account or other relevant books and papers maintained in electronic mode are not tampered with, and in case of any tampering with such books of account or other relevant books and papers maintained in electronic mode, the company shall be liable for action under section 448 of the Act or any other relevant provisions of this Act as may be applicable.

Such books of account or other relevant books and papers maintained in electronic mode, including back up thereof stored in servers physically situated in India, shall be open for inspection at the registered office of the company by any officer of the company or by any person duly authorised by the Board in this behalf, in accordance with the provisions of section 128 of the Act or any other relevant provisions of this Act as may be applicable.

2. SECURITY OF RECORDS MAINTAINED IN ELECTRONIC FORM: RULE 28

(1) The Managing Director, Chief Executive Officer or such other director or officer of the company as may be specifically authorised by the Board in this behalf shall be responsible for the preservation of books, papers and documents relating to the books of account maintained in electronic mode.

(2) The company shall not erase or make any alteration in the financial statements or cause any consequential change in the books of account or other relevant books and papers maintained in electronic mode,

[illegible]

8. PHYSICA□ REPOSITORY

[illegible]

SNO.	Particulars	Physical Data Room	Virtual Data Room
1.	For [illegible]	Paper, [illegible]	Electronic [illegible]
2.	Security [illegible]		
3.	Time [illegible]	Limited [illegible]	Can [illegible] 48 hours [illegible]
4.	Cost	Cost [illegible]	Cost [illegible]
5.	Convenience	Security [illegible]	Multiple [illegible]
6.	Accessibility [illegible]	Time [illegible]	Can [illegible]
7.	Facilitation [illegible]	Difficult [illegible]	Automatic [illegible]

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2. ***Ensure □ife cycle□*** *Every record follow a 'life-cycle', and pass through three main phases;* □r□□ □□□□, □□□ □-□r□□ □□□□ □d □□□-□r□□ □□□□. I□ □□ □r□□ □□□□, □□□ □r □d r□□□r□□ □□ □□ □d□d□□ □□ □r□□ □□□□□□, □□ □□ □□ □-□r□□ □□□□, □□□ □r □d □□□ □r□□□□□□ □□ □□ □d□d□□ □□ □r□□ □□□□□□□ □d □□ □□ □□□-□r□□ □□□□ □r d□□r□d □□□□□□ □□□ □r □□□□d □□ □□ □r□□r□d. E□□□□□□□□ □ □□□□□□ □□ □r□□rd□ □□ □□□ □□□□□□□ □□ □□r □□ □□r□□□.

3. ***Record Preser□at□on□*** T□□ □□r□ □□ r□□rd□ □□□□d □□ □□□□□ □d □□□ □□□□d □□ □r□□r□d □r□□□ □□□□□□□□□ r□□□ □□ □□□□□□ □r □□ d□□□□□□□ □□ □□ r□□rd-□□□□□□□ □□□□□ □ □□ □□□ □r□□□□□ □d □r□□r□□□□ □□ r□□rd □d □□□ □□ □r□□□□□. F□r □□□□□□□ □□□□□□□□ □r

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5. Consider the case of a company that is planning to implement a new document management system. The company has 8 departments and each department has a different set of requirements. Which of the following steps should be taken first?

Following are the steps that should be taken in the beginning of the implementation of the document management system:

A. **Analysis and Restructuring of Existing Systems**

- Review the current document management processes and workflows
- Review the current document management tools and technologies used by the organization
- Identify areas for improvement and potential bottlenecks
- Develop a plan for restructuring and streamlining processes

B. **Organising and Controlling Records**

- A classification system (e.g., alphabetical, numerical, or subject-based)
- Indexing and retrieval procedures

C. **Providing Physical Protection for Records**

- Physical security measures (e.g., locks, access controls)
- Fire and water damage prevention measures
- Disaster recovery plans for critical records

D. **Managing Records in Records Centre**

- Physical storage facilities (e.g., warehouses, vaults)
- Environmental controls (e.g., temperature, humidity)
- Inventory management systems for tracking records
- Security measures to prevent unauthorized access

E. **Managing Archives**

- Appraisal and selection criteria
- Preservation techniques (e.g., digitization, microfilming)
- Access policies and procedures

PRESERVATION OF LITIGATION DOCUMENTS

Documents which are required to be preserved for the purpose of litigation shall be preserved for the period as specified by the court or tribunal or for a period of seven years, whichever is later.

DEVIATION FROM THE POLICY

Any employee, who becomes aware of any deviation from this policy shall inform the Compliance Officer, who shall investigate the matter. However, no such deviation shall be considered as a violation of the Policy unless, the Compliance Officer has determined that such deviation is in violation of the SEBI Regulations, Listing Agreement, or any other applicable law or regulation. The Compliance Officer shall have the power to impose such penalty as he deems fit, including wage freeze, suspension, recovery, ineligibility for future participation in Company's stock option plans or termination, in accordance with the Company's rules in force from time to time. Any such penalty imposed shall be informed to the Board.

RECORDS WHICH SHOULD BE PRESERVED PERMANENTLY

- Preferred record of beneficial owners, debenture holders, register of charges, register of investments, register of contracts
- Corporate Records, Minutes of Board, Committee and General Meetings, Share Certificates, Memorandum and Articles of Association, Register of Members and other Statutory Records
- Proof of ownership of land and buildings
- Any other record as may be specified by Central Government
- Documents destroyed after the expiry of the period specified in Company Secretaries (Maintenance of Records and Destruction of Documents) Rules, 2020 shall be certified by the Company Secretary in practice.

RECORDS WHICH SHOULD BE PRESERVED FOR ATLEAST 8 YEARS AFTER COMPLETION OF TRANSACTION

- Books of Accounts,
- Annual Returns,
- Minutes of Board Meetings, Resolutions passed by Postal Ballot and Register of Postal Ballot,
- Proof of Service of Documents, Evidence of Delivery of Notices, Advertisements and Cancelled Share Certificates,
- Share Transfer Register,
- Copies of Intimations received from Depositories,
- Annual Report,
- Register of Investments,
- Any other record required to be preserved for 8 years.

RECORDS WHICH SHOULD BE PRESERVED FOR ATLEAST 3 YEARS AFTER COMPLETION OF TRANSACTION

- Vouchers,
- Unclaimed Dividend Details,
- Unclaimed Shares,
- Intimations received from Shareholders regarding Change of Address,
- Audit Report, Auditor's Report,
- Duplicate Share Certificates,
- Proof of Publication, Notice of Meeting, Circulars to Members,
- Proof of Publication, Duplicate Share Certificate, Register of Members,
- Proof of Publication, Duplicate Debenture Certificate, Register of Debenture Holders,
- Proof of Publication, Cancelled Debenture Certificate, Register of Debenture Holders,
- Any other record required to be preserved for 8 years.

3. SETTING UP OF A RECORD ROOM

The record room should be located in such a way that it is easily accessible to the employees and should be away from the noise and disturbance. It should be adequately ventilated, lighted and dry. The following factors should be considered for selecting the Physical Records room:

1. **Humidity** – A certain amount of moisture is necessary to keep the papers in good condition, but too much moisture causes mildew and rot. The ideal humidity for the record room is between 30 and 40 per cent. Humidity should be controlled.
2. **Temperature** – It is also recommended to maintain the temperature in the record room, because the records may get damaged if the temperature is increased.
3. **Light** – Light has a considerable impact on document's preservation. Not just the visible light but also ultraviolet and infrared radiation should be controlled.

4. PRIVACY OF RECORD AND ITS CONTROL

The records may be kept in the form of confidential documents and should be protected from the unauthorized persons. Only the authorized persons should be allowed to access the records. It is the responsibility of the records manager to ensure that the records are protected from the unauthorized persons. In order to maintain the privacy of the records, the records should be kept in the locked cabinets and only the authorized persons should be allowed to access the records.

The records manager should also maintain the log of the persons who have accessed the records. The log should contain the name of the person who accessed the records, the date and time when the records were accessed and the purpose for which the records were accessed.

- **Customer's & Employees' Information** – Many records contain personal information about the customers and employees. Address book, Membership lists, Resume, Addresses, Name etc.

□□rd numbers, etc and is cons□dered as personal info□mation. Majority of the business in India have still not a□opted the s□ong mechanism for safeguarding the personal info□mation. The data nee□s to be p□otected and □ispose□ of ca□efully, thus, the business shou□ work with a □□□□□d information □es□uction agency to physically □□□□□□ both elec□onic an□ physical □ata.

b. **Office P□ans, Office IDs and Interna□Procedure Manua□s**: Internal planning & p□oce□ures is impo□tant fo□ every o□ganisation an□ business shou□ ensure its conf□entiality. I□ is important to place the □ocuments with □espect to layout of the office, to □entify exits in case of eme□gency but othe□ □ocuments an□ fo□ms □elate□ to inte□nal p□ocesses an□ proce□ures shou□ be kept elec□onically on secu□e□ netwo□ks

c. **Contracts and Commerc□□Documents and Trade Secretes**: o□ganisations ente□ into many ag□eements an□ most of the pa□t of this ag□eement contains info□mation like the natu□e of the a□□angement, the value of the se□vices offe□e□/□eceive□ in the ag□eement, the names of the main con□acting pa□ties, etc which shou□ be □□□□□d with conf□entiality. Thus, the business shou□ avo□ sha□ing con□acts, unless s□ictly □□□□□□□ and impose a limitation on physical copies. I□ such Conf□ential info□mation is available in the w□ong hand□s, conf□ential info□mation can be misuse□ to commit illegal activity.

14. SUGGESTI□E STEPS □OR PROTECTING CON□IDENTIA□ IN□ORMATION

Conf□entiality of info□mation is of utmost impo□tance. Company shou□ ensure policies to □esc□ibe which info□mation will be cons□e□ as conf□ential an□ what steps shou□ be taken by employees to maintain conf□entiality of info□mation. The company may a□opt the following proce□ures fo□ protecting conf□ential info□mation:

a. All conf□ential □ocuments shou□ be sto□e□ in locke□ file cabinets □□ rooms accessible only to those who a□e autho□ize□.

b. All elec□onic conf□ential info□mation shou□ be protecte□ through encryption an□ passwo□ds

c. Employees shou□ □□□□□□ □□□ leaving conf□ential info□mation visible on the □ computer monito□s when they leave the □ office.

d. Employees shou□ not □iscuss conf□ential info□mation in public places

e. Employees shou□ avo□ using e-mail to □ansfe□ ce□tain sensitive □□ con□oversial info□mation.

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15. PERSONA[illegible] DATA PROTECTION BI[illegible]2[illegible]

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   2. C[illegible]r[illegible]r[illegible]d [illegible] I[illegible]d[illegible]
   3. F[illegible]r[illegible] C[illegible]d[illegible]r[illegible]r[illegible]d[illegible]d[illegible]

Persona[illegible] Informat[illegible]on[illegible]

P[illegible]r[illegible]d[illegible]d[illegible]r[illegible]r[illegible], [illegible]r [illegible]r[illegible]d[illegible], [illegible]d [illegible]d[illegible]d[illegible]. I[illegible]r[illegible]r[illegible]r[illegible]d[illegible] [illegible]r[illegible]d[illegible]d[illegible]d[illegible], [illegible]r[illegible]d[illegible], [illegible], r[illegible]r [illegible], [illegible]r [illegible]r[illegible]r[illegible]d[illegible]d [illegible]r[illegible], [illegible] A[illegible]r[illegible] [illegible]d [illegible]r[illegible]d [illegible]r[illegible]r[illegible]r.

2. O[illegible]at[illegible]ons of data f[illegible]duc[illegible]ary[illegible] A d[illegible]d[illegible]r[illegible]r [illegible]d[illegible]d[illegible]d[illegible]d[illegible] [illegible]d [illegible]r[illegible]r[illegible]r[illegible]d[illegible]d [illegible]r[illegible]r[illegible], [illegible]r [illegible]r[illegible]r[illegible]d[illegible]r[illegible]d [illegible]r[illegible], [illegible]r [illegible]d [illegible]r[illegible]

A[illegible]d[illegible]d[illegible]r[illegible]r[illegible]r[illegible]r[illegible]d [illegible]r[illegible]

1. [illegible]r[illegible]rd[illegible]d[illegible]r[illegible]d [illegible]r[illegible]d[illegible], [illegible]d
2. [illegible]r[illegible]r[illegible]dr[illegible]ddr[illegible]d[illegible]d[illegible]
3. [illegible]r[illegible]r[illegible]d [illegible]r[illegible]r[illegible] [illegible]r[illegible]d[illegible]dr[illegible].

3. **Rights of the individual** The Act grants individuals several rights regarding their personal data, including the right to access their data, request corrections, or withdraw consent for its processing. These rights empower individuals to:

1. Obtain confirmation from data fiduciaries about whether their data is being processed,
2. Request corrections or deletions of inaccurate, misleading, or outdated data,
3. Seek redressal if their rights are violated or if they suffer harm due to improper data handling, and
4. Nominate another person to exercise their rights in the event of their death or incapacity.

4. **Grounds for processing personal data** The Act allows personal data to be processed for specific purposes with the individual's consent, or without consent in certain situations, such as when the data is necessary for the state to provide benefits, for employment purposes, or during medical emergencies. The Act mandates that

[illegible] must be obtained for [illegible]

[illegible] must be limited to [illegible]

[illegible] must be used [illegible]

5. **Social media intermediaries** A new category of intermediaries has been introduced, called social media intermediaries, which enable online interactions between users and allow them to create, upload, share, disseminate, modify or access information using its services. Users in India

6. **Data Protection Authorities** The Act provides for the establishment of a Data Protection Authority consisting of a chairperson and six members, with at least 10 years' expertise in the field of data protection and information technology. Orders issued by the Authority will be enforceable in the Appellate Tribunal. Any person aggrieved by an order or direction of the Tribunal may file an appeal to the Supreme Court.
The Authority will, among other things, require data fiduciaries to:

1. [illegible] to prevent misuse of personal data
2. [illegible] in the event of a personal data breach, and
3. [illegible] to the data principal.

7. **Transfer of data outside India** Sensitive personal data may be transferred outside India for processing if explicit consent is given by the individual, subject to certain additional conditions. However, such sensitive personal data should be stored in India. Certain personal data notified as critical personal data by the government must be processed in India. Exceptions

[illegible] India.

8. **E[illegible]empt[illegible]ons** [illegible] The Central Government [illegible]

1. [illegible] India [illegible]
2. [illegible]

[illegible]

(i) [illegible]
(ii) [illegible]
(iii) [illegible]

However, [illegible]

[illegible]. **Offences** [illegible] F[illegible]

1. [illegible] **f[illegible]ne of Rs [illegible]5 crore or [illegible] of t[illegible]e annua[illegible] turno[illegible]er of t[illegible]e f[illegible]duc[illegible]ary** [illegible]
2. [illegible] **a f[illegible]ne of f[illegible]e crore rupees or 2[illegible] of t[illegible]e annua[illegible] turno[illegible]er of t[illegible]e f[illegible]duc[illegible]ary** [illegible]
3. Re-[illegible] **[illegible]mpr[illegible]sonment of up to t[illegible]ree years [illegible] or f[illegible]ne [illegible] or [illegible]ot[illegible]** [illegible]

[illegible]. **S[illegible]ar[illegible] of non[illegible] persona[illegible] data [illegible] Go[illegible]ernment** [illegible] The Central Government [illegible]

Amendments to other Acts: The Act has amended the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933, the Information Technology Act, 2000 and the Banking Regulation Act, 1949 in order to bring them in line with the provisions of the Act.

CHAPTER □□ SEARCH AND STATUS REPORT

□ INTRODUCTION

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2. SEARCH AND STATUS REPORT

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It has two aspects, the first being 'search' involving physical inspection of documents and second being 'status' which involves reporting of the information collected during the search.

Thus, it acts as a 'Progress Report' of the company and gives ready r[illegible]

3. PURPOSE AND OB[illegible]ECTI[illegible]E O[illegible] SERACH AND STATUS REPORT

- C[illegible] immovable properties. This information is vital for considering the Company's r[illegible]
- T[illegible]

[illegible]. SCOPE AND IMPORTANCE

T[illegible]

1. **By Banks** [illegible]

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5. **Customers and Supp□ers□** □ □□□□r□ □□□□r□□□ □□□□ □□□□ □r□□□ □□□□ □□□□r□□□ □ □□□□ □□□□ □□□□ □□□□□, □□□□ □□□□□□□□r□ □r □□□□ C□□□□□ □r□ □□□□ □□□□ S□□r□□ R□□□r□ □r□□□r□d.

5. **SEARCH O□ CHARGES REGISTERED UNDER COMPANIES ACT□2□□3**

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In the case of a person who is not required to obtain registration under section 7 of the CGST Act, 2017, but is required to obtain registration under section 24 of the CGST Act, 2017, or the Order issued thereunder, or

2. In the case of a person who is required to obtain registration under section 7 of the CGST Act, 2017, but is not required to obtain registration under section 24 of the CGST Act, 2017, or the Order issued thereunder,

However, no such registration shall be granted to a person

1. In clause 1 mentioned above- such registration shall be granted to a person from the date on which he becomes liable to registration under section 24 of the CGST Act, 2017, or the Order issued thereunder.
2. In clause 2- , such Registration shall be granted to him, as per the provisions mentioned above, such registration shall be granted to a person from the date he becomes liable to registration under the CGST Act, 2017, or the Order issued thereunder.

The CGST Act, 2017 has also provided the following provisions —

1. The person has to submit the application for Registration in the prescribed manner, and
2. The person has to submit the application within the prescribed time limit.

The above provisions are in addition to the provisions mentioned above. In this, the person submitting the application has to submit the application within 30 days from the date he becomes liable to registration under the CGST Act, 2017, if the person fails to submit the application within the prescribed time limit, then he will be liable to penalty under the provisions of the CGST Act, 2017.

Section 77(2) of the CGST Act provides that a person who is required to obtain Registration under Section 77(1), has to submit the application for registration in Form CHG-2 and for registration in the case of a Limited Liability Partnership in Form CHG-3, has to submit the application within 30 days. No registration is granted without verification of the documents submitted and the registration is granted only after the verification of the documents submitted by the Registrar.

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1. SEARCH REPORT UNDER THE COMPANIES ACT□2□□3

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Steps su[illegible]ested for Preparat[illegible]on of Searc[illegible] Report

1. [illegible] MCA [illegible]
2. [illegible] to be paid via MCA's Portal and then inspector an inspect the documents either online on MCA's portal or physically at registrar.
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1. INC-13 [illegible]
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7. A□□r□□□ □□ □□ □ □□□□□r □□□ □□ □□□□ □□□□r□d □□ □□□ □□r□□ □□ □r □□□ d□□□ □□□□ □□□□□□□d □□□ □□□□ d□□ □ □□□□□□d.
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4. **Compilation and Preparation of Search Report:**

After completing the search, the search report is prepared, containing details of the search conducted and the results found. However, sometimes the search report is not required to be submitted to the Patent Office along with the application. In such cases, the search report is retained in the applicant's file for future reference. At the time of filing the application in MCA portal, the applicant is required to provide the search report ID, which is generated by the search authority, to the applicant. In order to obtain the search report, the applicant has to submit the request in Form CHG-1, 4, 9 along with the prescribed fee to the Patent Office.

5. **Format of Search Report and its Preparation:**

Since it is not mandatory to submit the search report with the application, there is no prescribed format for the Search Report. However, it is important to ensure that the search report includes all the relevant information, such as the search strategy, the databases searched, and the results obtained.

SEARCH REPORT UNDER IPR LAWS

Intellectual property rights are legal rights that are granted to protect the creations of the mind, including inventions, literary and artistic works, designs, and symbols, names, and images used in commerce. The search report under IPR laws typically includes the following information:

1. Identification of the patent, trademark, or other intellectual property being searched, including its application number, filing date, and publication details, as well as the name of the applicant or owner.
2. Classification of the patent, trademark, or other intellectual property, including its International Patent Classification (IPC) code, Cooperative Patent Classification (CPC) code, or other relevant classification system.

Intellectual property rights are granted to the creators of original works and inventions to protect their intellectual property from unauthorized use by others. The Patent Office and Trademark Office are responsible for examining applications for patents and trademarks to determine whether they meet the requirements for protection. This examination process includes conducting a search of existing patents and trademarks to determine if the invention or mark is new and unique.

Procedure for Search Report under IPR laws is as follows:

1. **Prepare a checklist:** Prepare a checklist of all the documents required for filing an IP application to ensure that all the necessary information is provided.

- Ensure that the search report is prepared by a qualified professional or agency.
- Review the search report carefully to identify any potential issues or conflicts with your invention or mark.

- [illegible]

2. **Segregating the IP assets relevant for the transaction from irrelevant ones:** [illegible]
3. **Analysing all documents carefully:** [illegible]
4. **Verifying facts and confirm that the information is correct:** [illegible]
5. **Analysing protected and protectable IP rights:** [illegible]
6. **Drafting of search and status report:** [illegible]

KEY AREAS TO BE ANALYSED WHILE PREPARING THE SEARCH AND STATUS REPORT RELATING TO IPR:

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. Does the company's business depend on the maintenance of any trade secrets, and if so, [illegible]
7. [illegible] third parties infringing on the company's intellectual property rights?

8. [illegible]

8. PROPERTY TIT[illegible]E SEARCH

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2. COMPILATION OF INFORMATION GATHERED THROUGH EXAMINATION AND VERIFICATION OF DOCUMENTS

After the necessary documents are collected, they are reviewed and compared with the information gathered through discussions with the management. In the case of modifications in the charges, Form CHG-1, 4, 9 should be filed within 30 days from the date of creation/modification/satisfaction of charge. Similarly, changes in the Share Capital should be reported to the Stock Exchanges.

3. SEARCH REPORT UNDER SEBI/RBI/STOCK EXCHANGES

While preparing the Search and Status Report, one has to refer the relevant regulations and circulars issued by the regulatory bodies from time to time. For example, in the case of SEBI, the following documents should be reviewed in order to verify the compliance with the regulations, Memorandum of Association, Articles of Association, Prospectus, Letter of Offer, Abridged Prospectus, Application Form, Listing Agreement, Annual Reports, Minutes of Board Meetings, Minutes of General Meetings, Shareholding Pattern, Corporate Governance Report, Auditors' Report, Certificates issued by Compliance Officer, Certificates issued by Registrar and Share Transfer Agent, Certificates issued by Debenture Trustee, Certificates issued by Statutory Auditors, Certificates issued by Monitoring Agency, Certificates issued by Practicing Company Secretary, Certificates issued by Chartered Accountant, Certificates issued by Merchant Banker, Due Diligence Certificate, Offer Document, Corporate Governance Compliance Certificate, Certificate of Non-Disposal, Certificate of Non-Encumbrance, Certificate of Non-Default, Certificate of Non-Conversion, Certificate of Non-Redemption, Certificate of Non-Payment, Certificate of Non-Receipt, Certificate of Non-Allotment, Certificate of Non-Transfer, Certificate of Non-Dematerialization, Certificate of Non-Rematerialization, Certificate of Non-Splitting, Certificate of Non-Consolidation, Certificate of Non-Subdivision, Certificate of Non-Reduction, Certificate of Non-Increase, Certificate of Non-Decrease, Certificate of Non-Change, Certificate of Non-Modification, Certificate of Non-Alteration, Certificate of Non-Amendment, Certificate of Non-Revocation, Certificate of Non-Cancellation, Certificate of Non-Termination, Certificate of Non-Expiry, Certificate of Non-Renewal, Certificate of Non-Extension, Certificate of Non-Suspension, Certificate of Non-Withdrawal, Certificate of Non-Rejection, Certificate of Non-Refusal, Certificate of Non-Objection, Certificate of Non-Opposition, Certificate of Non-Dissent, Certificate of Non-Disagreement, Certificate of Non-Conflict, Certificate of Non-Violation, Certificate of Non-Breach, Certificate of Non-Default, Certificate of Non-Compliance, Certificate of Non-Adherence, Certificate of Non-Observance, Certificate of Non-Performance, Certificate of Non-Fulfillment, Certificate of Non-Satisfaction, Certificate of Non-Completion, Certificate of Non-Execution, Certificate of Non-Implementation, Certificate of Non-Operation, Certificate of Non-Functioning, Certificate of Non-Working, Certificate of Non-Activity, Certificate of Non-Existence, Certificate of Non-Presence, Certificate of Non-Availability, Certificate of Non-Accessibility, Certificate of Non-Visibility, Certificate of Non-Transparency, Certificate of Non-Disclosure, Certificate of Non-Confidentiality, Certificate of Non-Secrecy, Certificate of Non-Privacy, Certificate of Non-Security, Certificate of Non-Safety, Certificate of Non-Protection, Certificate of Non-Defense, Certificate of Non-Immunity, Certificate of Non-Liability, Certificate of Non-Responsibility, Certificate of Non-Accountability, Certificate of Non-Obligation, Certificate of Non-Duty, Certificate of Non-Commitment, Certificate of Non-Undertaking, Certificate of Non-Guarantee, Certificate of Non-Warranty, Certificate of Non-Indemnity, Certificate of Non-Insurance, Certificate of Non-Assurance, Certificate of Non-Coverage, Certificate of Non-Protection, Certificate of Non-Security, Certificate of Non-Safety, Certificate of Non-Defense, Certificate of Non-Immunity, Certificate of Non-Liability, Certificate of Non-Responsibility, Certificate of Non-Accountability, Certificate of Non-Obligation, Certificate of Non-Duty, Certificate of Non-Commitment, Certificate of Non-Undertaking, Certificate of Non-Guarantee, Certificate of Non-Warranty, Certificate of Non-Indemnity, Certificate of Non-Insurance, Certificate of Non-Assurance, Certificate of Non-Coverage.

Procedure:

1. The Company Secretary should review the Memorandum of Association and Articles of Association to understand the company's business and the transactions undertaken.
2. He should also review the Minutes of Board Meetings, General Meetings, Shareholding Pattern, Corporate Governance Report, Auditors' Report, Certificates issued by Compliance Officer, Certificates issued by Registrar and Share Transfer Agent, Certificates issued by Debenture Trustee, Certificates issued by Statutory Auditors, Certificates issued by Monitoring Agency, Certificates issued by Practicing Company Secretary, Certificates issued by Chartered Accountant, Certificates issued by Merchant Banker, Due Diligence Certificate, Offer Document, Corporate Governance Compliance Certificate, Certificate of Non-Disposal, Certificate of Non-Encumbrance, Certificate of Non-Default, Certificate of Non-Conversion, Certificate of Non-Redemption, Certificate of Non-Payment, Certificate of Non-Receipt, Certificate of Non-Allotment, Certificate of Non-Transfer, Certificate of Non-Dematerialization, Certificate of Non-Rematerialization, Certificate of Non-Splitting, Certificate of Non-Consolidation, Certificate of Non-Subdivision, Certificate of Non-Reduction, Certificate of Non-Increase, Certificate of Non-Decrease, Certificate of Non-Change, Certificate of Non-Modification, Certificate of Non-Alteration, Certificate of Non-Amendment, Certificate of Non-Revocation, Certificate of Non-Cancellation, Certificate of Non-Termination, Certificate of Non-Expiry, Certificate of Non-Renewal, Certificate of Non-Extension, Certificate of Non-Suspension, Certificate of Non-Withdrawal, Certificate of Non-Rejection, Certificate of Non-Refusal, Certificate of Non-Objection, Certificate of Non-Opposition, Certificate of Non-Dissent, Certificate of Non-Disagreement, Certificate of Non-Conflict, Certificate of Non-Violation, Certificate of Non-Breach, Certificate of Non-Default, Certificate of Non-Compliance, Certificate of Non-Adherence, Certificate of Non-Observance, Certificate of Non-Performance, Certificate of Non-Fulfillment, Certificate of Non-Satisfaction, Certificate of Non-Completion, Certificate of Non-Execution, Certificate of Non-Implementation, Certificate of Non-Operation, Certificate of Non-Functioning, Certificate of Non-Working, Certificate of Non-Activity, Certificate of Non-Existence, Certificate of Non-Presence, Certificate of Non-Availability, Certificate of Non-Accessibility, Certificate of Non-Visibility, Certificate of Non-Transparency, Certificate of Non-Disclosure, Certificate of Non-Confidentiality, Certificate of Non-Secrecy, Certificate of Non-Privacy, Certificate of Non-Security, Certificate of Non-Safety, Certificate of Non-Protection, Certificate of Non-Defense, Certificate of Non-Immunity, Certificate of Non-Liability, Certificate of Non-Responsibility, Certificate of Non-Accountability, Certificate of Non-Obligation, Certificate of Non-Duty, Certificate of Non-Commitment, Certificate of Non-Undertaking, Certificate of Non-Guarantee, Certificate of Non-Warranty, Certificate of Non-Indemnity, Certificate of Non-Insurance, Certificate of Non-Assurance, Certificate of Non-Coverage.
3. Various checklists and questionnaires should be prepared in order to collect the information.
4. The Company Secretary should review the relevant regulations and circulars issued by the regulatory bodies from time to time in order to verify the compliance with the regulations. He should also review the Minutes of Board Meetings, General Meetings, Shareholding Pattern, Corporate Governance Report, Auditors' Report, Certificates issued by Compliance Officer, Certificates issued by Registrar and Share Transfer Agent, Certificates issued by Debenture Trustee, Certificates issued by Statutory Auditors, Certificates issued by Monitoring Agency, Certificates issued by Practicing Company Secretary, Certificates issued by Chartered Accountant, Certificates issued by Merchant Banker, Due Diligence Certificate, Offer Document, Corporate Governance Compliance Certificate, Certificate of Non-Disposal, Certificate of Non-Encumbrance, Certificate of Non-Default, Certificate of Non-Conversion, Certificate of Non-Redemption, Certificate of Non-Payment, Certificate of Non-Receipt, Certificate of Non-Allotment, Certificate of Non-Transfer, Certificate of Non-Dematerialization, Certificate of Non-Rematerialization, Certificate of Non-Splitting, Certificate of Non-Consolidation, Certificate of Non-Subdivision, Certificate of Non-Reduction, Certificate of Non-Increase, Certificate of Non-Decrease, Certificate of Non-Change, Certificate of Non-Modification, Certificate of Non-Alteration, Certificate of Non-Amendment, Certificate of Non-Revocation, Certificate of Non-Cancellation, Certificate of Non-Termination, Certificate of Non-Expiry, Certificate of Non-Renewal, Certificate of Non-Extension, Certificate of Non-Suspension, Certificate of Non-Withdrawal, Certificate of Non-Rejection, Certificate of Non-Refusal, Certificate of Non-Objection, Certificate of Non-Opposition, Certificate of Non-Dissent, Certificate of Non-Disagreement, Certificate of Non-Conflict, Certificate of Non-Violation, Certificate of Non-Breach, Certificate of Non-Default, Certificate of Non-Compliance, Certificate of Non-Adherence, Certificate of Non-Observance, Certificate of Non-Performance, Certificate of Non-Fulfillment, Certificate of Non-Satisfaction, Certificate of Non-Completion, Certificate of Non-Execution, Certificate of Non-Implementation, Certificate of Non-Operation, Certificate of Non-Functioning, Certificate of Non-Working, Certificate of Non-Activity, Certificate of Non-Existence, Certificate of Non-Presence, Certificate of Non-Availability, Certificate of Non-Accessibility, Certificate of Non-Visibility, Certificate of Non-Transparency, Certificate of Non-Disclosure, Certificate of Non-Confidentiality, Certificate of Non-Secrecy, Certificate of Non-Privacy, Certificate of Non-Security, Certificate of Non-Safety, Certificate of Non-Protection, Certificate of Non-Defense, Certificate of Non-Immunity, Certificate of Non-Liability, Certificate of Non-Responsibility, Certificate of Non-Accountability, Certificate of Non-Obligation, Certificate of Non-Duty, Certificate of Non-Commitment, Certificate of Non-Undertaking, Certificate of Non-Guarantee, Certificate of Non-Warranty, Certificate of Non-Indemnity, Certificate of Non-Insurance, Certificate of Non-Assurance, Certificate of Non-Coverage.

KEY DOCUMENTS TO BE ANALYSED WHILE PREPARING THE SEARCH AND STATUS REPORT RELATING TO THE TRANSACTIONS UNDERTAKEN BY THE COMPANY:

1. **In case of Public Issues –**

- Draft Offer Document filed with SEBI
- Red Herring Document filed with SEBI
- Final Offer Document filed with SEBI

'Offer document' is a document which contains all relevant information about the company, □r□□ □□□r□, □□□□□□□□d□□□□□, □□□□□□□ □□ r□□□□□ □□□ □ □□□□, □□r□ □ □□ □□□ □□□□□ □□□ □□□d □r inviting subscription to the issue being made by the issuer. It is called as 'Prospectus' in case □□ □ □□□□□□ □□□□□ □□d □□□□□r □□ □□□□r □□ □□□□ □□ r□□□□□ □□□□□

'Red Herring Prospectus' is a prospectus, which does not have details of ei□□r □r□□□ □r □□□ □□r □□ □□□r□□ □□□□□ □□□□r□d, □r □□□ □□ □□□□ □□ □□□□□

2. **In case of R□□□t Issues –**

- Dr□□ L□□□r□ □□ O□□r □□d □□ SE□I
- F□□□L□□□r□ □□ O□□r □□d □□ S□□□ E□□□□□□□

3. **In case of De□t Offer Document –**

- Dr□□ □□d □□ SE
- F□□□ □□d □□ ROC

4. **In case of Takeo□ers –**

- L□□□r □□ O□□r
- F□r□ □□ □□ □r SE□I □SAST□ R□□□□□□□□□ 2011
- O□□r D□□□ □□□

5. **In case of Mutua□□unds –**

- Dr□□ d□□□ □□
- S□□□□ □□ □□ Add□□□□□□I□□r□ □□□□ □SAI□
- S□□□ □I□□r□ □□□□ D□□□ □□ □SID□
- K□ I□□r□ □□□□ M□ □r□d□ □KIM□

6. **In case of Buy□acks –**

- T□d□r O□□r□
- O□□ M□r□□ □r□□□ S□□□ E□□□□□□□

7. **In case of In□t□□ Pu□□c Issues –**

- Dr□□ □□r d□□□ □□ □d □□ SE□I
- O□r D□□□ □□ □d □□ SE□I
- F□□□O□r D□□□ □□ □d □□ SE□I

8. **In case of In□t□□ Pr□ate Issues –**

- P□□□ □□ M□ □r□d□ □d □□ SE□I
- F□□□P□□□ □□ M□ □r□d□ □d □□ SE□I

11. STOCK EXCHANGES SEARCH REPORT

While carrying out Secretarial Audit and Secretarial Compliance Report, we are required to search the Stock Exchanges website, to find out the information which is required to be disclosed by the Company to the Stock Exchanges. The NSE and BSE websites are regularly updated. The Secretarial Compliance Report on NSE and BSE websites are also required to be searched to find out the information.

KEY DOCUMENTS TO BE ANALYSED WHILE PREPARING THE SEARCH AND STATUS REPORT ON INFORMATION/DOCUMENTS AVAILABLE ON NSE AND BSE WEBSITE:

1. Corporate Announcements
2. Corporate Actions
3. Financial Results
4. Board Meetings
5. Shareholders Meeting
6. Voting Results
7. Regulation 74(5) Certificate
8. Shareholding Pattern
9. Corporate Governance Report
10. Other Documents
11. Information to be submitted in case of -

1. QIP
2. Scheme of Arrangement
3. Change in Promoter Shareholding and Pledge Details
4. Reconciliation

12. Preferential Issue
13. Securities in Suspense Account
14. Delisting of Equity Shares
15. Procedure in case of - Change in Promoter Details

Procedure

1. [illegible] company's business and the transactions undertaken.
2. [illegible]
3. [illegible]
4. [illegible]

CHAPTER 5[illegible] [illegible]NO[illegible] YOUR CUSTOMER

[illegible] INTRODUCTION

- KYC stands for 'Know Your Customer' or 'Know your Client' and is a process used by every [illegible] ... A[illegible] R[illegible]I, [illegible] KYC, [illegible] KYC d[illegible] [illegible]
- I[illegible] KYC [illegible] R[illegible]I [illegible] 2002 [illegible] A[illegible] M[illegible] L[illegible] [illegible] C[illegible] [illegible] N[illegible]FC[illegible] [illegible]
- T[illegible] H[illegible] M[illegible] C[illegible] A[illegible] D[illegible] D[illegible] DIN [illegible] DIR-3 KYC.

2. OB[illegible]ECTI[illegible]ES O[illegible] [illegible]YC

T[illegible] KYC [illegible] Fr[illegible]d, [illegible] M[illegible], [illegible] KYC [illegible] d[illegible]

Mean[illegible] of Customer under [illegible]YC

- A [illegible]
- D[illegible] DIN [illegible] M[illegible] C[illegible] A[illegible]
- [illegible] C[illegible] A[illegible] C[illegible] S[illegible] [illegible]
- O[illegible]
- A[illegible]

3. KYC REQUIREMENT IN VARIOUS TRANSACTION

1. Investment in equity shares of a company
2. Obtaining a DIN
3. Opening a bank account or a demat account or a mutual fund account
4. Depositing money with any NBFC or company
5. Purchase of units of a Stock Exchange Mutual Fund
6. Employment of any person by a private sector bank or a financial institution
7. Opening of an account of a reporting entity by a client after the commencement of these rules, the client shall submit to such reporting entity the KYC identifier allotted to him under these rules
8. Opening of a Limited Liability Partnership
9. When there is any change in the information or updation of KYC information of the client as per the periodic updation or when the client gives a fresh KYC
10. When the reporting entity has reason to believe that a client, or a beneficial owner, is a politically exposed person

TYPES OF KYC

CKYC

C- KYC stands for Central KYC. This is a centralized KYC repository which aims to reduce the burden of multiple KYC for customers. Once the KYC is done with any one of the financial institutions, the customer does not have to undergo the KYC process again. CERSAI is the Central Registry of Securitisation Asset Reconstruction and Security Interest of India which has been authorized to act as the Central KYC Records Registry (CKYCR). After the KYC is done, a 14 digit CKYC number is allotted to the customer. This number is communicated to the customer. Every financial institution is required to upload the KYC data pertaining to all new individual accounts opened on or after April 1, 2017 with the CKYC. Even if the customer has done KYC with one financial institution, he will have to do it again if he wants to open an account with another financial institution. However, the financial institution can rely on the KYC done by the previous financial institution.

EKYC

E-KYC stands for electronic KYC. This is done online. The customer has to enter his Aadhaar number and fingerprint. The Aadhaar number is verified with UIDAI's database and the KYC is completed. This is a paperless process.

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3. □YC O□ DIRECTORS BY MCA

T□□ KYC □□ D□□□□□r□ □□ □□□d□□□d □□ □□□ MCA □□ □□□ □□□ □ □□ □□□ A□□□□ □□□ □□ D□□□□□r Id□□□□□□□□□□ N□□ □□r. E□□r□ □□d□□d□□□ □ □□ □□□ □□□□ □□□□□d □ D□□□□□r Id□□□□□□□□□□ N□□ □□r □DIN □ □□□r 31□□ M□r□□ □□ □ □□□□□□□□□□ □□r □□d □□ □□□□ □□ □-□□r□ DIR-3-KYC □□ □□□ C□□r□□ G□□r□□ □□□ □□ □r □□□r□ 30□□ S□□□□□ □□r □□ □□ □ □d□□□□ □□□□ □□□□□□□□□ □□r. E□r□□r KYC □ □□ □□□ □ □□d□□r□ □□r d□□□□□r□ □□□ □ □□□ □□□ □□r□d□□□□□ □□ ***Rule 12A to the Companies (Appointment and Qualification) R□□□, 2014***, □□□r□ □□d□□d□□□ □ □□ □□□ □□□□ □□□□□□□d DIN, □□□ □□ □□□□ □□ DIR-3-KYC. H□□ □□□r, □ □□r□ □□ □□d□□d□□□ □ □□ □□□ □□□d□ □□□□ □□□□□d □-□□r□ DIR-3 KYC □□ r□□□□□□□ □□ □□□ □r□□□□□□ □□□□□□□□□□□r, □□□□ □□□ □ □□-□□r□ DIR-3 KYC-WE □ □□r□□□ □□□ □ □□ □□r□□□ □□ r□□□□□□□ □□ □□□ □□□□□□□□□□□□ □□□□□□□□□r □□ □□□□□ □□ d□□□ □d □□ □□ □□□ □□□□□□□ □□ □□□ □r□□□□□□□ □□ □□□□ r□□□ □□r □□□ □□d □□□□□□□□□□ □□□r.

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1. DIR-3 KYC □□ r□□□□□d □□ □□ □□□d □□ □□□r□ D□□□□□r □ □□ □□□ □□□□ □□□□□□□d DIN □□ □r □□□□r□ 31st March, of a Financial Year and whose DIN status is 'Approved.
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11. I□d□□□r □□□ □□ DIR-3 KYC □□ MCA21 □□□□ □ □ □r □□□ □□r□d DIN □ □□ 'Deactivated' with reason as 'Non-□□□ □□ DIR-3 KYC.
12. MCA □□□ □□□ □□□□d □r □□ □□ □-□r DIR-3 KYC □d□r □□□ R□ 12A □D□□□r KYC □ □□□ □ □□ □r□d□r □r r□r□□□ □d□□□□□□d DIN □ □□ D□□□r, □□□□□□□□

□YC O□ COMPANIES

- **Rule 25A of the Companies (Incorporation) Rules 2** □□ □r□d□ □□ □□□ □r□r □ □□r, 31□ D□□ □r, 2017 □□□□ □□□ □r□□□□r □□ □□□ □□□ □□r□d □□ □r □□r□ □□ 31□ D□□ □r, 2017 □□□□□□□□ □□□ □r□□□□□r□d □□□□□□, □□ □-F□r □ ACTIVE □A□□□□□ C□ □□□□ T□□□□□ Id□□□□□□□ □d V□r□□□□□□□ □□ □r □□r□ 15□ □□□, 2019. I□ □□□ □ □□ □□□ □□□ □□ □□ □□ □r□□□□□r □ □ company, it will be marked as "ACTIVE-noncompliant" on or after 16th June, 2019 and shall □□ □□□□□ □r □□□□□ □d□r □□□-□□□□□□ □9 □□ □□□□□□ 12 □□ □□ C□ □□□□□ A□, 2013. A □□□ □□ □□ □□□ □□□ E-□r ACTIVE, □□ □ □□ □□ r□□□□d □□ □□ □ □□□ □□ 10,000 □d □□ marked as "ACTIVE Compliant".

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4. *Voters' Identity Card*

5. *PAN C□rd*

6. Aadhaar Card issued by UIDAI.

- In case the proof of address furnished by the client is not in the name of the client, then the client should also submit the Proof of Address in the name of the person in whose name the proof of address is submitted.

1. Water bill
2. Telephone bill (landline) or broadband bill
3. Electricity bill
4. Income Tax Assessment Order
5. Property or Municipal Tax receipt
6. Applicant's current and valid ration card

2. KNOW YOUR CLIENT (KYC) NORMS FOR COMPANY SECRETARY IN PRACTICE

In order to avoid unnecessary delay, the client should submit the KYC form along with the Proof of Identity and Proof of Address at the time of commencement of an account-based relationship. Verification of the original documents should be done by the Company Secretary in Practice. In case the client is unable to submit the KYC documents, the Company Secretary in Practice may allow the client to submit the documents within a reasonable time period. The Company Secretary in Practice should inform the client that in case the client fails to submit the documents within the stipulated time, the account may be frozen. The ICSI recommends that the Company Secretary in Practice should obtain sufficient information necessary to establish, to their satisfaction, the identity of each new client and the purpose of the intended nature of the relationship.

The following documents may be obtained from the clients:

1. Corporate / Partnership / Trust etc.

- Name of the Entity
- CIN / Registration number, wherever applicable
- Date and place of Incorporation / Registration, wherever applicable
- Type of the Entity
- Proof of the existence of the Entity
- Address of the Registered Office and Principal Place of Business
- Address of the Corporate / Partnership firm / Trust Office
- Address of the Branches
- PAN No., Name and Address of the Directors / Partners / Trustees / Managers / Karta / Promoters / Persons holding an attorney to transact on its behalf
- Email Id
- Telephone / Fax No.
- Financial Status

- [illegible] Director and Key Managerial Personnel

- Managerial Remuneration and Maximum Managerial Remuneration

2. Corporate Social Responsibility

- Section 135 and Schedule VII

- Net worth or turnover or net profit criteria

- Net worth or turnover or net profit criteria

- Composition of Corporate Social Responsibility Committee

- Composition of Corporate Social Responsibility Committee (CSR)

3. Power of Central Government to direct certain companies to get their Affairs investigated

4. Board Structure and Other Miscellaneous Structures

5. Transactions involving [illegible] Directors or Relatives of Directors

- Definition of Loans and Guarantee

- Definition of Loans and Guarantee and [illegible] transactions

6. Creation, [illegible] and [illegible]

7. FORE [illegible] and [illegible]

8. Power of Central Government to [illegible] and [illegible]

9. Net worth or Key CEO, CFO Secretary and CFO

10. Exemption from Listing and [illegible] to Unlisted Public Company

11. Prohibited [illegible]

- Definition of [illegible] and [illegible] Deposit

- Definition of [illegible] and Deposit [illegible] Deposit

- Definition of [illegible] and [illegible] Deposit

- Section 164 of Companies Act, 2013

- Definition of Private Company and [illegible]

12. Other Matters

- Definition of IPO, FPO, Rights Issue

- Net [illegible], Address and CIN No. of Secretarial Auditor

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4. **Financial Risks:** In this, the organizations are required to collect KYC documents of the customers, verify the documents and keep a record of the same. Failure to do so may result in penalties being imposed on the organization.

8. ENHANCED DUE DILIGENCE (EDD) IN KYC

Enhanced Due Diligence refers to a more in-depth process of customer verification that goes beyond standard KYC procedures. It involves collecting additional information, conducting thorough investigations, and implementing ongoing monitoring to mitigate potential risks associated with high-risk customers, politically exposed persons, and complex business structures.

CHARACTERISTICS OF EDD

1. **Rigorous and robust:** Enhanced Due Diligence is a comprehensive process that goes beyond standard customer verification. It requires a deeper level of investigation and analysis to assess the risk associated with a customer. It is guided by the SMART (Specific, Measurable, Achievable, Relevant and Time-bound), principles and requires a thorough understanding of the customer's background and activities.
2. **Reasonable assurance:** EDD provides reasonable assurance that the organization has taken adequate measures to identify and mitigate potential risks, but it does not guarantee that all risks will be eliminated.
3. **Relevant adverse information:** EDD involves collecting information from a variety of sources, including public records, news articles, and social media, to identify any adverse information that may be relevant to the customer's risk profile.

9. CUSTOMER DUE DILIGENCE IN KYC

- Customer Due Diligence in KYC is a process of verifying the identity and assessing the risk profile of a customer. It involves collecting and analyzing information about the customer's personal and financial background to determine the level of risk they pose.
- It is important for businesses to conduct thorough customer due diligence to comply with KYC regulations and prevent financial crimes.
- For example, verifying the customer's identity, understanding the nature of their business, and monitoring their transactions.

10. CHANGES IN KYC REGIME

The Government has been making efforts to digitize the KYC process. Some of the changes in the KYC regime are:

A. Changes due to amendments to the PML Rules

1. Digital KYC" is defined in Section 3 as capturing live photo of the client and officially valid document or the proof of possession of Aadhaar, where offline verification cannot be carried out, along with the latitude and longitude of the location where such live photo is being taken by an authorized officer of the Reporting Entity (RE) as per the provisions contained in the Act. Such officer shall also put a date and time stamp on the photograph. The Digital KYC process shall be undertaken.

2. "Equivalent e-document" has been defined in Section 3 as an electronic equivalent of a document, issued by the issuing authority of such document with its valid digital signature including documents issued to the digital locker account of the client as per Rule 9 of the Information Technology (Preservation and Retention of Information by Intermediaries Providing Digital Locker Facilities) Rules, 2016.

3. Section 16 of the said Rules provides that, 1. Client Due, Enhanced Due Diligence (CDD) Procedure, shall include

a. Aadhaar OTP based e-KYC in non-face to face mode subject to certain conditions including obtaining of a declaration from the client to the effect that such client is not resident in a country or geography notified by the Central Government, and Securities and Exchange Board of India Act, 2016 (18 of 2016) or any other laws for the time being in force, authorising the Aadhaar issuing authority to share his Aadhaar number for the purpose of authentication under the provisions of sub-clause (iv) of clause (a) of section 11A of the PML Act;

b. Proof of possession of Aadhaar which offers paperless offline e-KYC verification;

c. An officially valid document (OVD) or the equivalent e-document thereof containing the details of his identity and address;

d. The Prohibitions and Restrictions on Sharing Age Information of Children Rules, 2012 for the purpose of proof of date of birth of children;

e. Aadhaar OTP based e-KYC authentication is done for the purpose of opening of account, or any other purpose pursuant to any law for the time being in force, authorising the use of Aadhaar authentication for the purpose;

f. Aadhaar OTP based e-KYC authentication is done for the purpose of verification of identity of the client also as per the provisions contained in the

4. Aadhaar OTP based e-KYC authentication is done for the purpose of verification of identity of the client also as per the provisions contained in the Act, shall be carried out by the bank or RE

5. Aadhaar OTP based e-KYC in non-face to face mode may be allowed for the RE subject to the following conditions: a. There must be a specific consent from the client for authentication through OTP. b. The aggregate limit of Rs. 60 thousand per annum as specified in the Income-tax Rules, 1962 and

6. the client should not have any existing account with the RE which is opened using Aadhaar OTP based e-KYC in non-face to face mode. Further, while uploading KYC information to CKYCR, REs shall clearly indicate that such accounts are opened using OTP based e-KYC in non-face to face mode and

7. Aadhaar OTP based e-KYC in non-face to face mode shall be allowed only for new accounts. In case of existing accounts of the client, RE shall obtain the Proof of Possession of Aadhaar, which offers Offline Verification, or any other OVD or the equivalent e-document thereof for the purpose of CDD, as per the provisions contained in the Act.

8. In case of Legal Entities, RE shall, in addition to obtaining the Aadhaar number, perform the authentication of the Aadhaar number of the Beneficial Owner using e-KYC authentication facility provided by Unique Identification Authority of India. Further, in such cases, if the

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Q. The customer has to submit the RE document to the bank employee at the time of opening the account. The Aadhaar PAN details are verified by the V-CIP team and the Aadhaar PAN details are linked to the customer.

A. The customer has to submit the RE document to the bank employee at the time of opening the account. The Aadhaar PAN details are verified by the V-CIP team and the Aadhaar PAN details are linked to the customer.

Q. In which case the customer information can be updated using ML model or Aadhaar Secure QR Code, the customer has to update the customer information using ML model or QR code after every 3 days from the date of opening the V-CIP.

A. The customer information updated by the V-CIP team is the same as the customer information given in the RE document, the customer is informed about it.

Q. RE document means a document in which the customer, registered office, principal place of business, mailing address and telephone number are mentioned. The customer has to submit the RE document to the bank employee at the time of opening the account. RE document means a document in which the customer information is mentioned.

Q. The customer information is updated, registered mobile number is changed, then RE is submitted to the bank employee at the time of updating the customer information.

A. The customer has to submit the RE document to the bank employee at the time of opening the account. RE means a document in which the customer information is mentioned.

Q. RE is verified by the customer in which the customer has to sign.

Q. RE is not submitted by the customer in which Aadhaar PAN is not linked, then Artificial Intelligence AI is used to verify the customer, the customer is informed about it. However, if the customer is not satisfied with the AI verification, then the customer has to submit RE.

Q. RE document is submitted by the customer at the time of opening the Aadhaar PAN in a Savings 16.

Q. C is the only authorized person in the bank to verify the customer and the customer has to submit RE document, then the customer is verified by the V-CIP team and the customer is informed about it.

[illegible] C [illegible] [illegible] C [illegible]
[illegible]

REGU[illegible]ATORY ACTION ON [illegible]IO[illegible]ATION O[illegible] [illegible]YC NORMS

[illegible] R[illegible] A[illegible] [illegible] RBI [illegible] R[illegible] O[illegible] [illegible] R[illegible] [illegible] 21 [illegible] O[illegible] N[illegible] 2015. T[illegible] FEMA [illegible] KYC [illegible] AML [illegible] T[illegible] R[illegible]

1. [illegible] KYC [illegible]
2. [illegible]-adherence to the Reserve Bank's instructions
3. [illegible] FEMA [illegible]

[illegible] R[illegible] 21 [illegible] 13 [illegible] 8 [illegible]

A[illegible]te[illegible]payments [illegible]ank [illegible]td

[illegible] RBI [illegible] in contravention of 'Operating Guidelines for Payments Banks' and the directions issued by RBI on Know Your Customer (KYC) norms. Thus, RBI [illegible] 50 [illegible]

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2. DEBIT CARD FRAUD DUE TO DUE KYC

A complainant's card was used 68 times at ATMs in various locations during the period of two [illegible] *When* [illegible] *contacted* [illegible], [illegible] *received* [illegible] *for* [illegible] *received* [illegible] *and* [illegible] *PIN* [illegible] *delivered* [illegible] *to the registered address and* [illegible] *received* [illegible]. *However,* [illegible] *received* [illegible] *from* [illegible] *and delivered* [illegible] *address and* [illegible] [illegible] *for* [illegible].

The [illegible] *contended that* [illegible] *on the* [illegible] *of* [illegible] *and* [illegible] *-received* [illegible] *and* [illegible] *KYC* [illegible] *to* [illegible] *or* [illegible] *delivered* [illegible] *However,* [illegible] *was found guilty as the bank did not exercise due care in updating the customer's* [illegible] *and* [illegible] *delivered* [illegible] *received,* [illegible] *delivered* [illegible] *PIN,* [illegible] *received* [illegible] *and* [illegible] *delivered* [illegible] *for* [illegible]. *Moreover,* [illegible] *contended* [illegible] *delivered* [illegible] *received* [illegible] *delivered* [illegible] *received* [illegible] *and* [illegible] *received* [illegible]. *Thus,* [illegible] *contended that* [illegible] *delivered* [illegible].

3. MAJOR FRAUDS WHICH TOOK PLACE WITH THE HELP OF INCOMPLETE KYC

1. *A* [illegible] *customer* [illegible] *delivered* [illegible] *and* [illegible] *delivered* [illegible] *for* [illegible].
2. *A* [illegible] *received* [illegible] *and* [illegible] *IT* [illegible] *and* [illegible], [illegible] *delivered* [illegible] *for* [illegible].
3. *Submission* [illegible] *received* [illegible] *delivered* [illegible] *received* [illegible] *delivered* [illegible].
4. *Deliberately overstating or understating the property's appraised value.*
5. [illegible] *delivered* [illegible] *received* [illegible] *delivered* [illegible] *received* [illegible].
6. *False* [illegible] *delivered* [illegible] *received* [illegible] *delivered* [illegible].
7. *A* [illegible] *delivered* [illegible] *received* [illegible] *delivered* [illegible] *received* [illegible].

4. ONLINE FRAUD THROUGH INCOMPLETE KYC

The following methods are used by fraudsters for committing online fraud through incomplete KYC:

Hacking: Hackers access personal data of victims such as bank account details, credit card details, passwords, etc. to withdraw money from their accounts.

Phishing: It is a method of sending emails that appear to be from reputable companies to induce individuals to reveal personal information.

Pharming: It is a method of redirecting users to fake websites without their knowledge or consent. Pharming can be conducted using DNS poisoning or modifying host files on a victim's computer.

Vishing: Fraudsters make phone calls to victims and try to obtain confidential information.

Smishing: It uses mobile text messages to lure victims into calling back fraudulent phone numbers, visiting fraudulent websites or downloading malicious software.

Debit card skimming: A device is placed over the card slot of an ATM machine which reads and stores card information while the PIN is recorded by a hidden camera.

Computer viruses: company's systems are always open to the risk of being infected with computer viruses which may destroy or corrupt data stored in computers.

Counterfeit Instruments: Fake currency notes, Demand Drafts, etc. are used in place of genuine ones.

5. POSSIBLE FRAUDS WITH MOBILE WALLETS

Increased risk of money laundering: Criminals can use a mobile wallet to move illicit funds into the financial system. Customer-to-customer transfers can allow criminals to move illicit funds between mobile wallets to obscure the source of funds.

Fake merchants: It is a fraudulent practice in which scammers pose as genuine sellers to trick buyers into paying for goods or services that they never intend to deliver.

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Category III	All unlisted entities including private limited companies, unlisted public companies, small scale startups, individuals, HUF, LLP, Partnership firms, Co-operative Societies, Trusts, Individuals and HUF, Foreign companies, Body corporate, etc.

DOCUMENTS REQUIRED

	Documents	List I	List II	List III
Entity level	Memorandum and Articles of Association, Certificate of Incorporation, Latest Annual Return	Required	Required	Required
	Address proof	Required	Required	Mandatory
	PAN	Required	Mandatory	Mandatory
	SEBI Registration Certificate	Required	Required	Mandatory
	Board Resolution	Not Required	Required	Mandatory
Whole Time Directors/ Partners/ Trustees/ etc	List	Required	Required	Required
	Identification proof	Encouraged	Encouraged	Encouraged to be done by the Company, Certification, Declaration, Verification by Professionals

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CHAPTER 11 SIGNING AND CERTIFICATION

1. CONCEPT OF PRE-CERTIFICATION

- Pre-incorporation name is a name reserved with the Registrar of Companies before the date of incorporation of the company. The Registrar of Companies, Ministry of Corporate Affairs, allows the applicant to reserve a unique name for his proposed company. The pre-incorporation name is reserved for a period of 20 days from the date of application. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company. The pre-incorporation name is reserved for the purpose of registering the company under the Companies Act, 2013. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company.
- The Ministry of Corporate Affairs has introduced the concept of pre-incorporation name in order to avoid the confusion regarding the similarity of names of companies. The Registrar of Companies, Ministry of Corporate Affairs, has introduced the concept of pre-incorporation name in order to avoid the confusion regarding the similarity of names of companies. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company. The pre-incorporation name is reserved for the purpose of registering the company under the Companies Act, 2013. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company.
- In the case of pre-incorporation name, the applicant has to file an application in the prescribed form with the Registrar of Companies, Ministry of Corporate Affairs, along with the prescribed fee.

2. HISTORICAL BACKGROUND

- Pre-incorporation name is a name reserved with the Registrar of Companies before the date of incorporation of the company. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company. The pre-incorporation name is reserved for the purpose of registering the company under the Companies Act, 2013. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company.
- The Department of Company Affairs, Ministry of Corporate Affairs, has introduced the concept of pre-incorporation name in order to avoid the confusion regarding the similarity of names of companies. The Registrar of Companies, Ministry of Corporate Affairs, has introduced the concept of pre-incorporation name in order to avoid the confusion regarding the similarity of names of companies. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company. The pre-incorporation name is reserved for the purpose of registering the company under the Companies Act, 2013. The pre-incorporation name is reserved in the name of the applicant. The applicant may be a person who is going to be a promoter, director or subscriber to the memorandum of the company.

[illegible] Companies Act, 1956 [illegible] Company Secretary [illegible] 1956 [illegible]

[illegible] pre-certification.

- Later, The Hon-[illegible] Committee [illegible] Corporate Audit and Governance (Naresh Chandra Committee) [illegible] 2002, [illegible] pre-certification [illegible] Company Secretaries [illegible] record [illegible] Ministry.
- Accordingly, the Companies (Amendment) [illegible] 2003 [illegible] Rajya Sabha [illegible] Section 383C [illegible] Registrar [illegible] pre-certified [illegible] practice.
- After [illegible] the Companies Act, 2013, [illegible] Pre-certification [illegible] Companies (Registration Offices and Fees) [illegible] Rules, 2014 [illegible].
- The pre-certification [illegible] PDF Form [illegible].

3. VARIOUS CERTIFICATION BY COMPANY SECRETARY IN PRACTICE

Overview [illegible] Certification

Companies Act 2013

Certification [illegible] Companies [illegible] One Person Company (OPC) and Small Companies

- Incorporation related Forms
- Shares related Forms -PAS-3, SH-7,
- Charges related forms – CHG 1, CHG-4, CHG-9,
- Director related [illegible] -MGT14, DIR-6, DIR-12, MR-1, MR-2,
- Other forms - MSC-1, MSC-3, MSC-4, GNL-3, ADT-1, NDH-1, NDH-2, NDH-3 Pre-Certification [illegible] Companies [illegible] One Person Company (OPC) and Small Companies
- GNL -1

- DPT -3
- AOC-4

2. **SEBI Regulations**

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

- Regulation 40(9)
- Regulation 24A
- Compliance certificate under schedule clause

SEBI (Depositories and Participants) Regulations, 2018

- Regulation SSA
- Regulation 76 SEBI (Depositories and Participants) (Amendment) Regulations, 2021

3. **Other Acts**

Companies (Registered Valuers and Valuation) Rules, 2008

- Form 3
- Form 4
- Form II
- Form I

Rule 8(2) and Companies (Registered Valuers and Valuation) (Amendment) Rules, 2014 provided that every E-Form required to be filed by a Company or Limited Liability Partnership or Company and Limited Liability Partnership with the Central Government or Regional Director or Tribunal or Registrar of Companies or Official Liquidator or Central Government or any other authority under the Companies Act, 2013 or rules made thereunder shall be digitally signed by the professional (CS in whole time practice or CS in employment of Company or LLP) in case of E-Form INC-21, INC-22, INC-28, PAS-3, SH-7, CHG-1, CHG-4, CHG-9, MGT-14, DIR-6, DIR-12, MR-1, MR-2, MSC-1, MSC-3, MSC-4, GNL-3, ADT-1, NDH-1, NDH-2, NDH-3.

5. E-Form DIR-3 and E-Form DIR-3-KYC shall be filed by every individual who is allotted a Director Identification Number (DIN) and existing DIN holder as on 31st March of the financial year, respectively. Company Secretary in whole time practice or CS in employment of Company shall be authorised to file the E-Form.

6. The Annual Return in Form MGT-7 shall be signed by Company Secretary in whole time practice, certifying that whether the Company has complied with the provisions of the Act. Moreover, Rule 11(2) of the Companies (Management and Administration) Rules, 2014 provided that every Company shall file the return in Form MGT-7 or MGT-8, as the case may be, with the Registrar within sixty days of the date on which the annual general meeting is held or was required to be held.

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□. AUTHENTICATION O□ DOCUMENTS

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□. DO'S AND DON'TS WHILE FILLING AND FILING OF E□□ORMS

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- *Digital Signature is mandatory and same shall be registered on the MCA Portal before it's* □□□□ □□□.
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8. PREPARATION BE□ORE CERTI□ICATION

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9. I□□□r□□□A□d□□ □□ R□□□□□r□r □□d S□□r□ Tr□□□□□r A□□□□ □RTA□ □□d□r SE□I C□□□□□r N□ SE□I□HO□MIRSD□CIR□P□2018□73

10. I□□□r□□□A□d□□ □□ Cr□d□□ R□□□□ A□□□□□□□ □□d□r SE□I C□□□□□r N□ SE□I□MIRSD□CRA□C□□-01□2010

11. I□□□□□□□□ □□ I□□□r□□□A□d□□ C□r□□□□□□□□ □□r □□□r□□□□□ □□ □□□ D□□□□□□□r□ P□r□□□□□□□

12. N□□ □□r □□ □□□□ □□□r□□ □□□□ d□□ d□□□□□□□ □□r□□□□□□□ □□□□d

13. S□□□ □□□r □□r□□□□ □□ d□□d□d □□ □□□ C□□□□□□ □□ ICSI □d□r □□□ □□□□□ □□ □□□r r□□□□ □r □□□ □ □□ □□□ □

T□□ □ □□□ □□□□□□□□ □□ P□□r R□□□□ □□ □□ □□□□r□ □□□ □□ □□r□□□ □□□ □□□ □□□□□□□□□□ □r□□□□ □□d □r□□□□□□□□□□ □□□□□, □□□ PCS □□□ □□□ □ □□□ □□□ T□□□□□□□□S□□□d□rd□ □□d d□□ □ □□ □□□ I□□□□□□□□ □□d □□□□ □r□□r □□□□□□ □ □r □ □□□□□□□□□ □□□ □□□□□ □□ □□□ □□□□□□□□□□ □r□□□□ □ □r□ □□□□ □r□□r□. I□ □□ d□□□□□d □□□ □rd□ □ □□□□□□□□□ □d □□□□□□□□ □□□ □□ □□□□□□□ □□ □□□□□□□□□□ □r□□□□ □d □□ □r□□d□ □□d□□□□ □□ □ □□ □□r□ □□ □□ □r□□□ □□□□ □□r□r□ □□□□ □□d □□□ □□□ □ □□□ □r□□□□ □□□□□□□□ □d □□□r r□□□□□□□r□ r□□□□□□ □□□□

□□. SIGNING AND CERTI□ICATION O□ ANNUA□ RETURN

W□□□ □□□ □□r□d□□□□□□ □□ C□□ □□□□□□□ A□, 2013, □□□ □r□□ □□ □r□□□□□ □□□ □□□□ □□r□d□□□d □r C□□ □□□□ S□□r□□□r□□ S□□□□, □ □□□ □□ □r□ □□ □□□□□□d □□□r□ □r□□□□□□□□ □□ A□□□□□ R□□r□ □□ □□ □□□ □□□ □d□□□□□□ □□ □□□□□□□ □ PCS □□ □□□ □□□d □□ □□□ □□□□□□□□□ □□ □□□ r□□□□□□□□ □□□□□□□□ □□□r.

F□r □□□ □r□□□□ □□ □r□□□□□□□□□, PCS □□□□d □r□ □□□ □ □r□□□□ □□ □□□ d□□ □□□□□□□□ □d □□□□□ □□□ □r□□□□□□□ □□ □□□ □□□ □ □□ r□□□□□ □□ □□□ □r□□□□d □□□□□□ □□ □□□ r□□□□□□□□□, □r□ □, □d □r□□ □□□□

[illegible] PCS [illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]
8. [illegible]
9. [illegible]
10. [illegible]

[illegible]

A PCS [illegible] 100 [illegible]

[illegible] PCS [illegible]

[illegible]

1. **Internal Controls:** The PCS [illegible] d[illegible] r[illegible] C[illegible] I[illegible] F[illegible] T[illegible]

2. **Materiality:** S[illegible] T[illegible] whole, or the 'population', in statistical parlance. For example, in share transfers, instances of transfer of large blocks of shares could be chosen for detailed scrutiny. Or, the 'busy' period [illegible]

3. **Risk assessment:** The PCS [illegible] C[illegible] [illegible] 'high risk' areas. These 'High risk' areas shall be subjected to more extensive [illegible] F[illegible]

I[illegible] W[illegible]

C[illegible] A[illegible] R[illegible] C[illegible] A[illegible] PCS [illegible] W[illegible] A[illegible] R[illegible] C[illegible] S[illegible] C[illegible] S[illegible] C[illegible] A[illegible] R[illegible] ICSI [illegible]

2. SIGNING OF ANNUAL RETURN (MGT-7)

- A Company Secretary in practice shall certify the Annual Return of a Private Company, a Public Company having paid up share capital of less than Rs. 10 crore or turnover less than Rs. 50 crore.
- In case of OPC and Small Company having paid up share capital of less than Rs. 10 crore or turnover less than Rs. 50 crore, the Director shall sign the Annual Return.
- While certifying Annual Return in Form MGT-7 A Company Secretary in Practice shall certify that the Annual Return of the Company and Director Report are in agreement with the records maintained by the Company.

1. The Secretary in practice, shall verify that the Annual Return contains the particulars as required by the Companies Act, 2013 and the rules made thereunder.
2. Verify that the Annual Return is in the prescribed format. Form MGT-7 also requires to report, "Whether the company has made Compliances and Disclosures in respect of applicable provisions of the Companies Act, 2013 during the year") In case of Private Company.
3. The Secretary in practice shall verify that the Annual Return is filed with the Registrar within the prescribed time. If the Annual Return is not filed within the prescribed time, then the Company Secretary in practice shall ascertain the reasons for delay in filing of Annual Return.
4. Where the Company Secretary in practice is of the opinion that the Annual Return does not give a true and fair view, he shall make a qualified certificate, stating the reasons for his qualification, in the prescribed manner as provided in section 268 of the Act or the rules made thereunder.

. A Company Secretary in Practice certifying Annual Return of Private and Annual Return of Director shall verify –

1. Whether the Company has complied with the provisions of the Act and the rules made thereunder in respect of matters specified in the Annual Return and whether the information provided in the Annual Return is correct, adequate and complete to the best of his knowledge and belief and according to the explanations given to him.
2. Annual Return is signed by the Director, CEO, Manager and Company Secretary.

While giving a Company Secretary in Practice Certificate in Form PCS, he shall verify that the Annual Return is in the prescribed format and contains the particulars as required by the Act and the rules made thereunder. He shall also verify that the Annual Return is signed by the Director and Company Secretary or CEO, Manager and Company Secretary.

[illegible]

13. CERTI[illegible]ICATION O[illegible] ANNUA[illegible] RETURN (MGT[illegible]8)

[illegible] Rs. 10 [illegible] 50 [illegible] Form No. MGT-8, [illegible]

1. [illegible]
2. [illegible]

- It's status under the Act
- [illegible]
- [illegible]
- [illegible] 185 [illegible] Act
- [illegible] 188 [illegible] Act
- [illegible] Investor Education and Protection Fund.
- [illegible] 139 [illegible] Act
- [illegible]
- [illegible]
- [illegible]
- [illegible] 134 [illegible] Act

11. CONCEPT OF DIFFERENT PROFESSIONALS FOR SIGNING AND CERTIFICATION

With more and more companies and corporations coming into existence, the demand for Practising Professionals and Certificates has increased manifold. Hence, a need was felt to introduce a new category of professionals who can sign and certify the documents of the Company. Thus, Section 92(4) was introduced in the Companies Act, 2013 which requires the Company Secretary in Practice to certify the Annual Return in the prescribed form.

Annual Return is to be filed with the Registrar of Companies within 60 days from the date of Annual General Meeting and in case the Annual General Meeting is not held, the Annual Return is to be filed within 60 days from the date on which Annual General Meeting should have been held. Annual Return is to be certified by a Company Secretary in Practice.

Penalty for non-compliance of Annual Return

If a company fails to file Annual Return as per Section 92(4) or Section 92(5) of the Companies Act, 2013, the company who is in default shall be liable to a penalty of ₹ 10000 and in case of continuing default, with further penalty of ₹ 100 for each day during which such failure continues, subject to a maximum of ₹ 2 lakhs in case of a company and ₹ 50000 in case of an officer who is in default.

Filing Annual Return on Annual General Meeting

Where the Annual General Meeting for any year, the Annual Return shall be filed within 60 days from the date on which the Annual General Meeting should, by the latest date, have been held.

However, as per Section 403 the Annual Return filed after the due date with additional fees as may be prescribed, but before the expiry of the period of seven days from the due date, shall be taken to have been filed within the due date.

Thus, a company cannot file Annual Return after 7 days from the date of Annual General Meeting. Hence, Annual Return is to be filed on or before the date of Annual General Meeting. The Annual Return is to be signed by a Director and Company Secretary, or where there is no Company Secretary, by a Director and Key Managerial Personnel.

5. CORPORATE GOVERNANCE CERTIFICATION

The corporate governance report of listed entities shall be accompanied by a certificate issued either by the auditors or practicing company secretary along with the director's report.

Regulation 27(2) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, mandates that the compliance with corporate governance norms as specified in regulations 17 to 27 and clauses (b) to (i) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V shall be certified by a practicing company secretary on an annual basis. Accordingly, the practicing company secretary is required to certify the Corporate Governance report for the Quarter/Year ended, and report is to be filed with the stock exchanges along with the annual report. We have to see the provisions of Regulation 17(3) of SEBI (LODR) Regulations which provides that the board of directors shall periodically review compliance reports of all laws applicable to the company, prepared by the company as well as steps taken by the company to rectify instances of non-compliances.

Accordingly, the compliance report is required to be certified by the practicing company secretary and submitted to the stock exchanges along with the annual report. Regulation 17(3) of the Listing Regulations requires-

1. Practicing Company Secretary to certify the compliance report
2. Submission of Annual Report to shareholders in accordance with Regulation 9 of Companies (Management and Administration) Rules, 2014

6. OBLIGATIONS AND PENAL PROVISIONS

Company Secretary is a key managerial personnel under Companies Act, 2013. Any contravention by the PCS in the following provisions-

Companies Act 2013

Any person covered under section 92 of the Act, who fails to furnish the return or extract thereof or make report required under the said section 92 of the Companies Act, 2013 or the rules made thereunder, he shall be liable to a penalty of ₹ 2 Lakhs.

Here penalty for contravention of provisions under section 447, 448 and 449 of the Companies Act, 2013. Section 448 provides that where in any return, report, certificate, financial statement, prospectus, or statement, or any document required to be delivered or filed or to be made under the Act or the rules made thereunder, makes any statement which is false in any material particular, knowing it to be false, or omits any material particular knowing it to be

[illegible] ... 447 ... ROC ... [illegible]

[illegible] ... 448 and 449 ... [illegible]

[illegible]

2. Company Secretaries Act, 1980

- [illegible] ... ICSI ... [illegible] ... First Schedule ... [illegible] ... Second Schedule ... [illegible] ... ICSI.
- [illegible] ... First Schedule ... [illegible]

1. [illegible]
2. [illegible]
3. [illegible]

- [illegible] ... Second Schedule ... First Schedule ... Second Schedule ... [illegible]

1. [illegible]
2. [illegible]
3. [illegible]

PROFESSIONAL MISCONDUCT COVERED UNDER THE FIRST SCHEDULE

Professional misconduct in relation to Company Secretaries in Practice: A [illegible] ... [illegible]

(a) A member in practice or his relative or partner shall not accept appointment as auditor of a company if the Secretary of the Company or any of its directors is a partner of the firm of Company Secretaries in practice in which the member in practice is a partner or is employed.

(b) A member in practice shall not accept appointment as auditor of a company if any of the partners of the firm of Company Secretaries in practice in which the member in practice is a partner or is employed, is a director of the company, notwithstanding that he has resigned as director of the company.

(c) Engagement of any kind of secretarial work or representation before any authority by a partner or employee of a firm of Company Secretaries in practice in which the member in practice is a partner or is employed shall be deemed to be work of Company Secretary.

(d) A member in practice of the Institute or a firm of Company Secretaries in practice shall not accept appointment as auditor of a company if he or his relative or partner has a financial interest in the company.

(e) A member in practice shall not accept appointment as auditor of a company if he or his relative or partner is indebted to the company for an amount exceeding rupees one thousand.

(f) Provided, however, that a member in practice may accept appointment as auditor of a company, which is a subsidiary or holding company of a company of which he is the auditor, if he is not disqualified to be appointed as auditor of the latter company under any of the above clauses.

2. **Professional misconduct in relation to members of the Institute in service.** A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he –

(a) Pays, allows or agrees to pay or allow, directly or indirectly, any share of his fees or profits to any person for the purpose of securing professional employment;

(b) Accepts or agrees to accept any part of the fees or profits of any person for the purpose of securing professional employment;

(c) Accepts or agrees to accept any commission, gift or other valuable consideration, directly or indirectly, from any person for the purpose of securing professional employment.

3. **Professional misconduct in relation to members of the Institute generally.** A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he –

(a) Not being a member of the Institute, allows his name to be used in connection with any trade, business, profession or vocation;

(c) Disclosing information regarding the affairs of any client or employer of the Company Secretary in practice or his firm acquired in professional capacity, except when required to do so by the order of a court of law or with the consent of the client or employer or in pursuance of a practice review board constituted by the Council with the prior approval of the Central Government.

(d) Withdrawing professional business from a client or group of clients after having accepted a definite assignment from such client or group of clients in order to secure for himself or his firm the fees payable to the Company Secretary in practice who was originally entrusted with the work.

(e) Other misconduct in relation to members of the Institute generally.—A Company Secretary in practice or a firm of Company Secretaries in practice shall be deemed to be guilty of other misconduct, if he or it—

(a) has been held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months under any law for the time being in force; or

(b) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

8. PROFESSIONAL MISCONDUCT COVERED UNDER THE SECOND SCHEDULE

(1) Professional misconduct in relation to Company Secretaries in Practice.—A Company Secretary in practice or a firm of Company Secretaries in practice shall be deemed to be guilty of professional misconduct, if he or it—

(a) Allows any person to practise in his name as a Company Secretary unless such person is his partner or in his employment pursuant to a scheme of apprenticeship under this Act;

(b) Contravenes any of the provisions of this Act or the regulations made thereunder, or any guidelines issued by the Council, as may be applicable to him;

(c) Secures professional employment for himself or his partner or any of his employees by solicitation or by circulars or by personal communications or by paid advertisements, whether in the press or through electronic media or by any other means, except that a Company Secretary in practice may, with the consent of another Company Secretary in practice, request the Council to forward his application for employment to such Company Secretary in practice;

(d) Accepts a position as auditor previously held by a Company Secretary in practice without communicating with him in writing;

(e) Does not disclose his qualification while writing or printing any letter, circular or publication;

(f) Allows his name or the name of his firm to be used in connection with any report, statement, or representation on matters relating to business, finance or accounts of any person, firm or body of persons in such manner as may lead persons to believe that he is acting with independence and integrity and has no interest in the business, when such is not the case;

(g) Fails to disclose his interest in the business of any person, firm or body of persons for which he renders professional services;

(h) Fails to obtain sufficient information which is necessary for the expression of an opinion or its qualification as required by the circumstances of the case;

2. ***Professional misconduct in relation to members of the Institute generally*** – [illegible]

[illegible]. [illegible]

[illegible]. [illegible]

[illegible]. [illegible]

d. [illegible]

3. ***Other misconduct in relation to members of the Institute generally*** – [illegible]

[illegible]

[illegible]. CONSEQUENCES OF NON-FILING ANNUAL RETURN

[illegible]. For the Director

1. [illegible]

[illegible] Rs. 2 [illegible] Rs. 50,000 [illegible]

2. [illegible]

3. [illegible] 6 [illegible] 10 [illegible]

4. Under [illegible] 245, [illegible]

2. For the Company

(a) [illegible] Rs. 10,000 [illegible] Rs. 100 [illegible] Rs. 2 [illegible] Rs. 50,000 [illegible]

(b) [illegible]

(c) [illegible] as "inactive company".

(d) [illegible]

However, Tribunal has also been empowered to impose penalty under section 441 of the Companies Act, 2013. Although penalty under section 441 of the Companies Act, 2013 has been imposed on company, but in practice, the penalty is imposed on the officers in default of the company. Penalty is imposed by the Tribunal on the application made by the NCLT or Registrar of Companies.

Offences which are compoundable are mentioned in the table below. Any company or officer in default may file an application for compounding of offence.

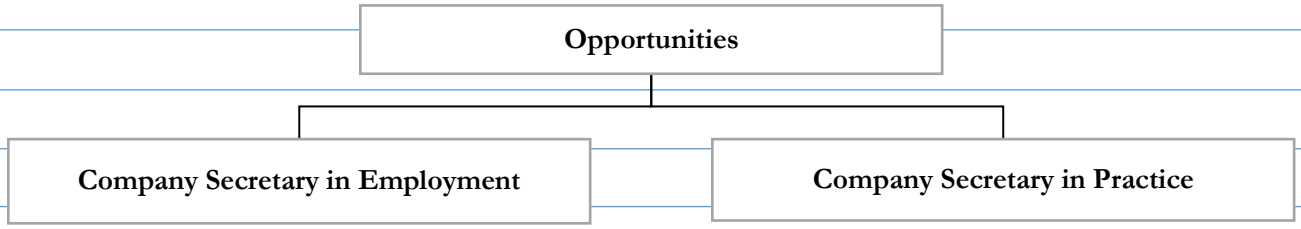
Authority to initiate action against Professionals

MCA vide its circular no. 10/2014 dated 07.05.2014 has clarified that Regional director/ ROC would initiate action under section 448 and 449 of the Act in the cases of submitting false or misleading or incorrect information. Further, the cases u/s 448 and 449 may also be referred to the concerned Institute for conducting disciplinary proceedings against the errant member and the MCA may debar the concerned professional from filing any document on the MCA portal in future.

CHAPTER 7- SEGMENT-WISE ROLE OF COMPANY SECRETARIES

I. INTRODUCTION

- The company secretaries play an important role as governance professionals in all types of corporates, whether it is a private company, public company, section 8 company, government company by not only complying with laws, regulations, standards, and codes but also creating cultures of good practice.
- In the later 90's the company secretaries were recognized as a designate officer of the company to maintain the record of the company whereas in the current scenario the company secretary is expected to provide professional guidance to shareholders, boards, individual directors, management and other stakeholders on the governance aspects of strategic decisions. Thus, with the increased role of company secretaries the company secretaries require increased technical skills and experience to analyse what corporate governance practices are needed in an organization and why.
- The company secretary act as a bridge for information, communication, advice, and arbitration between the board and management and between the organization and its shareholders and stakeholders. Thus, he needs to be fully aware of the powers, rights, duties, and obligations of his entire business portfolio. He needs to act with the highest integrity and independence in protecting the interests of the organization, its shareholders, and others with a legitimate interest in the organization's affairs.
- The company secretary is also responsible to advice the chairman of the organization to ensure that board meetings are managed effectively.
- Accordingly, to understand the role of company secretary in the various segments, it is required to understand the role of company secretary in different capacities. Broadly the company secretary is having the opportunities in the following two domains:



2. COMPANY SECRETARY IN EMPLOYMENT

- **APPOINTMENT AS WHOLE TIME COMPANY SECRETARY:** As per section 203 read with Rule 8A of the Companies (Appointment and Managerial Personnel) Rules 2014 Every Listed company or Public company having paid up share capital 10 crore or more or Private company having paid up share capital of 10 crore or more shall have a whole time company secretary.

- **COMPANY SECRETARY AS KEY MANAGERIAL PERSONNEL:** According to section 203 of Companies Act, 2013, Managing Director, Chief financial Officer, Chief Executive officer or Company Secretary, are considered as key managerial personnel. Accordingly, every listed company, every other public company and every private company **having paid up share capital of ten crore rupees or more** is required to appoint the whole time Company Secretary as the Key Managerial Personnel.

FUNCTIONS AND DUTIES OF COMPANY SECRETARY:

Section 205 read with rule 10 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 provide the following functions & duties on the Company Secretary- Further, the Board of the company generally assigned the following duties to the company Secretaries:

1. To report to the Board about compliance with the provisions of this Act, rules and other laws applicable to the company
2. To ensure that the company complies with the applicable secretarial standards
3. To discharge other duties which includes:

a) To provide to the directors of the company, guidance with respect to their duties, responsibilities and powers

b) To facilitate the convening of meetings, attend board, committee and general meetings and maintain the minutes of these meetings.

c) To obtain approvals from the board, general meeting, the government and such other authorities as required under the provisions of the Act

d) To represent before various regulators, and other authorities under the Act to discharge his duties

e) To assist the Board in the conduct of the affairs of the company

f) To assist and advise the Board in ensuring good corporate governance and in complying with the corporate governance requirements

g) To discharge such other duties as have been specified under the Act or rules and

h) Such other duties as may be assigned by the Board from time to time.

Further, the Board can assign following duties to Company Secretaries:

Secretarial Functions

- To ensure compliance of the provisions of Companies Law and rules made there-under, Secretarial Standards etc.
- To ensure that business of the company is conducted in accordance with its objects as contained in its MOA.
- To ensure that affairs of the company are managed in accordance with its AOA and the provisions of the Companies Law.
- To prepare the agenda in consultation with the Chairman and the other documents for all the meetings of the board of directors.
- To arrange with and to call and hold meetings of the board and keep its record
- To attend the broad meetings in order to ensure that the legal requirements are fulfilled
- To prepare, in consultation with the chairman, the agenda and other documents for the general meetings.
- To arrange with the consultation of chairman the annual and extraordinary general meetings of the company and to attend such meetings in order to ensure compliance with the legal requirements
- To carry out all matters concerned with the allotment, issuance of share certificates including maintenance of statutory Share Register and share transfers.
- To prepare, approve, sign and seal agreements leases, legal forms, and other official documents on the company's behalf, when authorised by the broad
- To have custody of the seal of the company.

Management and Reporting functions

- Filling of various documents/returns as required under the provisions of the Corporate Laws.
- Proper maintenance of books and registers of the company as required under the provisions of the applicable laws.
- To see whether legal requirements of the allotment, issuance and transfer of share certificates, mortgages and charges, have been complied with.
- To convene/arrange the meetings of directors, on their advise.
- To issue notice and agenda of board meetings to every director of the company.
- To carry on correspondence with the directors of the company on various matters.
- To record the minutes of the proceedings of the meetings of the directors.
- To implement the policies formulated by the directors.

Maintain Statutory Books

- Register of Transfer of Shares;
- Register of Buy-Backed Shares by A Company;
- Register of Mortgages, Charges etc.;
- Register of Members and Index thereof;
- Register of Debenture-Holders;
- Register of Directors and Other Officers;
- Register of Contracts;
- Register of Directors' Shareholdings and Debentures;
- Register of Local Members, Directors and Officers, In Case of a Foreign Company;
- Minute Books;
- Proxy Register;
- Register of Contracts, Arrangements and Appointments in which Directors etc. are interested.

Other Duties

- Ensuring that statutory forms are filed promptly.
- Ensuring the Compliance with the Secretarial Standards.
- Providing members and auditors with notice of meeting.
- Filing of copy of special resolutions on prescribed form within the specified time period.
- Supplying a copy of the accounts to every member of the company, every debenture holder and every person who is entitled to receive notice of general meetings.

Keeping the minutes of directors' meetings and general meetings.

Ensuring that people entitled to do so, can inspect company records.

Custody and use of the common seal.

COMPANY SECRETARY AS COMPLIANCE OFFICER:

The SEBI (LODR) Regulations,2015, makes it mandatory for listed companies to appoint a qualified company secretary as the compliance officer, who shall be responsible for:

1. Ensuring compliance with the regulatory provisions applicable to the listed entity in letter and spirit.
2. Ensuring that the correct procedures have been followed to maintain correctness and authenticity of the information, statements and reports filed by the listed entity under these regulations.
3. Co-ordination with and reporting to the Board, recognised stock exchange and depositories about the compliance with rules, regulations and other directives given by these authorities.
4. Monitoring email address of grievance redressal division of the listed entity for the purpose of registering complaints by investors.

Apart from this company secretary is also responsible to ensure compliance with SEBI Takeover Regulations and Insider Trading Regulations.

COMPANY SECRETARY AS A PART OF SENIOR MANAGEMENT:

According to SEBI (LODR) Regulations, 2015 senior management mean the officers/personnel of the listed entity who are members of its core management team, including all functional heads but excluding board of directors. However, from 1st April, 2019 it has been declared that chief executive officer/managing director/whole time director/manager, specifically company secretary and chief financial officer, will be a part of senior management.

THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997: Company Secretaries are authorised to certify the documents for Other Service Providers (OSP) Registration for the entities which propose to provide the services such as telebanking, tele-medicine, tele-trading, e-commerce Call Centers, both International and Domestic, Network Operation Centers and Vehicle Tracking Systems etc. (Section 17 under The Telecom Regulatory Authority of India Act, 1997)

CERTIFICATE REGARDING TRANSFER OF SECURITIES

Certificates under SEBI Listing Regulations Certification to the effect that all transfers have been completed within the stipulated time. [Regulation 40(9)] **CERTIFICATE REGARDING**

COMPLIANCE OF CONDITIONS OF CORPORATE GOVERNANCE UNDER SEBI LISTING REGULATIONS

SEBI listing regulations authorize Practising Company Secretary to issue certificate regarding compliance of conditions of Corporate Governance.

CERTIFICATE REGARDING MAINTENANCE OF 100% ASSET COVER

To issue half yearly certificate regarding maintenance of 100% security cover in respect of listed non-convertible debt securities. [Regulation 56(1)] (d)]

COMPLIANCE CERTIFICATE BY A PRACTISING COMPANY SECRETARY FOR LISTING ON BSE SME PLATFORM

BSE requires that Companies seeking listing on BSE SME Platform through IPO are required to comply with the quantitative eligibility norms as prescribed by BSE. Additionally, it will be

desirable for the company to file a compliance certificate by a Practicing Company Secretary as per the guidance note issued by the Institute of Company Secretaries of India as and when such a certification is made applicable by the SME Platform of BSE Ltd.

CERTIFICATION BY PRACTISING COMPANY SECRETARY IN CASE OF OFFER/ALLOTMENT OF SECURITIES TO MORE THAN 49 AND UP TO 200 INVESTORS

To issue a certificate regarding Issuance of securities to more than 49 and up to 200 investors, that the refund procedure as prescribed by SEBI has been duly complied with

THE SEBI (REAL ESTATE INVESTMENT TRUSTS) REGULATIONS, 2014 Practising Company Secretary who is a Valuer is recognised under Regulation 2 sub- regulation (1) Clause zz of SEBI (Real Estate Investment Trusts) Regulations, 2014 to act as valuer.

THE SEBI (INFRASTRUCTURE INVESTMENT TRUSTS) REGULATIONS, 2014 Practising Company Secretary who is a valuer is recognised under Regulation 2 sub- regulation Clause (zzf) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 to act as valuer.

COMPANY SECRETARY AS TECHNICAL MEMBER IN NCLT

Company Secretary who has been practice for at least fifteen years may be appointed as a technical member in tribunal. [Section 409 of the Companies Act, 2013]

THE LIMITED LIABILITY PARTNERSHIP ACT 2008.

Annual Return

The annual return of LLP having turnover of more than 5 crore rupees or contribution more than 50 lakh rupees shall be accompanied with a certificate from a Company Secretary in practice to the effect that he has verified the particulars from the books and records of the LLP and found them to be true and correct.

Pre-Certification of E-Forms

Certification by a Company Secretary in practice in the following forms:- Incorporation Document and Subscriber's Statement in LLP Form No. 2. [Pursuant to rule 8 and Rule 11 of

Limited Liability Partnership Rules, 2009] Information with regard to limited liability partnership agreement and changes, if any, made therein in LLP Form No. 3.

COMPANY SECRETARY AS CORPORATE MANAGER: The Company Secretary plays a very important role of corporate manager. He has an in-depth knowledge of the functioning of the company, is available at all times to discuss issues in depth and provide immediate response to queries. Further, the Company Secretary assists the chairman in preparing for meetings and is considered as reliable to deal with the confidential documents of the company.

COMPANY SECRETARY TO ACT AS AUTHORISED REPRESENTATIVE OF A COMPANY OR ITS BOARD: The Company Secretary of a company can appear before the following authorities as an authorized representative of the company and its board:

1. National Company Law Tribunal
2. Competition Commission of India
3. Securities Appellate Tribunal
4. Registrar of Companies
5. Consumer Forums
6. Tax Authorities
7. Other quasi-judicial bodies and Tribunals

3. COMPANY SECRETARY IN PRACTICE

COMPANY SECRETARY AS SECRETARIAL AUDITOR: As per, Section 204 of the Companies Act, 2013 the following classes of companies are required to obtain Secretarial Audit Report from Company Secretary in practice and shall annex the same with its Board's report in form MR-3:

1. Every listed company;
2. Every public company having a **paid-up share capital of fifty crore rupees or more; or**
3. Every public company having a **turnover of two hundred fifty crore rupees or more**
4. Every company having **outstanding loans or borrowings** from banks or public financial institutions of **one hundred crore rupees or more.**

COMPANY SECRETARY AS AN EXPERT: Section 2(38) of the Companies Act, 2013 include the company secretaries as an expert and the definition of the expert under Companies Act, 2013 includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law.

COMPANY SECRETARY AS REGISTERED VALUER: Where valuation is required to be made in respect of any stocks, shares, debentures, securities, etc. of a company under the provisions of Companies Act, 2013, it shall be valued by a person having such qualifications and experience and registered as a valuer under Section 247 of the Companies Act, 2013 read with Companies (Registered Valuers and Valuation) Rules, 2017. To act as a valuer the person should be-

- The Member of the Institute of Chartered Accountants or The Institute of Cost Accountants of India or the Institute of Company Secretaries of India; **or**
- MBA / PGDBM specialization in finance **or**;
- Post Graduate Degree in Finance **and**
- Should have at least three years of experience in the discipline.

Thus, A Company Secretary in practice is recognized as a registered valuer.

Further, A person is eligible to be a registered valuer if he/she:

1. Is a valuer member of a registered valuers organisation
2. Is recommended by the registered valuers organisation of which he is a valuer member for registration as a valuer
3. Has passed the valuation examination under rule 5 within three years preceding the date of making an application for registration under rule 6
4. Possesses the qualifications and experience as specified in rule 4
5. Is not a minor
6. Has not been declared to be of unsound mind
7. Is not an undischarged bankrupt, or has not applied to be adjudicated as a bankrupt
8. Is a person resident in India
9. Has not been convicted by any court for an offence punishable with imprisonment for a term exceeding six months or for an offence involving moral turpitude and a period of five years has not elapsed from the date of expiry of the sentence. (If a person has been convicted of any

offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be registered)

10. Is a fit and proper person

COMPANY SECRETARY AS INSOLVENCY PROFESSIONAL: Company Secretaries having passed necessary examination, possessing prescribed number of years of experience, enrolled with an insolvency professional agency and registered with Insolvency and Bankruptcy Board of India (IBBI) as an insolvency professional, can take up matters relating to corporate insolvency resolution process as interim resolution/Resolution Professionals. As per Regulation 5 of Insolvency and Bankruptcy Board of India an individual shall be eligible for registration, if he –

1. Has passed the Limited Insolvency Examination within twelve months before the date of his application for enrolment with the insolvency professional agency.
2. Has completed a pre-registration educational course, as may be required by the Board, from an insolvency professional agency after his enrolment as a professional member and
3. Has successfully completed:

- The National Insolvency Programme, as may be approved by the Board or,
- The Graduate Insolvency Programme, as may approved by the Board or,
- Fifteen years' of experience in management, after receiving a Bachelor's degree from a university established or recognised by law or,
- Ten years' of experience as CA, CS, Advocate or Cost Accountant.

4. The Resolution Professional are entrusted with the duty of to preserve and protect the assets of the corporate debtor under section 25 of Insolvency and Bankruptcy Code, 2016. The resolution professional shall undertake the following actions for this purpose:

a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;

b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;

c) raise interim finances subject to the approval of the committee of creditors under section 28 of IBC;

d) appoint accountants, legal or other professionals in the manner as specified by Board;

e) maintain an updated list of claims;

f) convene and attend all meetings of the committee of creditors;

g) prepare the information memorandum in accordance with section 29 of IBC;

h) invite prospective resolution applicants according to prescribed area to submit a resolution plan or plans.

i) present all resolution plans at the meetings of the committee of creditors;

j) file application for avoidance of transactions in accordance with Chapter III, if any; and

k) such other actions as may be specified by the Insolvency and Bankruptcy Board of India

COMPANY SECRETARY AS INTERNAL AUDITOR: Section 138 of Companies Act, 2013 read with Rule 13 of the Companies (Accounts) Rules, 2014 provides that the following class of companies are required to appoint an internal auditor:

1. **Every listed company**
2. **Every unlisted company having:**

- paid up share capital of fifty crore rupees or more during the preceding financial year; or
- turnover of two hundred crore rupees or more during the preceding financial year; or
- outstanding loans or borrowings from banks or public financial institutions exceeding one hundred crore rupees or more at any point of time during the preceding financial year; or
- outstanding deposits of twenty-five crore rupees or more at any point of time during the preceding financial year;

3. **Every private company having:**

- turnover of two hundred crore rupees or more during the preceding financial year; or
- outstanding loans or borrowings from banks or public financial institutions exceeding one hundred crore rupees or more at any point of time during the preceding financial year.

Further, under the various securities laws, company secretary in practice is authorized to undertake internal audit of:

a) Portfolio Managers

b) Stock Brokers/Clearing Members/ Trading Members

c) Credit Rating Agencies

d) Registrar and Share Transfer Agents (RTAs)

e) Internal Audit & Concurrent Audit of Depository Participants

f) Yearly Audit of Investment Advisors I Annual Compliance Audit of Research Analyst

g) Reconciliation of Share Capital Audit.

h) Company Secretary as GST Professional

Company Secretaries can play an important role in being an advisor and facilitator for due compliances under GST. Company Secretaries can provide guidance and advisory services to business entities to interpret GST laws and assist in discharging compliances under GST while performing activities like tax planning, maintenance of GST records, drafting legal documents like replying to show cause notices, impact analysis, etc. A person having passed CS final examination is eligible for enrolment as GST Practitioner.

The Company Secretaries cannot perform Audit in matters related to GST. But he can provide the following services:

1. **Advisory services:** A Company Secretary can interpret the law of GST and provide complete guidance and advise to the business entities because of their knowledge of laws and good communication skills.
2. **Tax Planning:** Company Secretaries are good in interpreting the laws and they understand the impact of various laws and their alternatives. Thus, they can be very helpful in tax planning.
3. **Procedural Compliances:** Procedural Compliance includes registration, filing of returns, payments of taxes, assessment etc and a Company Secretary plays the role of a Compliance Officer under various other laws. Thus, he can assist with the same under GST.
4. **Representation:** A company Secretary appears before various quasi-judicial authorities and Tribunals; thus, he can provide the service of representation under GST very easily.
5. **Appellate work:** Because of their legal bent of mind, a Company Secretary can provide better services in the field of appellate work.

COMPANY SECRETARY IN CERTIFICATION SERVICES: Rule 8 (12) of the Companies (Registration office and fees) Rules, 2014 provides that the following e-forms filed by companies, other than one person companies and small companies, shall be pre-certified by the Chartered Accountant or the Company Secretary or as the case may be the Cost Accountant, in whole-time practice:

1. INC-21

2. INC-22
3. INC-28
4. PAS-3
5. SH-7
6. CHG-1
7. CHG-4
8. CHG-9
9. MGT- 14
10. DIR-6
11. DIR-12
12. MR-1
13. MR-2
14. MSC-1
15. MSC-3
16. MSC-4
17. GNL-3
18. ADT-1
19. NDH-1
20. NDH-2
21. NDH-3

The following e-forms filed by companies, shall be pre-certified in the following manner:

1. GNL-1: optional pre-certification by the Chartered Accountant or the Company Secretary or the Cost Accountant, in whole-time practice.
2. DPT-3 – certification by Auditors of the company
3. MGT-10-certification by a Company Secretary in whole-time practice
4. AOC-4 certification by the Chartered Accountant or the Company Secretary or by the Cost Accountant, in whole-time practice.

E-Form DIR-3: E-form DIR-3 shall be filed along with attestation of photograph, identity proof and proof of residence of the applicant by the Chartered Accountant or the Company Secretary or the Cost Accountant, in whole-time practice.

E from DIR-3 KYC: every individual who has been allotted a Director Identification Number (DIN) as on 31st March of a financial year is required to submit e-form DIR-3-KYC to the Central Government on or before 30th June of immediate next financial year.

Further, the company secretaries provide the following certification services under various other regulations:

1. Certification that all transfers have been completed within the stipulated time.
2. Half-yearly certificate regarding maintenance of 100% security cover in respect of listed non-convertible debt securities.
3. Certificate regarding compliance of conditions of corporate governance.
4. Certification in case of offer/allotment of securities to more than 49 and up to 200 investors.
5. Certificate that none of the directors on the board of the company have been debarred or disqualified from being appointed or continuing as directors of companies by the Board/ Ministry of Corporate Affairs or any such statutory authority.

COMPANY SECRETARY IN REPRESENTATION SERVICES: The Company Secretary of a company can appear before the following authorities as an authorized representative of the company and its board:

1. National Company Law Tribunal
2. Competition Commission of India
3. Securities Appellate Tribunal
4. Registrar of Companies
5. Consumer Forums
6. Tax Authorities
7. Other quasi-judicial bodies and Tribunal

COMPANY SECRETARY AS IPR EXPERT: The Company Secretaries can act as registered Trade Marks Agent and advise on matters related to:

a) IPRs under TRIPs Agreement of WTO
b) Anti-dumping, subsidies and countervailing duties
c) Foreign Trade Policy and Procedures and issuing certificates under the same
d) Intellectual Property licensing and drafting of Agreements

COMPANY SECRETARY AS EXPERT BEYOND COMPANY LAW: Company Secretary can provide advisory services into the following laws and activities:

a) SEBI Act
b) Securities Contracts (Regulation) Act and Rules and Regulations made thereunder
c) Depositories Act
d) Foreign Exchange Management Act
e) Environmental and Pollution Control Laws
f) Labour and Industrial Laws
g) Co-operative Societies Act
h) Competition Policy and Laws pertaining to Anti-Competitive Practices
i) Intellectual Property Rights
j) Drafting of Legal Documents

COMPANY SECRETARY AS OTHER SERVICE PROVIDER

Appointments on the basis of expert knowledge:

a) Scrutinizer for e-voting process in a fair and transparent manner
b) Company Liquidator/ Provisional Liquidator
c) Technical Member of National Company Law Tribunal
d) Part of Expert Panels of various Government, Judicial and Quasi-Judicial Bodies

Issue of shares and other securities:

a) Advisor/consultant in issue of shares and other securities
b) Drafting of prospectus or other documents related to issue of securities and obtaining various approvals
c) Listing/delisting of securities with recognized stock exchange
d) Private placement of shares and other securities
e) Buy-back of shares
f) Raising of funds from international markets ADR/ GDR/FCCBs/FCEBs/ ECB
g) Due diligence

Corporate Restructuring and Compliances:

a. Foreign Collaborations and Joint Ventures
b. Setting-up Joint Ventures or Wholly owned subsidiaries abroad

c. Ensuring compliance of the Takeover Regulations and other applicable laws

d. Acting as Compliance Officer and ensuring compliance with Prohibition of Insider Trading Regulations

Finance, Accounting and Taxation Services:

a) Determination of appropriate capital structure

b) Analysis of capital investment proposals

c) Preparation of Project Reports and Feasibility Studies

d) Advisory services on tax management and tax planning under Income-Tax, GST and other taxation laws

e) Preparing/reviewing various Returns and Reports required for compliance with the tax laws and regulations.

Arbitration and Conciliation Services:

a) Advising in commercial disputes between parties

b) Acting as Arbitrator/Conciliator in domestic and international commercial disputes

c) Drafting Arbitration/Conciliation Agreement/Clauses.

4. OVERVIEW OF VARIOUS INDUSTRIES

The Overview of the some of the Industries have been detailed under-

1. Banking Industry:

The Indian banking system consists of 20 public sector banks, 22 private sector banks, 44 foreign banks, 44 regional rural banks, 1,542 urban cooperative banks and 94,384 rural cooperative banks in addition to cooperative credit institutions. As on January 31, 2020, the total number of ATMs in India increased to 210,263 and is further expected to increase to 407,000 by 2021.

Indian banks are increasingly focusing on adopting integrated approach to risk management. The NPAs (NonPerforming Assets) of commercial banks has recorded a recovery of Rs 400,000 crore (US$ 57.23 billion) in FY19, which is highest in the last four years.

RBI has decided to set up Public Credit Registry (PCR), an extensive database of credit information, accessible to all stakeholders.

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 Bill has been passed and is expected to strengthen the banking sector.

Total equity funding of microfinance sector grew 42 per cent to Rs 14,206 crore (US$ 2.03 billion) in 2018-19.

Deposits under Pradhan Mantri Jan Dhan Yojana (PMJDY) increased to Rs 1.28 lakh crore (US$ 18.16 billion) during the week ended April 8, 2020 and as of November 2019, there were a total of 19 million subscribers under Atal Pension Yojna.

Rising income is expected to enhance the need for banking services in rural areas, and therefore, drive the growth of the sector. The digital payments revolution will trigger massive changes in the way credit is disbursed in India. Debit cards have radically replaced credit cards as the preferred payment mode in India after demonetisation. Transactions through Unified Payments Interface (UPI) stood at 1.23 billion in May 2020, valued at Rs 2.18 lakh crore (US$ 30.97 billion). As per Union Budget 2019-20, the Government proposed a fully automated GST refund module and an electronic invoice system to eliminate the need for a separate e-way bill.

Enhanced spending on infrastructure, speedy implementation of projects and continuation of reforms shows that India's banking sector is also poised for robust growth.

In India, there are various types of banks and they were set up under different Acts passed by the Central and State Governments, the various types constitution under the Banking industries includes:

- Listed Private Sector Banks incorporated as Companies
- Listed Public Sector Banks constituted under Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and 1980.
- Unlisted Public Sector Banks
- Cooperative banks

The Banking Companies are regulated by the following Laws:

a) Companies Act, 2013

b) Banking Companies (Acquisition and Transfer of Undertaking Act, 1970 and 1980 and Regulations made thereunder

c) Insolvency and Bankruptcy Code, 2016

d) The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

e) The Recovery of Debts Due to Banks and Financial Institutions Act, 1993

f) Banking Regulation Act, 1949

g) State wise Registrars of Cooperative Societies and laws made there under

h) Circulars issued by RBI

i) Consumer Protection Act

j) Prevention of Money Laundering Act, 2002

k) Information Technology Act, 2000

The banking Concerned Tribunals are:

a) RBI

b) Debt Recovery Tribunal

c) NCLT and NCLAT

d) Banking Ombudsman

e) The Banking Codes and Standards Board of India

2. Financial Services Industry

- The country's financial services sector consists of capital markets, insurance sector and non-banking financial companies (NBFCs).
- India has scored a perfect 10 in protecting shareholders' rights on the back of reforms implemented by Securities and Exchange Board of India (SEBI) in the World Bank's Ease of Doing Business 2020 report.
- The asset management industry in India is among the fastest growing in the world.
- Mutual Fund industry's AUM (asset under management) grew from Rs 10.96 trillion (US$ 156.82 billion) in October 2014 to Rs 24.54 trillion (US$ 348.24 billion) in May 2020.
- The Government of India has taken various steps to deepen reforms in the capital market, including simplification of the IPO process, which allows qualified foreign investors (QFIs) to access the Indian bond market. In 2019, investment in Indian equities by foreign portfolio investors (FPIs) touched five-year high of Rs 101,122 crore (US$ 14.47 billion). Investment by FPIs in India's capital markets reached a net Rs 12.30 lakh crore (US$ 174.55 billion) between FY02-21 (till June 09, 2020). The Government has also approved 100 per cent FDI for insurance intermediaries. The insurance sector could be opened to 74 per cent FDI from the existing 49 per cent.

3. Tourism and Hospitality

The tourism industry in India is an important employment generator and an important source of earning foreign exchange for the country. However, areas such as health and hygiene, security

and safety of tourists should be given more emphasis in the coming years as according to the World Travel and Tourism Council (WTTC), Indian tourism will be one of the most rapidly growing industries in the world. The laws applicable to the tourism industry can broadly be classified in to the following categories:

1. Forex Management: FEMA and Foreign Exchange Rules in India
2. Laws relating to Setting up Travel Agency & Tour Operation Unit
3. Law relating to Management of Tourism in Tribal Areas
4. Business Ethics in Travel and Tourism Sector: CSR policy for travel and tourism businesses; corporate responsibility to shareholders versus stakeholders, development of corporate governance code etc.
5. Transport Legislation: sea and air transport laws in relation to carriage of passengers

4. Telecommunication

The Indian telecom sector is expected to generate four million direct and indirect jobs over the next five years according to estimates by Randstad India. Due to government's efforts and increase in smartphones sale, the employment opportunities are expected to grow. The mobile industry is expected to create a total economic value of Rs 14 trillion (US$ 217.37 billion) by the year 2020 and generate around 3 million direct job opportunities and 2 million indirect jobs.

5. Cement

Cement industry has highest demand in housing and real estate sector. The Indian cement industry is dominated by a few companies. Almost 70 per cent of the total cement production of the country, is in the hands of top 20 companies. However, there are specific laws applicable to cement industry which includes:

1. Cement Control Order, 1967
2. Cement Cess Rule, 1993
3. Cement (Quality Control) Order 1995
4. Cement (Quality Control) Order 2003
5. Bureau of Indian Standards Rules, 1987 etc.

6. Gems and Jewellery Industry

India is deemed to be the hub of the global jewellery market because of its low costs and availability of high skilled labour. India is the world's largest cutting and polishing centre for

diamonds, which is well supported by government policies. India exports 75 per cent of the world's polished diamonds, as per statistics from the Gems and Jewellery Export promotion Council (GJEPC). UAE, US, Russia, Singapore, Hong Kong, Latin America and China are the biggest importers of Indian jewellery. This sector has been contributing in a big way to the country's foreign exchange earnings (FEEs).

7. **Automobile**

Specific Laws applicable to the automobile sector includes:

1. Motor Vehicles Act 1988
2. The Central Motor Vehicle Rules, 1989
3. Respective State Automobile Laws

8. **Automobile Components**

Specific Laws applicable to the automobile Component sector includes- The Motor Vehicles Rules, 1989 (Amendment in the year 2005) for Auto Components Industry and Safety standards by Automotive Industry Standard Committee & Bureau of Indian Standards etc.

9. **Aviation**

Specific Laws applicable to the Aviation sector includes:

1. Aircraft Act, 1934
2. Aircraft Rules, 1937
3. Anti-hijacking (Amendment) Act, 1994
4. The Air Corporations Act, 1953
5. The Airports Authority of India Act, 1994
6. The Airports Authority of India (Amendment) Act, 2003
7. Aircraft security Rules,2011

10. **Biotechnology**

Specific Laws applicable to the Biotechnology sector includes:

1. National Seed policy 2002
2. Seeds Act, 1966
3. Environment Protection Act, 1986 pertaining to Biotechnology
4. Foreign Exchange Management Act, 1999 pertaining to Biotechnology
5. Protection of Plant Varieties and Farmers' Rights Act, 2001.

11. **Chemicals**

Specific Laws applicable to the Biotechnology sector includes the Manufacture, Storage, Import of Hazardous Chemicals Rules, 1989.

12. **Construction**

Specific Laws applicable to the Construction sector includes:

1. Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
2. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Central Rules, 1998
3. The Building and Other Construction Workers' Welfare Cess Act, 1996
4. Building and Other Construction Workers Welfare Cess Rules, 1998
5. State Construction Laws

13. **Electronic Systems**

The electronics market of India is one of the largest in the world and is anticipated to reach USD 400 billion by 2020. India ranks third among global startup ecosystems.

14. **Food Processing**

Specific Laws applicable to the food processing sector includes:

1. I Essential Commodities Act, 1955
2. National Food Security Act, 2013
3. The Milk and Milk Products Order, 1992
4. Food Safety and Standards Regulations. 2011
5. The Vegetable Oil Products (Control) Order, 1947
6. The Fruit Products Order, 1955
7. Respective State Food Laws

15. **IT & BPM**

Specific Laws applicable to the Information Technology sector includes:

1. The Patents Act, 1970 & Patent Rules, 2003
2. Trade Marks Act, 1999
3. Trade Marks Rules, 2001
4. Information Technology Act 2000

5. Information Technology (Amendment) Act 2008 & Rules for the Information Technology Act 2000
6. Designs Act, 2000
7. Designs Rules, 2001

16. Media and Entertainment

Specific Laws applicable to the Media and Entertainment sector includes:

1. Copyright Act, 1957
2. Press Council Act, 1978
3. The Cinematograph Act, 1952
4. Cable Television Network Regulation Act 1995
5. Cable Television Network Regulation Rule 1994
6. The Cinematograph (Certification) Rules, 1983
7. The Press and Registration of Books Act, 1867
8. The Registration of Newspaper (Central) Rules, 1956

17. Mining

Mining sector is one of the core sectors of economy. It provides basic raw materials to many important industries. Specific Laws applicable to the Mining sector includes:

1. The Mines Act, 1952
2. The Mines Rules, 1955
3. Coal Mines Regulations, 1957
4. The Coal Mines Regulations, 2006
5. The Mines and Mineral (Regulation and Development) Act, 1957 & Rules, 1988

18. Oil and Gas

Some of the acts applicable specifically to Oil and Gas sector are:

1. **Petroleum Act, 1934:** An Act to govern import, transport, storage production, refining and blending of petroleum
2. **The Oilfields (Regulation and Development) Act 1948:** Under this Act, the central government was granted the power to make rules for regulating the authorization of mining leases and determine rates of royalty payable by the holder of the mining lease for on shore as well as the offshore blocks.

3. **The Petroleum pipelines (Acquisition of Right of User in land) Act, 1962:** This Act has provisions relating to the acquisition and utilization oil and for laying pipelines. The Central Government has been given the authority to acquire the land and once the land has been acquired, the Central Government has the option of either keeping the acquired land or transferring it to either the state government or the corporation for which the land has been acquired.
4. **The Oil Industry (Development) Act, 1974:** The Act led to the formation of Oil Industry Development Board (OIDB) to facilitate development of the sector. The Board extends financial assistance to companies in the sector in the form of loans and collecting the oil industry development cess.

Other acts regulating Oil and Gas Sector are as following:

1. Kerosene (Restriction on use and fixation of price) Order, 1993
2. Kerosene (Fixation of Ceiling prices) Order, 1970
3. Light Diesel Oil (Fixation of Ceiling Price) Order, 1973
4. Explosives Act, 1884
5. The Mines Act, 1952
6. Mines and Minerals (Regulations and Development) Act, 1957
7. Liquified Petroleum Gas (Regulation of supply and Distribution) Order, 1993

19. Pharmaceuticals

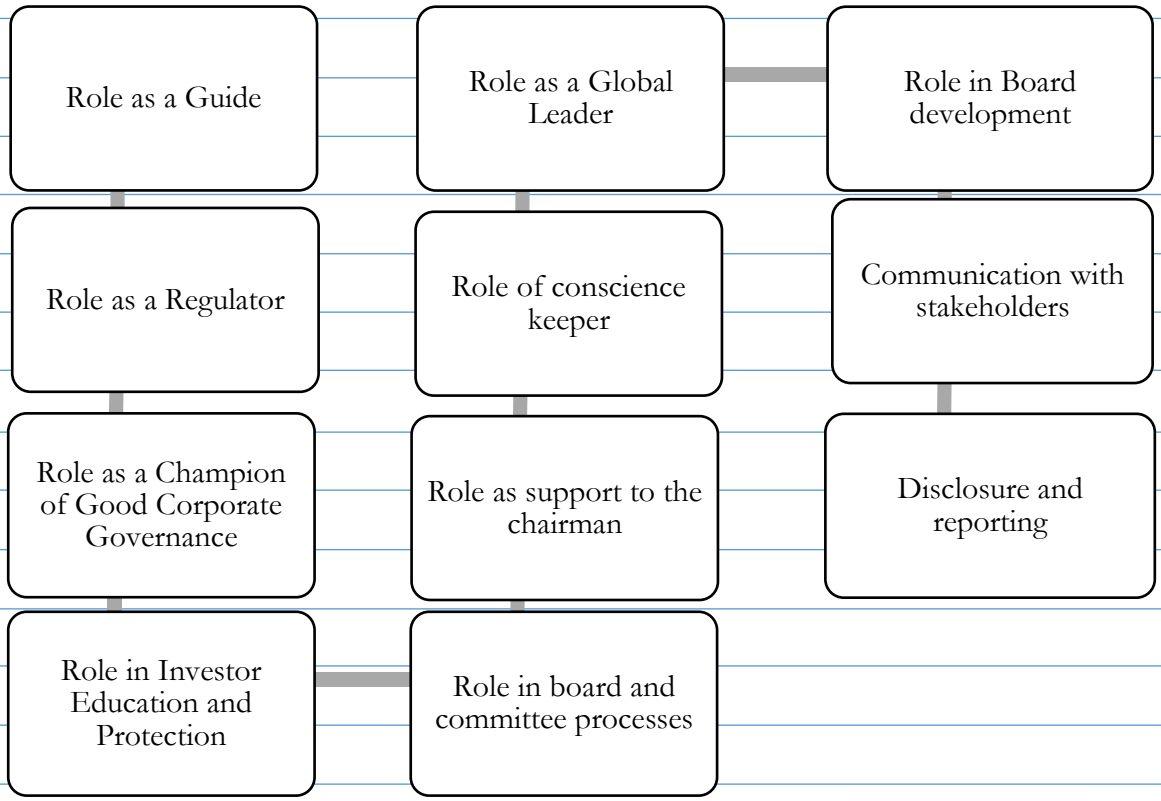
By 2020, India is likely to be among the top three pharmaceutical markets by incremental growth. There are over 10,500 manufacturing units and 3,000 pharma companies in India. Specific Laws applicable to the Pharmaceuticals sector includes:

1. The Drugs and Cosmetics Act, 1940 & Amendment 2008
2. The Pharmacy Act, 1948
3. Drug Policy 2002
4. The Narcotic Drugs and Psychotropic Substances Act, 1985
5. Essential Commodities Act,1955
6. Biological Diversity Act 2002
7. National Pharmaceutical Policy 2012

5. NATIONAL AND INTERNATIONAL DEVELOPMENTS

The Board as a whole, particularly the chairman, relies on the company secretary to advise them not only on Role of the directors' and their statutory duties under the prevailing law, and various disclosure obligations but also in respect of corporate governance requirements and practices and effective board processes.

A company secretary plays following roles:



I. Role as a Guide

Company Secretaries, guides promoters, directors and society in adopting good corporate governance practices, that adds value to the business by enhancing its image among its customers. The main strength of company secretary lies in his/ her legal knowledge especially in the fields of business, corporate and monetary laws. He ensures compliance in all internal rules and external laws and regulations applicable to the company. A company secretary is now:

- An active partner with the directors to ensure Board effectiveness and good governance
- An advisor to the Board to ensure that policy and intent are manifested correctly
- A resource to provide trends and information; and
- The ombudsman for all members of the co-operative community to ensure a commitment to the values that are important for the society.

2. **Role as a Regulator**

Company secretaries are highly valued and relied upon by regulators for compliances and they are considered as the first level regulators at the corporate level. They act as the link and interface between industry and regulators. Laws are getting liberal as well as complex and changing very fast. CS must keep updates about regulatory changes and must educate and update management about changes in the applicable laws and their likely impact on the company. Regulators depend and rely on company secretaries for implementation of good governance practices in the company.

3. **Role as a Champion of Good Corporate Governance**

Due to the separation of ownership and management, society depends largely upon professionals for the healthy growth of corporate and protection of the interests of the society. They are responsible for incorporating good corporate governance practices in the company. Hence, company Secretaries have played a vital role as a bridge between society and business. The profession of Company Secretaries ensures that corporates:

- Run their businesses in accordance with the laws of the land;
- Follow ethical and honest practices in business;
- Protect and promote the interests of investors who invest their hard-earned savings in the capital of the company;
- Maintain transparency and provide correct and adequate information and disclosures about their business activities;
- Run their business in a sustainable manner; and
- Work in the larger interests of society.

4. **Role in Investor Education and Protection**

An informed investor is more precious than the investment. Investors provide the capital which, combined with entrepreneurial skills, results in successful corporate. Therefore, it is very important that investors are educated, enlightened and well informed to be able to take sound investment decisions and to protect their interests. Recognising the importance of shareholder rights and

investor protection, the Companies Act, 2013 introduced some important changes to the company law regime in India and has plugged many loopholes. It upholds shareholders democracy and investor protection in many ways. A significant development has been the inclusion pertaining to 'Class Action Suit' (Section 245) to strengthen the concept of shareholders democracy.

5. Role as a Global Leader

The changing global business environment has not only brought changes in the role and responsibilities of the company secretaries but has transformed it into new dimensions obliterating almost the concept of their role in a company performed by them hitherto. The changes have thrown up new challenges and opportunities that have spurred the professional instincts of company secretaries to identify themselves with the totality of business and managerial responsibilities. The position of the company secretary enables them to have a holistic view of the governance framework and as a result they are generally tasked with the responsibility of ensuring that this framework and any supporting policies and procedures are clearly documented. Thus, a company secretary has emerged as a key professional in the corporate management providing solutions to the core management team and harmonise the basic decision-making process to bring it in line with key factors of the corporate world.

Global leadership may be referred to as capacity to unify a diverse workforce around a single purposeful vision, through demonstration of personal mastery, thinking globally, anticipating opportunity and using shared leadership networks. A global leader must continuously practice personal mastery and provide organizational leadership through internal/external influence. Thus, a company secretary as a global leader thinks globally, anticipates opportunity, creates a shared vision, develops and empowers people, appreciates cultural diversity, builds teamwork and partnerships, embraces change, encourages constructive challenge, ensures customer satisfaction, achieves a competitive advantage, demonstrates personal mastery, shares leadership and lives the values.

6. Role of conscience keeper

The profession of company secretary plays the role of conscience keeper and torch bearer in educating and motivating corporate to play their role in promoting growth. Poverty, illiteracy, employment, drinking water, sanitation and health, environment, regional imbalances etc., are some problems that have been existing in India, which needs to be addressed at all levels. The

government is continuously making efforts to improve the situation and thus, corporate sector has been given a social responsibility as it has the required size and resources.

7. **Role as support to the chairman**

The relationship between the company secretary and the chairman is central to creating an efficient Board. The company secretary has a duty to advise the Board, through the chairman, on all governance matters. They should periodically review whether the Board and the company's other governance processes are fit and suggest any improvements or initiatives that could be taken to strengthen the governance of the company.

8. **Role in board and committee processes**

The company secretary plays a leading role in good governance by helping the Board and its committees' function effectively, by scheduling meetings, managing agendas and ensuring high quality up-to-date information in meetings. This enables the directors to contribute fully in board discussions and debate and to enhance the capability of the Board for good decision making.

9. **Role in Board development**

All directors should have access to the services of the company secretary. The company secretary should offer advice and act in the best interests of the company. In promoting board development, the company secretary should assist the chairman with all development processes including board evaluation, induction and training. This should involve implementing a rigorous annual board, committee and individual director assessment and ensuring actions arising from the reviews are completed. Further, the company secretary should take the lead in developing tailored induction plans for new directors and devising a training plan for individual directors and the board. Although these tasks are ultimately the responsibility of the chairman, the company secretary can add value by fulfilling, or procuring the fulfilment of, these best practice governance requirements on behalf of the chairman.

10. **Communication with stakeholders**

The company secretary is a unique interface between the board and management as through effective communication it can help the management to understand the expectations of the board. He also plays an important role in communicating with external stakeholders, such as investors and works closely with the chairman and the board to ensure that effective shareholder relations are maintained.

11. **Disclosure and reporting**

Recently there has been a great emphasis on the corporate governance reporting and increased transparency. The company secretary has the responsibility of drafting the governance section of the company's annual report and ensuring that all reports are made available to shareholders according to the relevant regulatory or listing requirements.

12. **ROLE OF COMPANY SECRETARY IN SINGAPORE**

The Company Secretary plays an important role within the corporate board and the company. The Company Secretary has wide ranging responsibilities as a senior corporate officer, serving as the focal point for communication with the board of directors, senior management and the company' stakeholders. This is in addition to the Company Secretary playing a key role in the administration of important corporate matters. Often, the Company Secretary is the confidant and counsellor to the Board of Directors, Chief Executive Officer and members of senior management. The role of the Company Secretary is as follows:

a) Advisor to the Board of Directors
b) Controller of Management Functions
c) Corporate Governance and Compliance Officer
d) Corporate Communications

13. **ROLE OF COMPANY SECRETARY IN AUSTRALIA**

As the conscience of the company, the company secretary holds a unique position as the link between the board and shareholder members and between employees and the board. The company secretary plays a key role in designing and implementing the company's ethical and legal framework and policies. One of the primary roles of the company secretary is to help the company and the board tackle ethical questions such as, whether the company ought to pursue certain courses of action, regardless of whether they are legally feasible.

14. **ROLE OF COMPANY SECRETARY IN UK**

The company secretary is a strategic position of considerable influence at the heart of governance operations within an organisation. Governance describes the way that an organisation is directed and controlled, which includes a company's strategy and decision making, how it achieves its aims, and ensuring that all activities undertaken comply with legal, ethical and regulatory requirements.

CHAPTER 8 AUDITS

INTRODUCTION

Audit refers to examination of books of accounts and vouchers of business or any other organization to ensure that financial statements are drawn up so as to exhibit true and fair view of the state of affairs of the business as at the end of the financial year. The term Audit is derived from the Latin word 'Audire' which means 'to hear'. In the olden days, when auditors were employed to check the accounts, they used to read aloud the entries in the books of accounts maintained by the business in the presence of the businessmen to ensure that the entries recorded in the books of accounts are correct.

Audit helps in the detection and prevention of errors and frauds. Financial Audit, management audit and tax audit are the various types of audit. Financial Audit is conducted to express an opinion on the financial statements of the business, whether they present a true and fair view of the state of affairs of the business as at the end of the financial year. Management audit is conducted to evaluate the performance of the management in the light of the objectives of the business. Tax audit is conducted to ensure that the provisions of the Income Tax Act have been complied with in the preparation of the financial statements of the business.

2. CORPORATE GOVERNANCE AUDIT

Corporate governance audit is a type of management audit that focuses on the corporate governance practices followed by the company. It is conducted to evaluate the effectiveness of the board of directors in discharging its responsibilities towards the stakeholders of the company. Audit of corporate governance practices is important as it helps in identifying the areas where the company can improve its corporate governance practices. It also helps in ensuring that the company is complying with the applicable laws and regulations. The corporate governance audit is conducted by an independent auditor, who is usually a chartered accountant. The auditor is appointed by the board of directors of the company.

3. CORPORATE SOCIAL RESPONSIBILITY AUDIT

An audit that is conducted to evaluate the corporate social responsibility activities of a company is known as corporate social responsibility audit. It is also known as CSR audit or social audit. It is conducted to assess the impact of the CSR activities undertaken by the company on the society and the environment. In order to conduct a CSR audit, the auditor needs to have a good understanding of the company's CSR policy and the activities undertaken by the company in pursuance of the policy. Section 135 of the Companies Act, 2013 and Schedule VII of the Companies (Corporate Social Responsibility Policy) Rules, 2014 require every company, which meets certain criteria, to spend at least 2% of its average net profits made during the three immediately preceding financial years in pursuance of its CSR policy. The auditor is required to verify whether the company has complied with the provisions of the Act and the Rules in this regard.

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7. SOCIAL AUDIT

- Social audit is conducted to see company's social performance. It is a way of measuring, understanding and improving company's social and ethical performance. It helps [illegible]
- [illegible]
- [illegible] actually been spent on the ground. It involves an evaluation of organisation's invol[illegible]

[illegible]

1. [illegible]
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8. ENVIRONMENT AUDIT

Environment audit is conducted to ensure company's compliance with environment related r[illegible]

material and machine are utilised efficiently. It identifies company's area of environmental

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1. Ensures that the decisions of the company are not affecting company's market for its
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INDUSTRIAL AND LABOUR LAW AUDIT

- I is conducted to ensure company's compliance with various
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CYBER AUDIT

- Cyber audit is an independent review of an organization's IT infrastructure, policies, and practices to identify vulnerabilities and ensure compliance with relevant laws and regulations.
- It helps in assessing the effectiveness of cybersecurity controls, identifying potential risks, and recommending improvements to enhance the organization's cybersecurity posture.
- Organizations, regardless of size or industry, can benefit from cyber audits to protect their sensitive data, maintain customer trust, and avoid costly data breaches or regulatory penalties.

ICSI AUDITING STANDARDS

- The Institute of Company Secretaries of India has issued Auditing Standards under Section 118(10) of the Companies Act, 2013 and Secretarial Audit is conducted to verify compliance with applicable laws, rules and regulations. A CS conducts Secretarial Audit in accordance with Practice Standards (PCS) and Auditing Standards issued by ICSI. It verifies company's compliance with laws, rules and regulations and prepares a report called as "Secretarial Audit Report" in Form MR-3, which is required to be annexed with the Board's Report.
- Applicability: Every listed company and public company having paid-up share capital of Rs. 50 crore or more or turnover of Rs. 250 crore or more, or outstanding loans or borrowings of Rs. 100 crore or more.
- In order to ensure uniformity in Secretarial Audit conducted by a CS, ICSI has issued Secretarial Auditing Standards. The ICSI has issued Auditing Standards (CSAS) on Board Meetings and Annual General Meetings to provide clarity on the Secretarial Auditing Standards (CSAS) to the Members and other stakeholders of the Company.
- The CS conducting the Secretarial Audit of CS Secretarial Records of Listed Entity (ICSI) shall ensure compliance with ICSI Auditing Standards as issued by the Council of the ICSI.

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[illegible]

[illegible]

[illegible] **CSAS [illegible]** Auditing Standard on Audit Engagement lays down the Auditor's role and [illegible]

[illegible]

2. **CSAS 2** [illegible]

[illegible]

3. **CSAS 3** [illegible] Auditor's opinion.

[illegible] **CSAS [illegible]** [illegible]

[illegible]2. CSAS [illegible] AUDITING STANDARD ON AUDIT ENGAGEMENT

INTRODUCTION [illegible] the Auditor's role and responsibilities with respect [illegible]

[illegible]

[illegible] **Aud[illegible]t En[illegible]a[illegible]ement Process** [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

c. Written resignation of the auditor should be sent to the Managing Director of the Auditee company, Registered Office and Principal Auditee Office.

d. The auditor should obtain a written clearance from the auditee company before resigning.

e. The auditor should forward their resignation letter within 30 days to the Registrar of Companies in the prescribed manner.

Auditor should also inform the auditee company's auditor about the reasons for resignation.

2. **Conflicts of Interest:** The Auditor should avoid any kind of conflicts of interest with the Auditee. A conflict of interest may arise when an auditor, auditor firm or associate has a relationship with the Auditee, which could compromise the auditor's objectivity or independence. Some examples of conflicts of interest between an Auditor and Auditee Company are:

Ownership of shares in the auditee company by the auditor.

a) **Ownership:** When the Auditor owns shares or securities of the auditee company, including stock, bonds, options, and other forms of equity or debt interests in the company, it can create a conflict of interest. If the auditor owns more than 2% of the outstanding shares of the auditee company, it is considered a material financial interest that could impair the auditor's objectivity. For example, if an auditor owns shares worth ₹50,000, which is more than 2% of the total outstanding shares of the company.

b) **Financial Interest:** When the Auditor has a financial relationship with the Auditee, such as a loan or investment in the auditee company, it can create a conflict of interest.

c) **Past Employee Relationship:** When the Auditor was employed by the auditee company in the past, and the auditor has a significant financial interest in the auditee company, such as a pension or deferred compensation plan, it can create a conflict of interest.

3. **Confidentiality:**

The Auditor should not disclose confidential information obtained during the course of the audit to any third party without the auditee's consent, unless required by law or professional standards.

The Auditor should not use confidential information obtained during the audit for personal gain or for the benefit of any third party.

The Auditor should ensure that all employees, assistants, and other individuals who have access to confidential information during the audit also adhere to the Auditor's duty of confidentiality.

4. Compliance with laws and regulations: Auditor should not engage in any activities that violate laws or regulations, including those related to the auditee company. If the auditor becomes aware of any illegal activities by the auditee company, the auditor should report them to the appropriate authorities.

5. [illegible] ICSI [illegible]

3. SAS 2 AUDITING STANDARD ON AUDIT PROCESS AND DOCUMENTATION

INTRODUCTION: [illegible]

[illegible]. **Information about the Auditee**: [illegible]

2. **Audit Planning**: [illegible]

   a. [illegible]
   b. [illegible]
   c. [illegible]
   d. [illegible]
   e. [illegible]
   f. [illegible]

3. **Audit Checklists**: [illegible]

[illegible]. **Risk Assessment**: [illegible]

5. **Collection and Verification of Audit Evidence**:

- [illegible]
- [illegible]

- The Auditor should keep adequate records of the matters which are important to provide evidence that the audit was carried out in accordance with the Auditing Standards.

7. **Analysis of Audit Evidence:** The Auditor should analyse relevant audit evidence to arrive at the audit opinion. While analysing audit evidence, the key factors the Auditor should consider include the appropriateness of audit evidence in relation to the audit objectives.

8. **Third Party Confirmation:** The Auditor should consider obtaining confirmation from third party in order to support audit evidence.

8. **Documentation**

- The Auditor should document audit plan, audit procedures carried out, audit evidence obtained and audit findings in the form of working papers.
- The documentation should be sufficient to enable an experienced auditor having no previous connection with the audit to understand the nature, timing and extent of the audit procedures performed to comply with the Standards.
- Audit Documentation should contain sufficient information to enable an experienced auditor to identify the matters which require supervision. Working papers should also contain evidence of the auditor's report.
- Ethical and professional requirements of Maintenance of confidentiality of working papers in safe custody.

9. **Record Keeping and Retention:** The Audit Documentation should be completed and assembled for final audit file *within a period of 45 days from the date of signing of auditor's report. It is maintained in* accordance with the law. The audit file should be retained for a period of 8 years or such period as specified in the Auditor's Report.

11. CSAS 13 AUDITING STANDARD ON FORMING OF OPINION

INTRODUCTION: *The Standard deals with basis and manner for forming Auditor's opinion.* The objective of the Standard is to establish standards on the Auditor to form an opinion based on the audit conducted and to express clearly in the report.

1. **Process for formation of opinion:** While forming opinion, auditor should do evaluation of:

(a) The Auditor should evaluate whether Audit Evidence obtained is sufficient.

(b) The Auditor should evaluate uncorrected misstatements and their effect on the financial statements, and should communicate with those charged with governance, unless prohibited by law or regulation.

(c) The Auditor should evaluate whether the financial statements are prepared in accordance with the applicable financial reporting framework.

2. **Precedence and Practices** The Auditor should consider relevant professional pronouncements issued by the Institute of Chartered Accountants of India, including Standards on Auditing, in the conduct of the audit.

3. **Third Party Report or Opinion** The Auditor should not issue a report or opinion that states or implies that the Auditor has relied upon the work of a Third-Party Practitioner.

(a) The Auditor should not refer to the work of a Third-Party Practitioner in the Auditor's report.

(b) The Auditor should not include the name of a Third-Party Practitioner in connection with the Auditor's opinion.

(c) The Auditor should not attach a report of a Third-Party Practitioner to the Auditor's report.

(d) The Auditor should not, in the Auditor's report, indicate that part of the audit was performed by a Third-Party Practitioner, unless required by law or regulation.

4. **Form of an Opinion and Qualification**

(a) Unless otherwise required by Other Laws, the Auditor should express an unmodified opinion when the Auditor concludes that the financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework.

(b) Modified Opinion. Unless otherwise required by Other Laws, the Auditor should express a modified opinion when the Auditor concludes that, or is unable to conclude that, the financial statements as a whole are not free from material misstatement, or when the Auditor is unable to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement.

The Auditor should express a qualified opinion when the Auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial statements; or the Auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, but the Auditor concludes that the possible effects on the financial statements of undetected misstatements, if any, could be material but not pervasive.

The Auditor should express an adverse opinion when the Auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial statements.

However, the Auditor may withdraw from the engagement where possible under applicable law or regulation prior to expressing such adverse opinion or disclaimer of opinion, unless prohibited by law or regulation.

5. **Format of Report**

The report should be submitted in Form MR-3 and should be addressed to the Board of Directors of the company.

Signature of the Auditor should be affixed in the name of the Auditor, at the place where the Auditor's office is located.

15. CSAS 2 AUDITING STANDARD ON SECRETARIAL AUDIT

INTRODUCTION The Standard aims to lay down principles for conducting Secretarial Audit. The objective of the Standard is to lay down the principles for evaluation of company's

1. **Identification of Applicable Laws:** The Auditor should identify the laws that are specifically applicable to the company based on its sector/ industry.
2. **Verification of compliance of laws and corporate conduct:** The Auditor should verify the events/corporate actions that took place during the audit period and the company's
3. **Board Composition:** The Auditor should ensure that the Board is duly constituted as per the Companies Act, 2013 and SEBI (LODR) Regulations, wherever applicable.
   a. Ensure that proper notice is given to all directors to schedule the Board Meetings.
   b. The agenda and detailed notes on agenda were sent at least seven days in advance, or a shorter period as permitted under the Act, wherever applicable.
   c. The minimum information as required to be included in the agenda.
4. **Board Processes:** The Auditor should ensure that proper systems and processes are in place for conducting Board and General Meetings.
5. **System and Process:** The Auditor is required to obtain an understanding of the systems and processes established by the Company for ensuring compliance with the requirements of various applicable laws, and the systems and processes for identification of non-compliance of laws which are specifically applicable to the Company, based on its sector/ industry.
6. **Detection of Fraud:** The Auditor is required to report frauds as specified in section 143 of the Companies Act, 2013. While carrying out reporting duties, the Auditor should ensure that he has complied with the requirements of the Standard, and has exercised due diligence in relation to the reporting requirements of the Act.
7. **Reporting of Fraud:** If the Auditor has reported any instance of fraud to the Central Government or Audit Committee or Board, as the case may be, the Auditor's report

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8. ***Identification and Reporting of the events/actions having major effect on Auditee's affa□s*** □I □ □□□□□□ □□ □□□ d□□□ □□ □□□ A□d□□□r □□ d□□□□□□□ □□d r□□□r □□ □□□ S□□r□□□r□□□A□d□□ R□□□r □□□ □□□□□□□ r □□□□□□□□ □ □□□□ □□□e major effect on the Auditee's affairs in compliance □□ □□□ □□□□□□□□□□ □□□□ □, r□□□□, r□□□□□□□□□□, □□□d □□□□□, □□□□d□rd□, □□□

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- It helps to accomplish the organization's objectives by improving effectiveness of risk [illegible]

2. NEED [illegible]OR SECRETARIA[illegible] AUDIT

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S[illegible]rial audit is based on the principle of "Prevention is better than cure" rather than [illegible] r[illegible] I[illegible] company's effectiveness, control and governance as non-[illegible] S[illegible] r[illegible] [illegible]

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3. SECRETARIAL AUDIT – COMPANY SECRETARY IN PRACTICE (PCS)

Secretarial audit is conducted by a Company Secretary in practice (PCS) who is independent in his professional dealings with the company, who is not disqualified to act as an auditor of the company and who is not debarred from doing any work for the company by the Institute of Company Secretaries of India. A secretarial audit report is given in the prescribed form by the secretarial auditor. As per section 204 of the Companies Act, 2013, every listed company, every company belonging to such class of companies as may be prescribed and every public company having a paid-up share capital of fifty crore rupees or more or turnover of two hundred and fifty crore rupees or more shall annex with its Board's report a Secretarial Audit Report given by a Company Secretary in practice in such form as may be prescribed i.e. MR-3.

4. APPLICABILITY OF SECRETARIAL AUDIT UNDER COMPANIES ACT 2013

Section 204(1) of the Companies Act, 2013 read with rule 9 of the Companies (Appointment and Remuneration Personnel) Rules, 2014 provides that

1. Every listed company
2. Every unlisted public company having a paid-up share capital of fifty crore rupees or more or turnover of two hundred and fifty crore rupees or more
3. Every private company having a paid-up share capital of fifty crore rupees or more or turnover of two hundred and fifty crore rupees or more
4. Every company having outstanding loans or borrowings or debentures or deposits exceeding fifty crore rupees or more in aggregate

Shall undertake secretarial audit and shall annex with its Board's report a Secretarial Audit Report given by a Company Secretary in practice in such form as may be prescribed i.e. MR-3.

5. APPLICABILITY OF SECRETARIAL AUDIT UNDER SEBI (LODR) REGULATIONS 2015

A new provision has been introduced in Corporate Governance, in 2015, called Audit of Audit Reports, i.e. the listed entity has to appoint a secretarial auditor to undertake secretarial audit of the listed entity and its material unlisted subsidiaries incorporated in India, in terms of SEBI (LODR) Regulations, 2015 and the same is mandated under 24A of the regulations.

24A provides as follows

"Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex with their annual report, a secretarial audit report given by a company secretary in practice, in such form as may be specified, for the financial year ended March 31, 2019."

Listed Entity – a body corporate whose equity shares are listed on a recognised stock exchange(s), and includes any body corporate incorporated pursuant to a scheme sanctioned and approved by a High Court in relation to a listed entity which does not itself become a listed entity pursuant to such scheme.

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7. □ORMAT O□ SECRETARIA□ AUDIT REPORT

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8. APPOINTMENT O□ SECRETARIA□ AUDITOR

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9. BENE□ITS O□ A SECRETARIA□ AUDIT

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BENEFITS OF SECRETARIAL AUDIT TO STAKEHOLDERS:

1. **PROMOTERS:** [illegible]
2. **NON-EXECUTIVE/INDEPENDENT DIRECTORS:** [illegible]
3. **GOVERNMENT AUTHORITIES/REGULATORS:** [illegible]

4. **INVESTORS:** Shareholders and debenture holders are the owners of the company. They invest their money in the company and hence, they are interested in knowing whether their investment is safe and secure and whether adequate returns are being provided to them.

5. **OTHER STAKEHOLDERS:** In addition to the above, there are various other stakeholders such as employees, customers, creditors, suppliers, financial institutions, government and regulatory authorities, etc. who are interested in knowing whether the company is complying with the various laws and regulations.

III. SCOPE OF SECRETARIAL AUDIT

In terms of the Form MR-3, the Secretarial Audit Report is required to cover the compliance with the following laws:

1. Companies Act, 2013
2. Securities Contracts (Regulation) Act, 1956
3. The Depositories Act, 1996
4. Foreign Exchange Management Act, 1999
5. Regulations and Guidelines prescribed under the Securities and Exchange Board of India Act, 1992 ('SEBI Act'):
   a) The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011
   b) SEBI (Prohibition of Insider Trading) Regulations, 2015
   c) The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 [2018]
   d) The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015
   e) The Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008
   f) The Securities and Exchange Board of India (Buyback of Securities) Regulations, 1998 [2018]
6. 'Other laws as may be applicable specifically to the company'

   Secretarial Auditor shall report on the laws which are applicable to the company and the compliance thereof on the basis of the following:

   1. Secretarial Standards issued by The Institute of Company Secretaries of India
   2. The Listing Agreements entered into by the Company with Stock Exchange(s)

   Secretarial Auditor shall examine

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□. BASIC DOCUMENTS O□ SECRETARIA□ AUDIT

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7. *Financial Statement, Director's Report, Auditor's Report*
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2. PROCESS O□ SECRETARIA□ AUDIT

Secretarial audit is conducted to ensure company's □□ □□□r□ □□ r□□□ d□□
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The [illegible] S[illegible] [illegible]

[illegible] **APPOINTMENT O[illegible] SECRETARIA[illegible] AUDITOR** [illegible] 8 [illegible] C[illegible] M[illegible] [illegible] R[illegible] 2014, S[illegible] A[illegible] [illegible]

2. **COMMUNICATION TO EAR[illegible]IER O[illegible]ICER** [illegible] ICSI [illegible] C[illegible] S[illegible] [illegible] A[illegible] [illegible]

3. **ACCEPTANCE O[illegible] APPOINTMENT** [illegible] C[illegible] S[illegible] [illegible]

[illegible] **PRE[illegible]IMINARY DISCUSSIONS AND SUR[illegible]EYS** [illegible] C[illegible] H[illegible] [illegible]

5. **PRE[illegible]IMINARY MEETING** [illegible] A[illegible] [illegible]

[illegible] **AUDIT P[illegible]AN AND BRIE[illegible]ING O[illegible] STA[illegible]** [illegible] I[illegible] [illegible]

[illegible] **TESTING INTER[illegible]IE[illegible]S AND ANA[illegible]YSIS** [illegible]
conducting the audit. First and foremost, amongst them is to review company's internal
[illegible] F[illegible] [illegible]

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8. **□OR□ING PAPERS□** *Working papers are used to express auditor's opinion. They are most* □□ □□r□□□ □□ □□ □□d□ □□ □□□□ □□□ □□ □□□□□□□ □□ □□d□ □□□ □□□□ □□□d□□□d □r□□r□ □□d □□ □□□ □□□□□□ □ □□□ □□□□□□□□□ □□□□d□rd□

□. **AUDIT SUMMARY □OR DISCUSSIONS□** F□□d□□□ d□r□□ □□□ □□d□ □r □□□□□□ □□□ □ □r□□d □□ □□□ □□d□□r □□d □r□□□□d □□r d□□□□□□□□ □ □□□ □□□ □ □□□□□□ □□□ □□ □□□□□ □□□r□□□□□□□, r□□□□ □ □□d r□□□□□.

□□. **SUBMISSION O□ SECRETARIA□ AUDIT REPORT□** A□□r □□□□d□r□ □□r□□□□□□□□ □□d r□□□□□ □□ □ □□□□□□ □□□, □□d□□r □r□□r□□ □ S□□r□□r□□A□d□□r □□r□□ □□r□ MR-3 □□d □□□□ □□□ □□ □□□ □□rd. T□□ r□□□r□ □r□□d□□ □□ □□□□□□ □□ □□□ □□d□□r r□□□rd□□ □□□ □□□□□□□, □□r□r□□□ □□□□r□□□ □r□□□□□□ □□d □□□r□□□ □□□ □□□□r□□ □□□□□.

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11. Notices of annual and event based disclosure of directors' interests.
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39. S□□□ □□□r d□□□□ □□□□ □□ r□□□□d □r □□□ □r□□□□ □□ □d□□

2. COMP□IANCES UNDER SECURITIES (CONTRACT REGU□ATION) ACT□□S□ AND THE RU□ES MADE THEREUNDER

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3. THE DEPOSITORIES ACT□□□□ AND THE REGU□ATIONS AND BYE□A□S □RAMED THEREUNDER

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□. □OREIGN EXCHANGE MANAGEMENT ACT□□□□ AND THE RU□ES AND REGU□ATIONS MADE THEREUNDER

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5. REGULATIONS AND GUIDELINES PRESCRIBED UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

For the purpose of the Secretarial Audit, the following Regulations, Guidelines, Circulars and Clarifications issued thereunder have been considered:

- The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015
- SEBI (Prohibition of Insider Trading) Regulations, 2015
- The Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018
- The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018
- The Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009
- The Securities and Exchange Board of India (Buyback of Securities) Regulations, 2018

6. IDENTIFICATION AND COMPLIANCE OF SPECIFIC APPLICABLE LAWS

The Secretarial Auditor has relied on the records maintained by the Company and also on the representations made by the Company and its officers for systems and mechanisms formed by the Company for compliances under the following laws specifically applicable to the Company:

- Guidelines, Circulars and Clarifications issued by Reserve Bank of India
- Standards as specified by The Institute of Company Secretaries of India
- The Companies Act, 2013 and the Rules made thereunder, Foreign Exchange Management Act, 1999 and the Rules and Regulations made thereunder to the extent of Foreign Direct Investment, Overseas Direct Investment and External Commercial Borrowings;
- Shops and Establishments Act of Maharashtra-2017 and other local laws
- Non-Banking Financial Company – Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016

7. REPORTING ON COMPLIANCE WITH THE APPLICABLE CLAUSE OF SECRETARIAL STANDARDS

Section 118 (10) of the Companies Act, 2013 provides that every company shall observe Secretarial Standards with respect to General Meetings and Board Meetings specified as such by the Institute of Company Secretaries of India (ICSI). The Secretarial Standard-1 on Meetings of the Board of Directors and the Secretarial Standard-2 on General Meetings issued by ICSI and notified by the Ministry of Corporate Affairs (MCA) under Section 8 of the Companies Act, 2013 and the Secretarial Standard-2 on General Meetings issued by ICSI and notified by the Ministry of Corporate Affairs (MCA) under Section 8 of the Companies Act, 2013. The Secretarial Auditor shall report whether the Company has complied with the Secretarial Standards.

The Company Secretary is responsible for ensuring that the Company complies with the Secretarial Standards.

8. REPORTING ON THE CONSTITUTION OF THE BOARD

The Secretarial Auditor shall report whether the Board is duly constituted with proper balance of Executive Directors, Non-Executive Directors, Independent Directors, and Woman Director as required under Listing Regulations, Rules and Regulations. He should also report whether the Board of Directors or Committees thereof have been reconstituted in accordance with the Act and SEBI Regulations.

9. REPORTING ON BOARD PROCESSES

The Secretarial Auditor shall report whether the Board meets at regular intervals, whether Board Meetings, Committee Meetings are held as per the Act and SEBI Regulations. He should also report whether decisions are carried through while the dissenting members' views are captured and recorded as part of the Minutes.

10. REPORTING OF THE ADEQUACY OF SYSTEMS & PROCESSES

The Secretarial Auditor may also report on any other matter which is relevant or ancillary to the purpose of the audit.

12. REPORTING ON THE SPECIFIC EVENTS

Secretarial Auditor is required to report on reporting of fraud by officers of the company under section 143 of the Companies Act, 2013 and the rules made thereunder to the extent applicable in the Secretarial Audit Report.

13. PROFESSIONAL RESPONSIBILITY AND PENALTY FOR INCORRECT SECRETARIAL AUDIT REPORT

Section 448 of the Companies Act, 2013 provides that if any person, in any return, report, certificate, financial statement, prospectus, statement or other document required under, or for the purposes of any of the provisions of this Act or the rules made thereunder, wilfully

(a) makes a statement which is false in any material particular, knowing it to be false, or

(b) omits any material particular knowing it to be material,

is liable under section 447.

14. PENALTY FOR INCORRECT SECRETARIAL AUDIT REPORT

- Section 447 deals with punishment for fraud. Fraud in relation to affairs of a company or any body corporate includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any part of the public, whether or not there is any wrongful gain or wrongful loss. If fraud involves an amount which is less than ten lakh rupees or one per cent of the turnover of the company, whichever is lower, and does not involve any of the acts described in clauses (a) to (e), then it is punishable with imprisonment for a term which may extend to five years or with fine which may extend to fifty lakh rupees or with both. If the fraud involves an amount which is less than ten lakh rupees or one per cent of the turnover of the company, whichever is lower, and does not involve any of the acts described in clauses (a) to (e), then it is punishable with imprisonment for a term which may extend to five years or with fine which may extend to fifty lakh rupees or with both.

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□□. GUIDING CRITERIA □OR □ARIOUS STAGES □OR CONDUCTING SECRETARIA□ AUDIT

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The price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the higher of the following

(a) the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twelve weeks preceding the relevant date; or

(b) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.

Securities allotted on preferential basis shall be locked-in for a period of 3 years.

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The Secretarial Standard and Explanatory Guidelines issued by the Institute of Company Secretaries of India, 2009

- Cost audit report and cost audit records
- Variance in cost audit – Explanation by the auditor in the cost audit report
- Variance in cost audit – Explanation by the auditor in the cost audit report

The Secretarial Standard and Explanatory Guidelines issued by the Institute of Chartered Accountants of India

- Guidance Note on Cost Audit Report and Cost Audit Records
- Applicability of the Act to the Cost Auditor
- RTA
- Registered Valuers
- Depositories
- Payments
- Secretarial Audit Report
- Internal Control Systems and Risk Management
- Corporate Governance Voluntary Guidelines
- Other Cost Audit Report and Cost Audit Records – E-Voting System, Non-Executive Directors Compensation, Non-Executive Directors Stock Option, Private Placement, Secretarial Audit, Secretarial Standards, Unclaimed Dividend

1. **Report on the basis as specifically applicable to the company**

Reporting on the basis as specifically applicable to the company means reporting on the basis of the applicable laws to the company. For example, if a company is a banking company then reporting on the basis of the laws applicable to banking company is required.

2. **Report on the compliance of Secretarial Standards**

The Secretarial Standards Board of the Institute of Company Secretaries of India (ICSI) issued Secretarial Standards on Meetings of the Board of Directors (SS-1) and Secretarial Standards on General Meetings (SS-2). These standards were notified by the Central Government under Section 118(10) of the Companies Act, 2013 and the Companies (Secretarial Standards of Meetings) Rules, 2015.

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7. The Board of Directors or any of the committees of the Board or Director(s) may, if deemed necessary, engage the services of such experts, consultants, advisors or such other professionals as may be required for the purpose of carrying out evaluation.
8. The Nomination and Remuneration Committee shall lay down criteria for selection and appointment of Directors, Key Managerial Personnel and Senior Management Personnel and shall recommend to the Board their appointment and removal.
9. The Company shall disclose in the Boards Report, the criteria laid down for selection of Directors, Key Managerial Personnel and Senior Management Personnel and the remuneration paid to them. The Boards Report shall also contain a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual Directors.
10. Every Director shall inform the Company about the committee positions he occupies in other companies and notify changes as and when they occur. Pursuant to Part D of Schedule II of SEBI (LODR) Regulations, 2015, the Nomination and Remuneration Committee shall identify persons who are qualified to become Directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the Board their appointment and removal. The Company shall disclose in the Boards Report, a statement regarding the composition of the Nomination and Remuneration Committee.
11. In case of any subsequent changes in the Nomination and Remuneration Policy, the same would be placed before the Audit Committee for its approval and thereafter to the Board of Directors for its approval.
12. The Audit Committee shall have the power to review the Nomination and Remuneration Policy, from time to time to ensure it is consistent with the applicable statutory requirements and the Company's circumstances and goals and recommend any proposed changes to the Board of Directors for its consideration and approval.
13. The Board may subject to applicable laws, amend this Policy, as it may deem fit and appropriate, after duly considering the recommendations made by the Audit Committee. The Board of Directors shall have the final authority to interpret this Policy.
14. The Company reserves its right to withdraw and/or change the Policy, in full or in part, at any time without assigning any reason whatsoever.
15. The Company may circulate the Policy, or relevant extracts thereof, to all concerned and also place it in the Company's website.
16. The Nomination and Remuneration Committee shall review the Policy from time to time and recommend any changes to the Board of Directors as and when it deems fit. The Board of Directors shall have the final authority to approve the Policy with such modifications as it deems fit and proper.

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7. [illegible]

8. [illegible]

9. [illegible] Shareholders' queries.

10. [illegible]

    a. [illegible]

    b. [illegible]

    c. [illegible]

11. [illegible]

12. [illegible]

13. *The board's report discloses the details about the policy developed and implemented by the* [illegible]

14. *The composition of the all committees are also disclosed in the Board's Report.*

8. Report on Corporate Governance

[illegible]

- The Guardian and Wards Act, 1890
- Factories Act, 1948
- Industrial Disputes Act, 1947
- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Payment of Bonus Act, 1965
- The Payment of Gratuity Act, 1972
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Maternity Benefit Act, 1961

Competition Law Compliances: The Competition Act, 2002 provides for the establishment of the Competition Commission of India (CCI) to prevent practices having adverse effect on competition, promote and sustain competition in markets, protect the interests of consumers and ensure freedom of trade carried on by other participants in markets in India. The Act prohibits all agreements and practices which may cause appreciable adverse effect on competition in India. Under the Act, the CCI has the power to impose penalty for agreements or abuse of dominance, which may extend to the power to direct division of an enterprise enjoying dominant position. The CCI has also been empowered to regulate combinations (acquisition, acquiring of control and M & A) which causes or is likely to cause appreciable adverse effect on competition in India. Under the Act, the CCI is required to be notified in respect of combinations, which exceed the thresholds with regard to assets or turnover specified in the Act.

a) **Period for Self-Assessment:** It is important to note that the Act operates on a "self-assessment" basis, which means that businesses must determine for themselves whether its proposed deal, agreement, M & A transaction or practice is likely to cause or causes an appreciable adverse effect on competition in India. If the CCI determines that an anti-competitive deal has been entered into, it has the power to impose penalties, which may extend to 10% of the turnover of the combination, for each year of the continuance of the violation, subject to a maximum of three years.

b) **Abuse of Dominant Position:** Competition Act 2002 does not prohibit the existence of a dominant position in a relevant market, but only prohibits its abuse. The Act, however, provides that the determination of dominance is fact specific and would have to be evaluated on a case to case basis.

c) **Regulation of Combinations:** The Competition Act, 2002 regulates mergers, amalgamations and takeovers, which may cause or are likely to cause an appreciable adverse effect on competition within the relevant market in India. The Competition Act, 2002 also provides for the regulation of combinations (acquisition, acquiring of control and M & A) which causes or is likely to cause appreciable adverse effect on competition in India. The Act also provides that the parties to a combination are required to notify the proposed combination to the CCI, within 30 days of the execution of any agreement or other document for the acquisition or acquiring of control or M & A, in the form and manner as may be specified by the CCI.

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1. GUIDING PRINCIPLES OF GOOD CORPORATE CONDUCT AND PRACTICES

Every listed company and its directors, key managerial personnel and employees must observe the following principles of good corporate conduct and practices:

1. A listed company should comply not only with the applicable laws, rules and regulations but also endeavour to adopt best practices to ensure high standards of corporate governance and adherence to Non-Discriminatory Laws.
2. The Code lays down principles for good corporate governance and best practices which should be used by the listed company in its governance practices and in the interpretation of this Code.
3. The Code lays down principles which should be adopted and followed by listed company, its directors and employees.
4. The Code lays emphasis on the fact that the objective of corporate governance is not only to raise efficiency of a business entity but also to enable the Corporate Entity to take into account the interests of other Stakeholders like Customers, Employees, Suppliers, Investors, Creditors, Government and Community in which it operates.
5. The Code lays emphasis on the role of Boards of Directors in setting the tone at the top with regard to corporate governance practices and culture and encourages the use of voluntary mechanisms thereof.
6. The Code lays emphasis on the need for key functionaries like Senior Management to function in a transparent manner and maintain high ethical standards.
7. The Code lays emphasis on the need for disclosures to be timely and balanced to ensure that all investors have access to adequate information regarding the listed company to enable them to understand its position and make well informed investment decisions.
8. The Code lays emphasis on the need for compliance with the spirit of the law in addition to the requirement of adherence to the letter of the law.
   - Listed company should comply not only with the applicable laws, rules and regulations but also endeavour to adopt best practices to ensure high standards of corporate governance and adherence to Non-Discriminatory Laws.
   - Corporate governance is a dynamic concept and therefore, listed company should regularly review its practices in the context of changes in the environment in which it conducts its business and endeavour to improve on an ongoing basis.
   - Mere compliance with the law is not sufficient in the case of a fiduciary relationship. There is an expectation from the beneficiaries of high standards of honesty, integrity, fairness and disclosure in relationships.
9. Many times it is found that despite having adequate systems in place, there is a failure in implementation of the same due to lack of commitment by the employees. Therefore, it is important that employees imbibe the spirit of corporate governance and realise their role in the context of the Code.

10. The Board of Directors shall meet at least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings. The Company Secretary, in consultation with the Chairman of the Board, shall be responsible for drawing up the agenda for each meeting of the Board.

11. The Board shall have the following functions with respect to corporate governance:

a. Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestments.

b. Monitoring the effectiveness of the Company's governance practices and making changes as needed.

c. Selecting, compensating, monitoring and, when necessary, replacing key managerial personnel and overseeing succession planning.

d. Aligning key managerial personnel and remuneration of the Board of Directors with the longer-term interests of the Company and its shareholders.

e. Ensuring a transparent nomination process to the Board of Directors with the diversity of thought, experience, knowledge, independence and gender in mind.

f. Monitoring and managing potential conflicts of interest of management, members of the Board of Directors and shareholders, including misuse of corporate assets and abuse in related party transactions.

g. Ensuring the integrity of the Company's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

h. Overseeing the process of disclosure and communications.

i. Monitoring and reviewing board of director's evaluation framework.

12. The Board of Directors shall establish formal and transparent arrangements for considering how they should apply the corporate governance principles and for maintaining an appropriate relationship with the Company's auditors.

13. The Board of Directors shall establish a vigil mechanism and oversee through the committee, the genuine concerns expressed by the employees and other directors.

14. Provided that the Board of Directors may delegate any of its powers to a committee or the Managing Director, such delegation shall not relieve the Board of Directors, or any director from the responsibility which is imposed upon it or him by the Companies Act or the rules framed thereunder.

15. The board of directors shall have ability to exercise objective judgment on corporate affairs independent of executive management.

16. Where a director has a conflict on any matter considered by the board of directors, the director must disclose the conflict and recuse himself or herself from discussions and voting on the matter considered by the board of directors.

17. The board of directors shall have a balance between skills, knowledge and experience appropriate for the business of the company.

18. The board of directors shall have a policy on tenure, length of service or retirement age of non-executive directors.

19. The board of directors shall have a nomination committee to lead the process for board appointments and make recommendations. A majority of the members of the nomination committee must be non-executive directors.

20. The board of directors shall have a remuneration committee, to make recommendations to the board of directors on the remuneration packages of executive directors and senior management. No director may be involved in any decisions as to his or her own remuneration.

21. The board of directors shall have ability to 'step back' to assist executive management by providing guidance on strategy, reviewing and monitoring business plans, budgets and key performance indicators, overseeing major capital expenditures, acquisitions and disposals.

22. Where there is a conflict of interest, a material transaction that the board of directors determines should be considered by shareholders, or any other matter that the board of directors considers appropriate or desirable for shareholders, should be submitted to shareholders for approval.

23. Management shall provide the board of directors with sufficient information in a timely manner to enable it to perform its duties effectively.

24. In order to ensure that directors can carry out their responsibilities, the board of directors shall ensure that there is effective communication with shareholders, so that they understand the goals, strategies and performance of the company.

25. The board of directors shall ensure that its composition and procedures do not impair the ability or willingness of the directors to exercise objective independent judgment on corporate affairs. Individual directors should not participate in discussions or decisions concerning matters in which the board of directors has determined that the director has a conflict of interest.

[illegible] INTRODUCTION

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2. INTERNA[illegible] AUDIT UNDER COMPANIES ACT[illegible]2[illegible]3

Sect[illegible]n [illegible]38 [illegible] C[illegible] [illegible] A[illegible], 2013 [illegible] [illegible] [illegible] [illegible]d[illegible]r[illegible] [illegible]r [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]r[illegible] [illegible]d[illegible]

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3. [illegible]

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3. APPOINTMENT O[illegible] INTERNA[illegible] AUDITOR

A[illegible] 179 [illegible] A[illegible], 2013 [illegible] 8 [illegible] [illegible] P[illegible], R[illegible] 2014, [illegible]

W[illegible] [illegible] MGT-14 [illegible] 30 [illegible] [illegible]

I[illegible] 117 [illegible] 179 [illegible] A[illegible], 2013.

[illegible]. TERMS O[illegible] RE[illegible]ERENCE

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5. OB[illegible]ECTI[illegible]E O[illegible] INTERNA[illegible] AUDIT

The objective of internal control system is to provide assurance to company's risk management [illegible]

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11. Pr[illegible]

[illegible] SCOPE O[illegible] INTERNA[illegible] AUDIT

A[illegible] T[illegible] I[illegible] A[illegible]

[illegible] **Re[illegible] of Interna[illegible] Contro[illegible] Systems and Procedures** [illegible] T[illegible]

[illegible]

2. **Reliability and Integrity of Financial and Operational Information**: [illegible]

3. **Economical and Efficient Use of Resources**: [illegible]

4. **Compliance with Laws, Policies, Plans, Procedures and Regulations**: [illegible]

5. **Review of Organizational Structure**

- The internal auditor should review the organizational structure of the entity to understand the key areas of responsibility and the lines of reporting. For this purpose, he should obtain or prepare an organization chart, wherever necessary, and discuss it with the appropriate level of management.
- He should also ascertain whether the structure is adequate in relation to the size and the nature of the business of the entity, and whether it is being effectively implemented.
- The review should also be directed towards determining whether the lines of authority and responsibility have been clearly established.
- He should ensure that the key personnel are not overburdened with responsibilities.
- Furthermore, the internal auditor should ascertain whether the organizational structure is adequately documented and communicated to the concerned executives. Usually, organizational charts and manuals are prepared, which should be reviewed.

6. **Accomplishment of Established Goals for Operations** The internal auditor should review the operations of various departments to determine whether the results are consistent with established objectives and goals and whether the operations are being carried out as planned. It should also be seen that the objectives established are realistic and attainable. The review should be directed towards finding out whether the goals have been communicated to the persons responsible for their achievement and whether they understand them clearly, and are motivated to achieve them. The review should also be directed towards finding out whether the goals established are consistent with the overall goals of the organization. Any inconsistency should be reported to the management. The deviations between the actual performance and the established goals should be analysed and reported to the management along with the recommendations for improvement.

7. **Review of Custodianship and Safeguarding of Assets** The internal auditor should review the procedures for safeguarding assets against various losses, such as those arising out of errors, irregularities, fraud, inefficiency, waste, extravagance, etc. Also, the internal auditor should examine the existence of assets and the extent to which they are exposed to risk.

While reviewing the procedures, the internal auditor should ascertain whether adequate procedures have been established for the custody of assets, such as the segregation of duties, limited access to assets, etc.

7. INTERNAL AUDIT CORE PRINCIPLES

Core principles are fundamental guidelines that internal auditors must follow to ensure their work is effective, objective, and aligned with the audit's mission. Following are the core principles:

1. Independence
2. Integrity
3. Competence and due professional care
4. Objectivity
5. Alignment with strategies, objectives, and risks of the organization
6. Quality and continuous improvement
7. Professional risk-based assurance
8. Effective communication
9. Provide insight on governance, risk and control
10. Promote organizational improvement

8. INDEPENDENCE OF INTERNAL AUDITOR

Independence is the freedom from conditions that threaten objectivity. Auditor must not have any personal or professional relationship with the activity being audited. Auditor should not have any financial interest in the organization being audited. Auditor should not be involved in any activity that may impair their objectivity, such as management, operations, or decision-making. Auditor should not have any conflicts of interest that may compromise their objectivity. Internal auditor should report to a level within the organization that allows the internal audit activity to fulfill its responsibilities. Auditor should be free from interference in determining the scope of internal auditing, performing work, and communicating results.

9. INTERNAL AUDIT TECHNIQUES

Audit techniques are methods used by auditors to collect and analyze evidence to form an opinion. Some of the techniques are:

- **Review of operating environment:** Internal auditor should review the operating environment of the organization. This includes understanding the organization's structure, policies, procedures, and controls. Examining documents, records, or reports that provide information about the organization's operations, performance, or compliance with laws and regulations.

2. **Re□e□ Control□:** A □□□r□□□ □□d□□□r d□□□r□ □□□□ □□ □□□ □□□□r□□ □□□□□□□ □□ □□□ □r□□□□□□□□ □□ □□□□ □□□□□□□ □□□□□□□□ □□□□□□□□□□ □r □□r□□□□ □r□□r □□d□□r□□□r□□ □□d □r□□□□ □□□□r.
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4. **Account Deta□□□:** A □□□□r□□□ □□d□□□r □r□□r□ □ □□□□□ □□ □□□□□□□□d□□□□□ □□ □□□□r□ □□□□ □□□□□□□□ □□□□□□□□ *ts of a business entity are not "materially misstated." Tests of account details and* □□□□□□□□ □□□□□□□□□ □r□ r□□□rr□d □□ □□ □□□□□□□□□□□□ □□□□□. A □□d□□□r □□□d□□□ □□□□ □□□□□ □□ □ *firm's controls and processes are not adequate or not functioning properly.*

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□□. E□A□UATION O□ INTERNA□ AUDIT □UNCTION BY AN AUDITOR

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1. **Organisational Status** - While determining the scope of internal audit function, the chief audit executive must consider the organisational status of the internal audit function. The chief audit executive must ensure that the internal audit function has sufficient authority to fulfil its duties. This will help to ensure that sufficient attention is given to the findings and recommendations of the internal audit function and that appropriate corrective actions are taken. He must consider the organisational independence of the internal audit function, such as the status of the chief audit executive within the organisation, the chief audit executive's reporting lines, any potential impairments to independence and whether the internal audit function has full access to records, personnel and physical properties relevant to the performance of engagements.
2. **Scope of Audit Function** - The chief audit executive must determine whether the internal audit function's assurance and consulting services are adequately addressing the organisation's governance, risk management and control processes.
3. **Technical Competence** - The chief audit executive must determine whether the internal audit function collectively possesses or obtains the knowledge, skills and other competencies and qualifications needed to perform its responsibilities. The chief audit executive must ensure that internal auditors possess sufficient knowledge to evaluate the risk of fraud and the manner in which it is managed by the organisation, but is not expected to have the expertise of those whose primary responsibility is detecting and investigating fraud.
4. **Due Professional Care** - The chief audit executive must determine whether the internal audit function applies and exercises due professional care, collectively considering the extent of work needed to achieve the engagement's objectives, relative complexity, materiality, and significance of matters to which assurance procedures are applied.
5. **Monitoring of internal control** - The chief audit executive must determine whether the internal audit function monitors and evaluates the effectiveness of the organisation's system of internal control, considering exposures to various types of risks, policies and practices operating to achieve organisational objectives, and significant risks identified and assessments conducted.
6. **Examination of financial and operating information**- The chief audit executive must determine whether the internal audit function reviews the means used to identify, measure, classify, and report such information, including whether specific inquiry is needed as information is received.
7. **Review of compliance with laws and regulations**- The chief audit executive must determine whether the internal audit function reviews the systems established to ensure compliance with those policies, plans, procedures, laws, regulations, and contracts which could significantly impact the organisation.
8. **Risk management**- The chief audit executive must determine whether the internal audit function assists in the identification and evaluation of significant exposures to risk and contributes to the improvement of risk management and control systems.
9. **Governance**- The chief audit executive must determine whether the internal audit function assesses and makes appropriate recommendations for improving the governance process in its accomplishment of the following objectives: promoting appropriate ethics and values within the organisation, ensuring effective organisational performance management and accountability.

2. ROLE OF INTERNAL AUDIT IN ORGANISATION CONTROL MECHANISM

INTERNAL CONTROL

- The Institute of Chartered Accountants of India has defined internal control as the whole system of control, financial or otherwise, established by the management in order to carry on the business of the company in an orderly and efficient manner, ensure adherence to management policies, safeguard the assets and secure as far as possible the completeness and accuracy of the records. The internal control system comprises the control environment and control procedures. It includes the following:

1. The establishment of responsibility and accountability for each area of activity.
2. A suitable segregation of duties to minimize the risk of manipulation of financial records and misappropriation of assets.
3. A system of authorization and recording procedures designed to provide reasonable assurance of compliance with prescribed procedures, statutory requirements and corporate policies.
4. A system of internal audit designed to review the adequacy and effectiveness of the internal control system.

- Internal control is a process, effected by an entity's board of directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: Effectiveness and efficiency of operations. The safeguarding of assets against unauthorized acquisition, use or disposition. Reliability of financial reporting. Compliance with applicable laws and regulations. Internal control is a process. It is a means to an end, not an end in itself. Internal control is affected by people. It's not merely policy manuals and forms, but people at every level of an organization impact internal control. Internal control can be expected to provide only reasonable assurance, not absolute assurance, to an entity's management and board. Internal control is geared to the achievement of objectives in one or more separate but overlapping categories.

1. Internal control is a process.
2. The board of directors and management at all levels of the entity have influence over internal control.
3. Reasonable assurance.
4. Control activities, segregation of duties, and safeguarding of assets are components of internal control.
5. Evaluation and improvement are required.

- The risk that the internal control system will not prevent or detect the misstatement.

1. Inherent limitations of internal control.
2. Risk of management override of internal controls or the ability of people to commit fraud during the performance of their assigned responsibilities.
3. Unduly costly controls or cost-benefit relationship.
4. Decentralized organization with inadequate supervision.

2. CORPORATE GO[illegible]ERNANCE[illegible]

The internal auditor is often considered one of the "four pillars" of corporate governance, the [illegible] board of directors, [illegible] and [illegible] auditor. A [illegible] [illegible] directors [illegible]. T[illegible] r[illegible] managers, suggesting questions or topics for the audit committee's meeting agendas, and [illegible] auditor and [illegible] r[illegible]

3. RIS[illegible] MANAGEMENT[illegible]

I[illegible] auditor[illegible] organization's Risk management processes.

G[illegible] r[illegible] r[illegible], and [illegible] M[illegible] r[illegible] rd[illegible] I[illegible] auditor[illegible], r[illegible] d[illegible] r[illegible] r[illegible] d[illegible].

[illegible]3. CASE STUDY ON [illegible]RAUDS AND RO[illegible]E O[illegible] INTERNA[illegible] AUDITORS

A. SATYAM SCAM

BAC[illegible]GROUND

- S[illegible] C[illegible] S[illegible] L[illegible] d [illegible] d [illegible] 1987 [illegible] H[illegible]d[illegible], [illegible] R[illegible] R[illegible]. R[illegible] [illegible] C[illegible], [illegible] R[illegible] R[illegible], [illegible] M[illegible] D[illegible] and C[illegible] E[illegible] O[illegible]. I[illegible] IT and [illegible]
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- PwC audit team failed to comply with S.7 (1) (a) of the Companies Act 1985 for the years 2004 to 2008. The audit team failed to exercise professional scepticism and failed to obtain sufficient appropriate audit evidence.

VERDICT

- On 9 April 2015, Rabbani and Khan were found guilty of collaborating to inflate the company's revenues, misrepresenting financial statements and misleading investors, and were sentenced to seven years in prison and ordered to pay $500 million in restitution.
- The Serious Fraud Office, the City of London Police Economic Crime Command and Mishcon de Reya LLP (MdR), were commended for their investigation into the Hyderabad-based fraud.

B. OLYMPUS CORPORATION FRAUD, JAPAN

BACKGROUND

- Olympus was founded on 12th October 1919. It manufactured microscopes and thermometers.
- In 1949, Olympus was renamed Olympus Optical Co., Ltd. In the 1950s Olympus developed its first endoscope.
- In 2003, Olympus bought UK medical equipment maker Gyrus. In Gyrus, Olympus found a profitable, British-based business. Olympus paid $2.2 billion for Gyrus, which was run by Tom Kelly, a former Royal Navy officer who became CEO.

ACCOUNTING MANIPULATION

- Whistle-blower Michael Woodford was sacked by Olympus after working for 30 years, and subsequently exposed accounting irregularities. Woodford was concerned by the Gyrus acquisition, which he had noticed was "strange goings-on at the company" such as the Gyrus acquisition, which Woodford had not been told about. Woodford had been promoted to oversee Olympus' European businesses and appointed to the main Olympus board.

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- Olympus had issued more than $600 million in preference shares "directly to A□AM I□□□□□□ □□□□ Limited, a company registered in the Cayman Islands, which is described as 'the portfolio manager for AXES Investment Limited LLC.' Woodford wanted to know why Olympus had paid AXAM so much money to apparently "advise" Olympus on the acquisi□□□ □□ G,r□□ KPMG report, stated that Olympus hadn't accounted for the shares given to AXAM, and "in our □□□□□□□ □r□□r □□□□□□□□□□ r□□□rd □□□□ □□□ □□□□ □ □□□□□□□□□d.
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- On 8 November 2011, the company admitted that the company's accounting practice was "inappropriate" and that concealment of more than 117.7 bil□□ □□□ □□U.S □□□□□ □ □□□ □□d □□□□ □□d □□ □□□r □□□□□ □□ □□□□□ □□□ d□□□ □□ □□□ 1990□

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[illegible] INTRODUCTION

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2. CORPORATE GO[illegible]ERNANCE AUDIT

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Need for Corporate Go[illegible]ernance Aud[illegible]t[illegible]

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Scope of Audit of Corporate Governance Activities

Corporate Governance Audit should cover the following areas

1. Financial and non-financial information's and disclosures.
2. Reporting to the shareholders
3. Board and directors' duties, role, responsibilities, and accountability
4. Board and directors' duties, role, responsibilities, and accountability
5. Risk management
6. Stakeholders' interests, grievances and redressal and relationship with creditors, employees

Role of Audit Committee

According to Section 177 of Companies Act, 2013, every Board of Directors of the listed companies and such class of companies as may be prescribed shall constitute an Audit Committee

1. Listed companies
2. The Public Companies having paid up capital of ten crore rupees or more
3. The Public Companies having turnover of one hundred crore rupees or more
4. The Public Companies having aggregate outstanding loans, debentures and deposits, in excess of fifty crore rupees, calculated on the basis of the audited financial statement of the preceding financial year

Audit Committee has a mandatory requirement for some companies and voluntary requirement for others. Companies Act, 2013 and SEBI LODR, Regulations, 2015 mandates the top listed companies and public companies with a certain paid up capital or turnover to constitute Audit Committee. Regulations or Rules specify the composition of Audit Committee, its powers and functions.

a) The Audit Committee shall have a minimum of three directors as members
b) Two-thirds of the members of the Audit Committee shall be independent directors
c) All members of the Audit Committee shall be financially literate and at least one member shall have accounting or related financial management expertise
d) The Chairman of the Audit Committee shall be an independent director and he shall be present at Annual General Meeting to give clarifications on matters relating to the audit
e) The Audit Committee may invite such of the executives, as it considers appropriate (and particularly the head of the finance function)

Audit Committee has the role and responsibilities including the following:

1. Overviewing listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible

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□. *Matters required to be included in the director's responsibility statement to be included in the board's report.*
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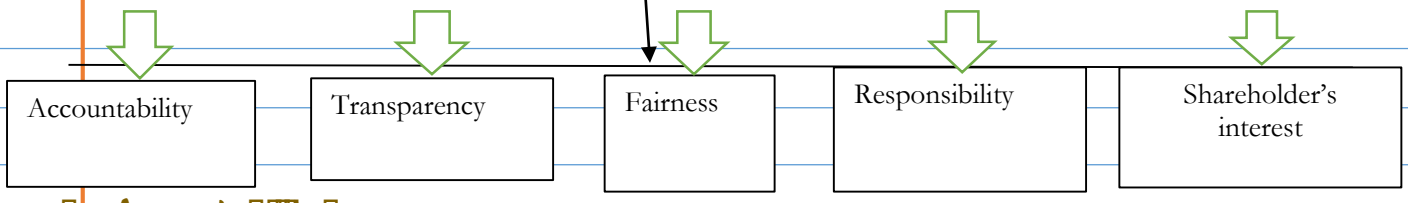
CHEC□□IST □OR AUDITING CORPORATE GO□ERNANCE MECHANISM IN A COMPANY.



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- Check whether the company has policy on stakeholder's rights and social responsibility.
- Check whether the board's responsibility includes review and guiding of corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestments.

2. **Transparency:**

- Information should be used by shareholders and other stakeholders to make informed judgments about the company. Adequate information should be provided in a timely manner to investors and stakeholders who need it.
- Check whether the company has a clear, substantial, accurate and timely disclosure policy, including disclosure of financial situation, performance, ownership, governance and remuneration.
- Check whether the company has a process for shareholders to raise questions and have their views on matters affecting the company considered.
- Check whether the company has a process to verify and safeguard the integrity of its financial reporting.

3. **Fairness:**

- Check whether the company has a clear policy, which is disclosed to its employees.
- Check whether the company has a code of conduct for its directors and employees.
- Check whether the company has a process to minimize insider trading.

4. **Responsibility:**

- Check whether the company has policy on stakeholder's rights and social responsibility.
- Check whether the board's responsibility includes review and guiding of corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestments.

5. **Shareholder's interest:**

- Check whether the company has established good relations with its shareholders and that it is fair to all shareholders, including minority and foreign shareholders.
  1. All shareholders should have the opportunity to obtain effective redress for violation of their rights.
  2. Abusive self-dealing should be prohibited.

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CORPORATE GOVERNANCE DUE DILIGENCE – COVERAGE

1. BOARD INDEPENDENCE & GOVERNANCE

- Board Composition
  - Is the board majority independent?
  - Is the chairman independent? If not, does the company have a lead independent director?
  - Is the chairman also the CEO? If yes, does the company have a lead independent director?
  - Is the chairman also the CEO? If yes, does the company have a lead independent director?
- The board has adequate diversity.
- The board has adequate expertise.
- Is the board size between 1000 employees, does the board have adequate number of directors?
- Is the board size above 2000 employees, does the board have adequate number of directors?
- Separate meetings of independent directors are held, and these meetings are documented.
- Whistleblower mechanism is established and monitored by the board.
- Directors are not overboarded, i.e. they do not serve on excessive boards of other companies or have other commitments.

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II. BOARD PROCEDURES

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III. BOARD COMMITTEES

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11. CORPORATE SOCIAL RESPONSIBILITY

- Provisions of CSR
- Board's report on CSR Activities
- CSR Reporter

3. CORPORATE SOCIAL RESPONSIBILITY AUDIT (CSR)

- Corporate Social Responsibility means and includes but is not limited to projects or programs relating to activities specified in Schedule VII to the Companies Act, 2013 or activities undertaken by the company in pursuance of its declared CSR Policy.
- CSR Audit is mandatory for a company as per Section 135 of the Companies Act 2013 if the company has net worth of rupees five hundred crore or more, or
- turnover of rupees one thousand crore or more or
- net profit of rupees five crore or more during the immediately preceding financial year.

The CSR Audit is mandatory for the company.

- Corporate has to spend at least 2% of its average net profits made during the three immediately preceding financial years.

Additional CSR Provisions are applicable on the company.

Secondly, the company has unspent amount, at least 2% of its average net profits made during the three immediately preceding financial years, the reason for unspent CSR amount.

If the company fails to spend such amount, the Board shall in its report made under clause (o) of sub-section (3) of section 134 specify the reasons for not spending the amount. Schedule VII to the Companies Act, 2020.

However, where a company ceases to be a listed company under the Companies Act, 2013 or the Companies Act, 2019 (as the case may be), or becomes a company which is not required to comply with the provisions of section 135 of the Companies Act, 2013 or the Companies Act, 2019 (as the case may be), for three consecutive financial years, it shall not be required to constitute a Corporate Social Responsibility Committee of the Board or formulate a policy on Corporate Social Responsibility.

- Section 135 of the Companies Act, 2013 (as amended by the Companies Act, 2019 (as the case may be)) requires that the Board of every company shall ensure that the company spends, in every financial year, **two per cent. of the average net profits of the company made during the three immediately preceding financial years or where the company has not completed the period of three financial years since its incorporation during such immediately preceding financial years in pursuance of its Corporate Social Responsibility Policy.** The Board of every company shall ensure that the company spends the amount earmarked for Corporate Social Responsibility activities. However, if the company fails to spend such amount, the Board shall, specify in it's report the reasons for not spending the amount, **unless the unspent amount relates to any ongoing project referred to in section 135(6) transfer such unspent amount to a fund specified in Schedule VII within a period of six months of the expiry of the financial year.**
- **Section 135(6)**

Any company required to spend amount under section 135(5), which has any unspent amount, relating to ongoing project, pursuant to its Corporate Social Responsibility Policy, shall transfer the unspent amount **within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account**, and such amount shall be spent by the company in pursuance of its Corporate Social Responsibility Policy **within a period of three financial years from the date of such transfer**, failing which, such amount shall be transferred by the company to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

- **Section 135(4)**

If a company fails to spend such amount in relation to its corporate social responsibility policy pursuant to sub-section (5) or sub-section (6) of section 135, the Board shall specify the reasons for not spending the amount in its report made under clause (o) of sub-section (3) of section 134.

However, where contribution is made to any fund specified in Schedule VII pursuant to a project undertaken in pursuance of its corporate social responsibility policy, the provisions of sub-section (5) of section 135 shall not apply in respect of such ongoing project.

"If a company is in default in relation to transfer of unspent corporate social responsibility amount in pursuance of sub-section (5) or sub-section (6) of section 135 of the Companies Act, 2013, the company shall transfer such unspent amount to a Fund specified in Schedule VII or to the Unspent Corporate Social Responsibility Account, as the case may be, or Rs.1 Crore, whichever is less, and in addition to such transfer, such company shall be liable to pay penalty which shall be twice the amount required to be transferred to a Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or Rs.2 Lakhs, whichever is less."

- **Section 135(8)**

The Corporate Governance Rules shall apply to the report made by the Board of Directors of a company, in such manner as may be specified by the Ministry of Corporate Affairs in consultation with the National Advisory Committee on Corporate Social Responsibility constituted under section 135 and such report shall be annexed to the financial statements laid before the company in general meeting.

- CSR Audit is the process of a company's corporate social responsibility activities and their impact on the society. It is the process of evaluating the CSR activities. The main objective of CSR audit is to measure the effectiveness of the company's corporate social responsibility, identify areas for improvement and ensure that the company is meeting its social responsibility goals.

Objective of CSR Audit

The objective of CSR Audit is to a process of evaluating the corporate social responsibility activities and their impact on the society. It is conducted by an independent auditor or a team of auditors with expertise in social responsibility and sustainability.

Purpose of CSR Audit

1. To ensure that the company is complying with the provisions of the Companies Act, 2013 and rules made thereunder in relation to CSR activities.
2. To provide a framework for evaluating the effectiveness of the company's CSR initiatives and their impact on the society and the environment.
3. To identify areas for improvement in the company's CSR practices.
4. To provide stakeholders with information about the company's CSR activities and their impact on the society and the environment.
5. To enhance the reputation of the company and build trust with its stakeholders and the public.

Methods of CSR Audit

- Reviewing the CSR policy, CSR plan of action, minutes of the board meetings, and other relevant documents.
- Reviewing the CSR expenditure and the utilization of funds, including the implementation of CSR projects.
- Interviewing the key personnel involved in the CSR activities, such as the CSR committee members, and the employees responsible for implementing the CSR projects.
- Reviewing the CSR reports submitted by the company and the feedback received from the stakeholders in relation to the CSR activities of the company.

Coverage of CSR Audit

Schedule VII of the Companies Act, 2013 provides the list of activities which may be included by companies in their CSR Activities. The areas are as follows:

1. Eradicating extreme hunger, poverty and malnutrition, promoting preventive healthcare and sanitation, providing safe drinking water, including contribution to the Swachh Bharat Kosh set-up by the Central Government for the purpose of the Swachh Bharat Abhiyan and making available safe drinking water.
2. Promoting education, including special education and employment enhancing vocational skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects.
3. Promoting gender equality, empowering women, setting up homes and hostels for women and orphans, setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
4. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for the purpose of the Clean Ganga Plan.

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The MCA has notified the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014.

➢ **Rule 01 Provided for CSR Implementation** is as follows:

1. The Board of every company referred to in CSR clause (i) or clause (ii) of sub-section (1) of section 135 of the Act, 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 Corporate Social Responsibility Policy: Provided that the 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: Provided further that if the company fails to spend such amount, the Board shall give in its report made under clause (o) of sub-section (3) of section 134 of the Act, the reasons for not spending the amount: Provided also that the unspent corporate social responsibility account of the company shall be transferred within a period of six months of the expiry of the financial year to a Fund specified in Schedule VII, as per second proviso to sub-section (5) of section 135 of the Act, 1961, and the amount transferred to such Fund shall be spent in pursuance of declared policy and projects or programs.
2. Every Eligible Company, shall file the Annual CSR Report, in which the Board of Directors shall report the CSR activities, initiated or undertaken by the Company during the Financial Year in Form CSR-1 annexed to these rules, in lieu of the report required to be filed under clause (o) of sub-section (3) of section 134 of the Act. Provided that every company which ceases to be a company eligible to undertake CSR activities pursuant to sub-rule (1) of rule 01 of the Amendment Rules, 2021 shall file the report in Form CSR-1 for the period for which it was a company eligible to undertake CSR activities pursuant to sub-rule (1) of rule 01 of the Amendment Rules, 2021. Form CSR-1 shall be filed electronically with the Registrar along with the Annual Return referred to in section 92 of the Act. In case of a Foreign Company, the Annual Report shall be filed with the Registrar of the Companies in which the Indian Balance Sheet of the Foreign Company is filed. Note: Only those companies which are required to file Form CSR-1 shall file the CSR Report.
3. A company shall not undertake its corporate social responsibility activities through any entity established or sponsored by it, any holding company, subsidiary or associate company or through a trust or a society, accredited with CSR rating or through any entity not established under any law for the time being in force, unless such entity has an established track record of three years in undertaking similar activities and has the necessary ability for undertaking projects or programs relating to CSR.
4. A company may collaborate or pool resources with other companies or entities, which have an established track record of three financial years in undertaking such projects or programs or activities, and are in compliance with the applicable laws, and may undertake projects or programs or activities in accordance with the applicable provisions of these rules, and such collaboration or pooling of resources shall be allowed subject to reporting by each company of such projects or programs or activities in accordance with these rules.
5. The Board of a company shall ensure that the administrative overheads shall not exceed five per cent of total CSR expenditure of the company for the financial year. Explanation.—For the purposes of this rule, the term "administrative overheads" shall not include the expenditure on the activities which are undertaken directly by the company in pursuance of its Corporate Social Responsibility Policy.

6. If any amount due as unspent, other than ongoing project, remains unspent after the completion of the financial year, the company shall transfer the unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

➢ **Rule 5(2)** If the Board does not constitute a **CSR committee**, the functions of such committee shall be discharged by the Board.

1. The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the Company, and issue certificates with regard to compliance thereof in such manner as specified in Companies (Corporate Social Responsibility Policy) Rules, 2014.

The Board may decide to undertake its monitoring of CSR activities in such a manner that is in addition to the requirements prescribed in Rule 9 of Companies (Corporate Social Responsibility Policy) Rules, 2014.

2. Provided that in case the unspent amount in respect of an ongoing project, is transferred by a company to a special account opened by it for that purpose in a bank to be used exclusively for the CSR Committee, such amount and interest accrued thereon, if any, shall be spent by the company or the transferee trust or the Fund within a period of three years from the date of such transfer, failing which, the amount shall be transferred to a Fund specified in Schedule VII.

➢ Rule 7(Rule for **CSR Expenditure** or part thereof)

1. The funds arising out of the CSR activities or a part thereof shall not form part of the business profit of the company.

2. Any surplus arising out of the CSR activities shall not be part of the business profit of the company and shall be ploughed back into the same projects or transferred to the Unspent CSR Account and spent in pursuance of the CSR policy and annual action plan of the company in pursuance of Schedule VII, or transferred to a Fund specified in Schedule VII.

3. Where a company ceases to undertake CSR activities in pursuance of the provisions of sub-section (5) of section 135, during the period it is required to spend any amount in pursuance of its obligations under sub-section (5) of section 135 but fails to do so, the Board shall disclose the reasons for such failure in its report – Rule 8(1)

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➢ **Rule 8 – R□□□□ □□r CSR Report□□□ □r□ □□ □□□□□□ □□□□**

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2. I[illegible], [illegible] CSR C[illegible] [illegible]d [illegible]rd [illegible]r[illegible] d[illegible]r, [illegible] d[illegible]r [illegible] [illegible]d[illegible]d[illegible] d[illegible]r.
3. W[illegible]r [illegible] CSR [illegible]r[illegible]d [illegible] CSR C[illegible]
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5. CSR C[illegible] r[illegible]d[illegible]d [illegible] CSR [illegible]
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8. The company has disclosed the contents of the policy in board's report and at its website.
9. I[illegible] d[illegible]d [illegible]d [illegible]r[illegible] [illegible]r[illegible] [illegible]d[illegible]d[illegible]r [illegible]r [illegible]d[illegible]r[illegible]d[illegible]r[illegible], [illegible]r[illegible] has been specified in the Board's report.
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11. T[illegible] d [illegible] r [illegible] CSR R[illegible]

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4. E[illegible]r[illegible] r[illegible] r[illegible]r[illegible] d[illegible]r SE[illegible]I [illegible]SAST[illegible] R[illegible], 2011.

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7. M□□□□r □□ d□□□□□□ □ □□□ UPSI □□□□□□□□□□□d □r□□ □□□□□□□□□ □□□r□ □□□□□

CHEC□POINTS □OR □ERI□ICATION O□ COMP□IANCE UNDER THE SEBI (PROHIBITION O□ INSIDER TRADING) REGU□ATIONS□2□□5

1. T□□ □□□ □□□□ □□□ □□□□□□□d □ □□□ □□□□□□ □□□□□r.
2. T□□ □□r□ □□ D□□□□□r □□ □□□ □□r□ □□□□d □ □□d □□ □r□□□□□ □d □r□□d□r□□ □r □□□ d□□□□□□r□ □□ □□□□□□□d □r□□ □□□□□□□□ □□r□ □□□□.
3. T□□ C□d□ □□□ □□□□ □□□ □□ □□□ □ □□□□□□ □□ □□□ □□□ □□□□ □d □ □□□□ □□ □□□ □□□ □ □ □□□ □□ □□□□ □□ □□□ □□□□□ □□□□□□□.
4. T□□ C□□ □□□□ □□□ □□r□ □□□□d □d□ □□ □□d□□□ □□ r□□□□□□□, □ □□□□r □d r□□r□ □r□d□□ □□ □□d□r.
5. E□r□ □□□□ □d□ □□ □r□□□□□□ □d □r□d□r□ r□□□□□□ □□ □□□□□□□□d □r□□ □□□□□□□□□ □□r□ □□□□□ □d□ □□r□ d□□□ □□□ □□r□□ □□□ □□□□ □r □□ □□□ □□□□□□□□□□ □□r□ □□□□ □□□r□□□□ □r □□□d.
6. D□□□□□□□r□□ □□□□ □□□□ □□□□□ □□ □r□□ KMP□ □d □□□ □□ □ □d□□□□ r□□□□□□□ r□□r□d□□ □r□d□□.
7. T□□ □□□□□□□d □r□□□ □r □□□□ □□ □□□□□□□d □r□□□ □□□□ □ □d□ d□□□□□□□r□□ □□ □□d□□□ □d □r□d□□ □□ □□□□r□□□ □□ □□□ □□□ □□□□ □□ □□□ □r□ □d □□□□□□r□□□□□ □□ □□□ □□□ □□□□ □□ □rd□r □□ □ □□□□□r □□□ □□□□□□ □ □□□ □□□□□ r□□□□□□□□□.
8. T□□ C□□ □□□□□□□ □□□□□r □□□ r□□□□□□d □d□ □ □□□□□r□d □□□ □r□d□□ □□□□□ □□ □□□, □□□□ □□□□d □□ □□□ □□d□r □d□ □□□r□□□d □□□ □r□d□□ □□□□ □□□ □□ □□□ □□□ □□□□□□□d □□□□□ r□□□□□□□□□.
9. T□□ C□□ □□□□□□□ □□□□□r □□□ □□□□□□d □□□ □r□d□□ □□□□ □□ □□□ □□□□□ □□□□□□□.
10. T□□ C□□ □□□□ □□□ r□□□□□□d □□□ □□□□□□□d□□□□□r□ □r □□□ □□□r□ □r □□□ □□□r, K□□ M□□□□□r□□□□P□r□□□□□□ □KMP□ □□d D□□□□□r□ □ □□□ r□□□□□ □□ □□□ □□□□r□□□□ □□d □□ □□□□ □□ C□□ □□□□.
11. T□□ C□□ □□□□ r□□□□□□□d□□□□□r□ □□ □□□r□ □r□□□ □□ □□□□□□□□ □□□ □□ KMP □r D□□□□□r □r □□□□ □□□□□ □□□ □ □r□□ □□□r □□□□□□ □□□□□ □r□□□ d□□□ □□ □□□□ □□□□□□□□□ □□□ □r □□□□□ □□□ □r□□ □□□r.
12. T□□ C□□ □□□□ □□ r□□□□r □□ r□□□□□□□ □□□□□□□□d□□□□□r□ □r□□ □□□ □r□□ □□□r□□□, □□ □□□□□□□□ □□d d□□□□□r□ □ □□□ r□□□□□ □□ □□□ □□□ □□r □□ □□□□r□□□□ □□□□□□d □r d□□□□□□d □□ □ □□□□□□ □□ □ □r□d□□ d□□□ □□ □□□□ □r□□□□□□□□□, □□ □□□□ □r□□□□□□□□□ □□□□□d R□10,00,000 □r □□□□ □□□□r □□□□□ □□ □ □□ □□ □□□□□□□□d □□ □ □□□□□d□r □□□r□□r.
13. T□□ C□□ □□□□ □□□ □□□□□□d □□□ □□r□□□□□r□ □□ □□□□ □r□d□□ □□ □□□ □□□□□ □□□□□□□□ □ □□□□□ □□ □ □r□d□□ d□□□ □□ r□□□□□□ □□ □□□ d□□□□□□□r□ □r □r□□ □□□□□□ □□□□ □□ □r □□□□ □□□□□r□ □□□□□.

14. T□□ C□□ □□□□ □□□□□□ □ C□□□□□□ □ □□□ □r□□□d□r□□ □ □r□□□□□□□□ □□ □□r □□□ □□r □ □□□□□□□□d □□ □□□ □□d □□ □□□d□□□, □ □□r□□□r □□□□□□□□□□.

15. T□□ □□□ □□□□ □r □□□ □□ □□□ □r□□ □□□r, d□□□□□□r, K□□ M□□□□□r□□□ P□r□□□□□, □□□□□□r □r □□ □□□□□□ □□□ □□□□ □□□□□□□□d □□ SE□I □ □□□ r□□□□□□ □□ I□□d□r Tr□d□□ □□ □□□ □□□□ □r □r□□□□.

16. A □□ □□□□□□ □□□□□ □□□□□□ □□r□□□ r□□□□□□□□ □r □□□- □d□r□□□ □ □□□ r□□□□□ □□ □r□ □□□□□□ □□ □□d □□ □□□d□□□.

17. A □□ □□□r □r□□□□□□ □ □d □ □□□ r□□□□□ □□ □□d□r □r□d□□ □□ □d□□□d □□ □□□ C□□ □□□□.

□. INDUSTRIA□ AND □ABOUR □A□ AUDIT

- I□d□□r□□ □□d □□□□r □□□ A□d□□ □□ □□ □□□□□□□□ □□□□ □r □□□ □□□□□□ □ □□□□□□ □□□ □□ □□□□□r, □□ □□□□ □□□ □□d I□d□□r□□ □□□ □ A□d□□ □□□□ □□ d□□□□ □□□- □□□ □□□□□□ □□ □□□□r □□d □□ □□□□ □□□ □□□ □ □□□□□□□□□ □□ □ □□□□□□ □□d □□□□ □□r□□□□ □ □□□r□□ □□ □□□d □□□ □□□ □r□□□d □□□□□ □□□□□□ □□ □□□ r□□□□□□r□ □□□□□□ □□□ □□□□□□□□ □□d □□□ □ □□□□□□ □□□.
- L□□□r L□□ □□d□□ □□ □□□□□□ □□ □r □□ □□□□ □□rd□□ r□□□□□□ □□□□ □□□ □□ □□□□□□ □□d □□ □□□□r □□d □□□d□ □□ □□□□r □□□r□□□ □□d □□□□ □r□□□□ □r □□□ □□□□□□.
- L□□□r □□□ □ □□d□□ □□ □ □□□□□ □□□□□□ □□d d□□□r□ □r □□ □□□r □□□ □□□□□□□□d□□ □□ □□□ □□□□r. A□ □□□r □□d□□ □r□ □□□d □□ □□□□□□□□ r□□- □□□□□□□□□□r□ □□□□ □□ □□□ □□□ □□□, □□□ □□□r □□□ □□d□□ □□ □□□d □□ □□□ □□ □□□□□□□ □□ r□□□□ □□ □□□ □ □r□□ □□.

L□□ □□ □□□ □□□ □□□□□□ r□□□□□ □□□ □□d□r □□□ □□r□□□ □□□r□□ □□□ □□□□ □r□□d□d □□□□□ □ □actor□es Act□□□□8

1. T□□ F□□□□r□□ A□□, 1948 □□ □□□□□□□□□ □□ □□□ □□□ □□□□. □□ □□□

2. T□□ □□□□□□□r □□□ □□ □□□□□ □□□□□□□ d□□□ □□□r□ □□□□□□□□□ □r □□□□ □□□ □r□ □□□□ □□ □ □□□□r□, □□□□ □□ □□□ C□□□ I□□□□□□r □ □r□□□□ □□□□□.

3. T□□ □□□ □□□□ □□□ r□□□□ d □□□ □□□□□□ □□ □□ □□r□□ □□□□□ □ □□□□ 2 □ □□□□ □r □□□ □□□□ □□ □□□ □□□□□.

4. T□□ □□□ □□□□ □□□ □□□ □□□d □ □□□ □□□ □□□□□□, □ □□r□□r□ □□d □□□□□□ □ □□r□□r□□.

5. R□□□□□□r□, R□□r□ □ A□□r□□□□

   - R□□□□□□r □□ C□□ □□□□□□□r□ H□□d□□□ - F□r□ -8
   - R□□□□□□r □□ Ad□□ W□r□□r□ - F□r□ -11
   - R□□□□□□r □□ L□□□ □ □□□ W□□ R□□□□□r - F□r□ -14
   - M□□□r R□□- F□r□ -22

- R□□□□□□□r □□ A□□d□□□ □ D□□□□r□□□ O□□□rr□□□□□ - F□r □-23
- I□□□□□□□□□ □□□□
- H□□□ □□□r□□ r□□□r□□ - F□r □ - 21□□ □□□r□ 15□□ □□ □□□□ □ 15□□ □□ □□□□□r□□ □□ □□□r□ □□□r □□ d□□□□□□□□
- A□□d□□□ □ D□□□□r□□□ O□□□rr□□□□□ - F□r □ - 23 □E□r□ M□□□□□
- C□□ □□□d A□□□□□R□□□r□□ - F□r □ - 20, □□ □□□r□ □□□□□r□ □□□r□ □□□r
- N□□□□ □□ Ad□□ □r□□r□ - F□r □ - 10
- A□□r□□ □□ F□□□r□□□ A□□, 1948.

Industrial Disputes Act [□□□□]

1. I□d□□□r□□□ D□□□□□□ A□□, 1947.
2. T□r□ □□ □□ □d□□r□□d□□□□
3. T□□ □□□ □□□□ □□□ □□ □□□□ r □r□ □r□□ □□. I□ □□□, □□□ □□□ □□□□ □□□ □□□□□□□d Gr□□□□□□ R□dr□□□□ C□□ □ □□□□.
4. T□□ C□□ □□□□ □□ □□ □d□□r□□ □□□□□□□□ □□□, □□□□□ □□□ □□dr□d r □r□ □r□□ □□. I□ □□□, □□□ □□□ □□□ □□□□□□□d W□r□□ C□□ □ □□□□.
5. T□□ C□□ □□□□ □ □□□□□□□ □ □ □□□r r□□□r □□□ □r□□ □□.
6. T□□ □□□ □□□□ □□□ □□□ □□□□□□d □□□ □r□□ □□ □□ □□□□ □□ □□□□□□ d□□ □ □□ □d□r□□□□□

The Payment of Wages Act [□□3□]

1. T□□ P□□□ □□□ □□ W□□□□ A□□, 1936 □□ □□□□□□□□□ □□ □□□ □□□ □□□.
2. T□□ □□□□ □□□ □□ □ □□□□ □□ □ □d □ □□□r□ □□□ □□□□ □□ □□□ 7□□ d□ □□ □□□ □□□□□□□ □□ □ □□□□, □ □□□ □□□□ □□□ 1000 □r□□□□ r□ □□ □□□□d □d □□□r□ □□□ □□□ □□ □□□ 10□□ d□ □□ □□□ □□□□□□ □ □□□□, □ □□□ □ r□ □□□ 1000 □r□r□ r□ □□ □□□□d.

The Minimum Wages Act [□□□8]

1. T□□ M□□□□ □□ W□□□□ A□□, 1948 □□ □□□□□□□□□ □□ □□□ C□□ □□□□.
2. T□□ □□□ □□□□ □□□ □□□□ □□□□□ □□□ □ □□□ □□ □□□□ □□ □□□□□d r□□ □□□ □ □□ □□□ □.
3. T□□ □□□ □□□□ □□□ □d □□r□□ □r□□ □□ r□□ □□□□□r□□d.
4. T□□ □□□ □□□□ □□□ □ □□□□□□d □r□□□□□r□ □d r□□r□d.
5. T□□ □□□ □□□□ □□□□□ □ □□□ □d□□□□ r□□□rd □□ □r□□□ □□r□ □d r□□□□ d□.

Employees' State Insurance Act, 1948

1. The Employees' State Insurance Act, 1948 is applicable to the company.
2. T□□ □□□□□r□ □r □□□□□□□□□□ □□□ □□ □ □□□□ □□□ A□□ □□□□□□□□ □□□ □□□□ r□□□□□□r□d.
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The Employees' Provident Fund and Miscellaneous Provisions Act, 1952

1. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is □□□□□□□□□□ □□ □□□ □□□ □□□□.
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4. The provisions relating to Employees' Pension Scheme, 1995 have been complied with.

T□e Payment of Bonus Act□□□S

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The Employees' Compensation Act□□□23

1. The Employees' Compensation Act, 1923 is applicable to the company.
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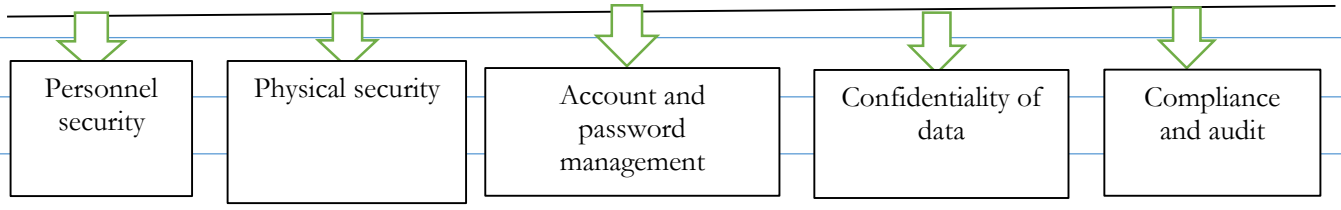

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Physical Security

1. Whether the computer and other computing and storage facilities are housed in a secure physical site protected by a defined security perimeter with appropriate security barriers and entry controls.
2. Whether adequate fire suppression facilities are available.

Account and password management

1. Whether the CSP has implemented an effective password management system.
2. Whether the CSP has implemented appropriate controls to prevent unauthorized access to and use of information processing facilities.
3. Whether the CSP has implemented a clear desk and clear screen policy.

Confidentiality of data

1. Whether the CSP has implemented an encryption policy in relation to the use of cryptographic controls for data at rest and in transit.
2. Whether the CSP has a data classification policy in place.
3. Whether the CSP has implemented a procedure for the secure disposal or re-use of equipment.

Compliance and Audit

1. Whether the CSP has identified relevant legislative, regulatory, or contractual requirements.
2. Whether the CSP has implemented appropriate procedures to ensure compliance with legislative, regulatory, and contractual requirements.
3. Does the cloud service provider have a policy on the return and secure disposal of assets?

8. ENVIRONMENT AUDIT

Environment' includes Water, air and land and the inter-relationship which exists among and between water, air, and land, and human beings, other living creatures, plants, micro-organism and property. Environmental Audit is a tool for the management of the environment. It is a management tool, comprising a systematic, documented, periodic and objective evaluation of how well environmental organization, management and equipment are performing with the aim of helping to safeguard the environment, by facilitating management control of environmental practices and assessing compliance with company policies which would include meeting regulatory requirements.

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Environmental Management Systems Audit

ISO 14001 is a framework standard for environmental management systems ("EMS"), which enable an organization to:

- Identify and control the environmental impact of its activities, products or services,
- Improve its performance continually, and
- Implement a systematic approach to setting environmental objectives and targets and achieving these objectives.

The International Organization for Standardization (ISO) defines the system as "part of the management system used to manage environmental aspects, fulfill compliance obligations, and address risks and opportunities." It was published by International Organization for Standardization for the first time in 1996 and revised in the year 2005. It is designed to enable organizations, irrespective of their activity or size, to implement and improve their environmental performance in a systematic manner, which contributes to the environmental pillar of sustainability.

ISO 14001:2015 is based on the Plan-Do-Check-Act cycle, and requires organizations to consider issues that can cause changes to their environment, both positive and negative (environmental aspects), and their interaction with the environment. The requirements are generic and are intended to be applicable to all organizations, regardless of their type and size, and to accommodate diverse geographical, cultural and social conditions. The success of the system depends on commitment from all levels and functions of the organization, and is facilitated through top management leadership. An organization's ability to achieve its intended outcomes is enhanced by aligning its environmental management system with other business priorities, integrating environmental management into its business processes, considering its context, and by communicating environmental information.

Process of Environment Audit

1. **Understanding the Industrial activity and Pre-audit or planning stage:** This step involves collecting information about the industry, its activities, products and services, and the processes involved in producing them. It also involves identifying the applicable laws and regulations and the potential environmental impacts of the industry.
2. **On-site or Field Audit:** On this step the auditor visits the industrial facility and observes the operations, interviews employees and collects data and information, reviews the documentation and records related to environmental management, and identifies any non-compliance issues.
3. **Assessing the Impact and post-audit:** This step involves analyzing the collected data and information to assess the environmental impact of the industry, identifying areas for improvement, and developing recommendations to address any non-compliance issues.
4. **Follow up or review:** Verifying that the recommendations have been implemented and reviewing the effectiveness of the implemented measures.

CHECKLIST ON ENVIRONMENT AUDIT

1. Environment Policy

1. Whether the company has established environmental policy?
2. Whether the policy is documented and communicated to employees and relevant stakeholders?
3. Whether the policy is reviewed periodically and updated if necessary to reflect changing circumstances and new information?
4. Does the policy include commitment to:
   - Compliance with regulations
   - Prevention of pollution
   - Continual improvement in environmental performance
5. Does the policy provide a framework for setting and reviewing environmental objectives and targets?
6. Is the policy communicated to all employees, and are employees aware of their responsibilities under the policy?
7. Is the policy available to the public?

2. Environment Aspects

1. Whether the company has identified its environmental aspects and impacts associated with its activities, products and services?
2. Whether the company considers both normal operating conditions and abnormal conditions (e.g., start-up, shutdown, emergencies)?
3. Factors to be considered in identifying environmental aspects:
   - Air emissions
   - Solid waste management
   - Water management
   - Use of raw materials and natural resources
   - Use of energy
   - Residues in the form of solid waste or sludge
4. Are there procedures in place to ensure that:
   - New activities are reviewed before implementation?
   - Changes in existing activities are assessed for their environmental impact?
   - Emergency situations are identified and planned for?
5. Are significant environmental aspects considered when setting objectives and targets?

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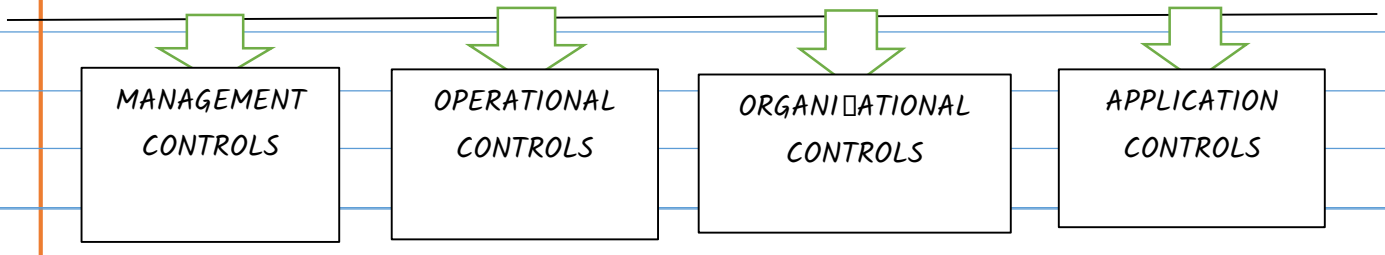

Management Controls

1. Security Policy and Standards – Documented rules and procedures that define how data and systems should be protected, including acceptable use, access control, and incident response.
2. Compliance Monitoring – Regular checks to ensure adherence to laws, regulations, and internal policies, often conducted by auditors or compliance officers.
3. Risk Assessment – Identifying, evaluating, and prioritizing potential threats to organizational assets to determine appropriate controls.
4. Security Awareness and Training – Educating employees about security risks and best practices to reduce human error and improve overall security posture.

Operational Controls

Monitoring physical assets

1. Surveillance – Use of cameras, motion detectors, and other monitoring devices to observe and record activities.
2. Access logs – Maintaining records of who accessed what and when, often using badge readers or biometric systems.

Ensure adequate environmental controls

1. Fire suppression – Automatic fire detection and extinguishing systems, such as sprinklers or gas-based systems, to protect equipment and data.
2. Power management – Uninterruptible power supplies (UPS) and backup generators to maintain operations during power outages.

Organizational Controls

Segregation of duties, role-based access control, and clear job descriptions for User Department and IT Department.

Application Controls

Input validation, error handling, and data integrity checks built into software applications to prevent and detect errors.

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[illegible] *Error fraud* – A fraud that occurs when an error is made in the course of a transaction and the error is then corrected in such a way that the transaction appears legitimate but *they wouldn't have otherwise done or omitted to do.*

2. ***Asset Misappropriation*** – This is the theft of assets (usually cash or inventory) by employees who are entrusted with their day-to-day handling, or misuse of company assets for personal benefit.

3. ***Financial statement fraud*** – Can include many different schemes such as recording fictitious revenues, concealing liabilities or misstating assets. This is done to improve the financial statements of the company.

Procedure of Forensic Audit/Investigation

1. ***Accept the Investigation*** – The forensic auditor must first determine whether the investigation is within the scope of his practice, whether he has the competence to perform the investigation, and whether sufficient information is available to perform the investigation. If the auditor is not independent, competent, or sufficient information is not available, he should decline the investigation.

2. ***Planning the Investigation*** – A plan is developed to ensure that the investigation is performed efficiently and effectively. The auditor must consider the legal rules of evidence. The auditor should also consider the need to secure the assistance of other professionals, such as attorneys, information technology specialists, or other forensic auditors.

SYMPTOMS

- Unusual cash transactions
- Unusual or unexplained increase in expenses
- Duplicate or out-of-sequence payments to a supplier or unauthorized transactions
- Lack of segregation of duties in vulnerable departments
- Non-reconciliation of control accounts

INTERNAL INDICATORS

- Unusual or inconsistent behaviour
- Frequent complaints of Accounting Policy
- Conflicting Lifestyle
- Heavy use of alcohol or drugs or gambling habits
- Other drug or alcohol problems

THEY SHOULD ALSO BE CLEAR ON VARIOUS CATEGORIES OF THE REPORT WHICH ARE:

- Identification of the area of activity or the subject matter of the report, the time period or point in time to be covered by the report
- Identification of the purpose of the report.
- The use of the report and the intended users of the report.
- Guidance on the nature and the level of the assurance to be provided in the report
- Procedures to be performed and the criteria against which the subject matter is to be evaluated

3. **Gathering Evidence:** After the engagement team has obtained an understanding of the business and other engagement circumstances, the auditor should design and perform audit procedures whose purpose is to provide sufficient appropriate audit evidence on which to base the audit opinion. Audit procedures should be performed to obtain evidence about the assertions in the financial statements at the assertion level. In designing and performing audit procedures, the auditor should consider the relevance and reliability of the information to be used as audit evidence. The auditor should design and perform audit procedures in such a way that they are neither biased towards obtaining evidence that may be corroborative nor towards obtaining evidence that may be contradictory.

a. Determining the nature of audit procedures to be performed.

b. Using information prepared by the entity and evaluating whether it is sufficient for the purposes of the audit.

c. Selecting items for testing.

d. For example, in addition to gaining an understanding of internal control over financial reporting, the auditor should design and perform tests of controls to obtain sufficient appropriate audit evidence about the operating effectiveness of relevant controls if the auditor's risk assessment includes an expectation that controls are operating effectively. The auditor should design and perform substantive procedures that are responsive to the related assessment of the risk of material misstatement.

4. **Reporting:** After the auditor has performed the procedures, the auditor should evaluate the evidence obtained and form an opinion on the subject matter, which is expressed in the report in the form appropriate to the reporting responsibility. The auditor should express a clear written opinion in the report, based on the criteria used.

5. **Court Proceedings:** The auditor may be required to testify in the court of law as an expert witness in respect of the matters contained in the report. Similarly, the auditor may be required to produce in the court of law the working papers and other documents which may be relevant to the matters contained in the report.

FORENSIC AUDIT REPORT

For the purpose of Audit Report, the following points are to be considered while drafting the report:

1. Executive Summary
2. Organization and Scope
3. Audit Objectives
4. Procedures Adopted
5. Audit Findings / Observations
6. Recommendations
7. Evidence Exhibits: Evidence Exhibits are the Recommendations which are to be considered for the Future Course of Action
8. Audit Procedures
9. Procedures and Methodology adopted for collection of data and information
10. Conclusion
11. Concluding Remarks / Observations
12. Annexures
13. Validity of the report and limitations of the Audit
14. Executive Summary
15. Conclusion: The Conclusion is the Recommendations for the Future Course of Action: Forensic Audit is a process which is to be followed in a sequential manner and it is not complete in itself unless the Recommendations are implemented in the letter and spirit.
16. Audit Report
17. Limitations of the Audit
18. Procedures and Methodology
19. Guidance Notes and Recommendations for Future Course of Action
20. Signature
21. Dated and Countersigned

ILLUSTRATIVE CHECKLIST ON FORENSIC AUDIT

1. Whether the Forensic Audit is to be conducted in the Company or in the Subsidiary Company or in the Associate Company
2. Whether the Forensic Audit is to be conducted in the Company or in the Subsidiary

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□□. SOCIA□ AUDIT

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- *A □□□□□ □udit is a formal review of a company's endeavours in social responsibility. It is a □r□□□□ □□r□□□□ □□□ □□□□□□□r□□□d□ □□d d□□□r □□□□ □ □□□□r □□□□ r□□r□□d □□□□d□□r□□ r□□□□□ □□□ □□□□□□ □ □□□□ □□□□□ □□ □□□ □r□□d. T□□, □□□□□□ □□d□□ □ddr□□□□ □□□ □□□□□ □□ □□r□□□d□r □□d □□□r □r□□□ □ □□□□ □□□□□ □r □ r□r□□□ □□□d.*
- *A social audit is an official evaluation of an organization's involvement in social responsibility □r□□□□□ □r □□d□□□□r□ □□□ □ □□□□ □□r□□□□□ □□□r□□□□□□, □□□□□□□□ □□□□□□□□□ □□r□□□r □□□ □□□*

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OBJECTIVES OF SOCIAL AUDIT

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5. [illegible]

RIGHTS OF AUDITOR

1. [illegible]
2. [illegible]
3. [illegible]

STEPS FOR CONDUCTING SOCIAL AUDIT

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]

SOCIAL AUDIT COVERAGE

[illegible]

[illegible]

Use of Audit [illegible]

[illegible]

IMPLEMENTATION OF SOCIAL AUDIT

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2. [illegible]
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CHECKLIST ON SOCIAL AUDIT

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CHAPTER 12 AUDIT ENGAGEMENT

1. INTRODUCTION

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4. TERMS AND CONDITIONS O□ AUDIT ENGAGEMENT

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7. COMMUNICATION TO PRE□IOUS AUDITOR

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4. I□□□□ □□ S□□r□□□r□□ A□d□□ R□□□r □□ □ □□r□□ □□□□□d □□□d□r □□ L□□□d □□□□□□ □□ □□□□ □□□□□ □□r □□ □□□□d □□d□r R□□□□□□ 24A □□ SE□I □LODR□ R□□□□□□□, 2015.
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6. CONFIDENTIALITY

During the course of the Assignment, the Advisor may receive Confidential Information from the Client. The Advisor shall keep all Confidential Information strictly confidential and shall not disclose any Confidential Information to any third party without the prior written consent of the Client. This obligation shall survive the termination of the Assignment and the Advisor shall continue to maintain the confidentiality of the Confidential Information even after the Assignment has been completed. However, this clause shall not apply to information that is already in the public domain or becomes publicly known through no fault of the Advisor. For example, if the Client publishes its financial statements, the Advisor is not prohibited from discussing the information contained in those statements.

The Advisor may disclose Confidential Information to its employees, agents, or subcontractors who need to know such information for the purpose of performing the Assignment, provided that they are bound by similar confidentiality obligations. The Advisor shall also ensure that any Confidential Information disclosed to such parties is used only for the purpose of the Assignment.

The Advisor shall not be liable for any disclosure of Confidential Information that is required by law, regulation, or court order. However, the Advisor shall promptly notify the Client of any such disclosure and shall cooperate with the Client to limit the scope of the disclosure.

The Advisor shall return all Confidential Information to the Client upon the termination of the Assignment, or at any time upon the Client's request. The Advisor shall not retain any copies of the Confidential Information.

1. Disclosure of Confidential Information to any third party without the prior written consent of the Client or in violation of this clause may result in immediate termination of the Assignment and may also result in legal action against the Advisor.
2. Unauthorized use of Confidential Information for personal gain or for the benefit of any third party is strictly prohibited and may result in legal action.
3. The Advisor shall implement reasonable security measures to protect Confidential Information from unauthorized access, disclosure, or use by any third party.
4. The Advisor shall promptly notify the Client of any actual or suspected breach of confidentiality and shall cooperate with the Client to mitigate any damages.

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8. INDEPENDENCE AND CON□□ICT O□ INTEREST

Audit is an independent exercise. It is conducted to ensure that company's work □□ □□r□□r□ □d □□□□□□□□□□ □□d □□□□□□□□□□□. H□□□□, □□□r□ □□□□d □□ □□ □□□□□□□□□ □□ □□□r□□□. I□ □□□ A□d□□r □□□ □□□□ □□□□□ □□□r□□□, □□ □□ □□□ d□□□ □□ □□□ A□d□□r □□ d□□□□□□□□ □□□□ □□□r□□□□ □□□□□□□□□ □□ □□□r□□□ □□□ □□ □□□ A□d□□□ □□□□r□ □□□□□□□□□□ □□□ A□d□□ E□□□□□□ □□□.

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- *The Act does not define the phrase "substantial interest". It may depend from case to case* □□ □□ □ □□□ □□ □□□□ □□ □□r□□ □□□ □ □□□ □□□□ □ □□d□ □□□□□□ □□□ □d□□□□d □□□□ □□ □□d□□r.

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[illegible]

PRE[illegible]CONDITIONS O[illegible] ACCEPTING OR CONTINUING ANY ENGAGEMENT

[illegible]

1. [illegible]

2. [illegible]

[illegible]

[illegible]IMITATION ON SCOPE PRIOR TO ENGAGEMENT ACCEPTANCE

If management or appointing authority impose a limitation on the scope of the auditor's work [illegible]

OTHER [illegible]ACTORS A[illegible]ECTING ENGAGEMENT ACCEPTANCE

[illegible]

11. AGREEMENT ON ENGAGEMENT TERMS

The auditor should agree the terms of the audit engagement with management or those charged with governance, as appropriate. The agreed terms would be recorded in an audit engagement letter or other suitable form of contract. The terms of the engagement should include the following:

1. The objective and scope of the audit of financial statements.
2. The responsibilities of the auditor.
3. The responsibilities of management.
4. Identification of the applicable financial reporting framework for the preparation of the financial statements.
5. Reference to the expected form and content of any reports to be issued by the auditor and a statement that circumstances may exist in which a report may differ from its expected form and content.

It is in the interest of the client as well as the auditor that the auditor sends a letter of engagement, duly signed, to the client before commencement of the audit. A letter of engagement helps in avoiding misunderstanding with respect to the audit engagement. It is the responsibility of the auditor to ensure that the terms of the engagement are recorded in an audit engagement letter or other suitable form of contract.

12. CRITERIA FOR DECLINING AND WITHDRAWING FROM AN ENGAGEMENT

A request from a new client to conduct an audit may be received from a company's management, from those charged with governance, or from a third party such as a regulatory body. Before accepting a new engagement, the auditor should obtain sufficient information to assess whether there are any reasons why the engagement should not be undertaken. Such information should also be obtained when the auditor is considering withdrawing from a current engagement.

1. Client's status/information that is likely to impact adversely on the independence of the auditor.
2. A lack of sufficient time to properly perform the audit or to obtain sufficient appropriate audit evidence, for example where a limitation is imposed on the scope of the auditor's work.
3. Circumstances where the auditor believes that the client intends to associate the auditor's name with the financial statements in an improper manner.

13. LIMITS ON AUDIT ENGAGEMENTS

An auditor may be requested to accept an engagement to perform an audit that is subject to certain limitations. For example, the auditor may be asked to perform an audit that will not be completed before a certain date. Similarly, the auditor may be asked to perform an audit that will not be completed before a certain date. Unless the auditor is required by law to accept such an engagement, an engagement subject to such limitations would not be acceptable.

The auditor may be asked to perform an audit in accordance with a statute or regulation that is not applicable to the entity, or to perform an audit in accordance with a statute or regulation that is not applicable to the entity. Unless the auditor is required by law to accept such an engagement, an engagement subject to such limitations would not be acceptable.

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□□. AUDITING STANDARD ON AUDIT ENGAGEMENT

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*the term "**Mana□ement**" includes Board of Directors and persons who have been entrusted □□□ □□□ r□□□□□□□□□□□ □□ □□□□r□□□□ □□d □□□ □□□□□□□□ □□ □□□ A□d□□□ □□□□ I□ □□□□ □□ C□□ □□□□□□.*

*The term "**persons □□o □a□e □een entrusted □it□ t□e respons□□□ity of □o□ernance and comp□□□nces of t□e Aud□tee**" include the Key Managerial Personnel as defined under S□□□□□□ 2□SI□ □□ □□□ C□□ □□□□□□ A□□, 2013 □□d □□□□r M□□□□□□ □□□ □□ d□□□□□d □□d□r SE□I □LODR□ R□□□□□□□□□□, 2015 □□d □□□ □□□□□□□□□□□ □□□□□ □□ S□□□□□□ 178 □□ □□□ C□□ □□□□□□ A□□, 2013.*

*As per Section 2(SI) of Companies Act, 2013: "□ey Mana□er□a□Personne□", in relation to a □□□ □□□□, □ □□□□ – □□□ □□□ C□□□ E□□□□□□□ O□□□□r □r □□□ M□□□□□□ D□□□□□r □r □□□ M□□□□□r□ □□□ □□□ C□□ □□□□ S□□r□□□r □□ □□□□ □□□ □ □□□□-□□□ □ D□□□□□r□ □□□□ □□□ C□□□□ F□□□□□□□ O□□□□r□ □□□ □□□□ □□□□r □□□□□r, □□□ □ □r □□□ □□□ □□□□□ □□□□ □□□ d□□□□r□ □ □□ □□ □ □□□□-□□□ □ □□ □□□□□ □□□, d□□□□□□□□ □□ K□□ M□□□□□r□□ P□r□□□□□□ □□ □□□ □□□r□ □□d □□□□ □□□□ □□□□r □□□□□r □□ □ □□ □□ □r□□r□□d

*As per Regulation 16(I)(d) of SEBI (LODR) Regulations, 2015 : "**Sen□r Mana□ement**" □□□□□ □ □□□ □□□□□r□□ □□r□□□□□□ □□ □□□ □□□□□d □□□□□ □ □□ □r□ □ □□ □□r□ □□ □□□ □□r□ □ □□□□□□ □□□ □□□□ □□□□□d□□ □□□□d □□ d□□□□□r□ □□d □□r□ □□□□ □□□ □□□□ □□□□ □r □□□ □□□ □□ M□□□□□□ □□□ □□□ □□□□□ □□□□□ □□□ C□□□ E□□□□□□□ O□□□□r M□□□□□□ D□□□□□r□ □□□ □□□ □ D□□□□□r M□□□□□r □□□□□□d□□ C□□□ E□□□□□□□ O□□□□r M□□□□□r, □□ □□□□ □□□□ □r □□□ □□r□ □□ □□□ □□□□d □□d □□□□□ □□□□□□□□□□□□□□ □□□□□d C□□ □□□□ S□□r□□□r □□d C□□□□ F□□□□□□□ O□□□□r□*

In case of Auditee other than companies, the term "persons who have been entrusted with the responsibility of governance and compliances of the Auditee" shall include any person or □□ □□□□□□ □□ □□□ A□d□□□ □□ □ □□ □□ □□□□r□□□d. F□r □□□□ □□□, □□ □□□□ □□ □□ LLP, M□□□□□□ □□□ □□□□d□□ □□□ □r□r□□r □r d□□□□□□□□ □r□□□□r □r □□□ □□□□□r □□ □□□ LLP □□r□□□□d □ □□□ □□□□ r□□□□□□□□□□.

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AUDIT ENGAGEMENT PROCESS

PRE-ENGAGEMET MEETING

Before the commencement of the Audit Engagement, the Auditor should have a pre-engagement meeting with the Auditee to understand the Auditee's business operations and environment including internal control system, commercial risk, etc. and the same should be documented, further the Auditor should also ensure that he is not disqualified to be appointed as Auditor.

Auditor should also have pre-engagement meeting with Outgoing Auditor, in case, Outgoing Auditor has been appointed by Auditee, the Auditor should request Outgoing Auditor to provide him the following documents:

1. The reasons for the proposed change in the auditor as mentioned in the ICSI Code of Conduct in Clause 2 of CSAS 1.
2. Non-compliance with laws and regulations in the last three years as mentioned in CSAS-1 relating to the Auditee.
3. Threats to the fundamental principles, if any, identified by the outgoing auditor as mentioned in the ICSI Guidelines.
4. Has the auditor been informed of all the facts that the outgoing auditor is aware of before the auditor accepts the appointment as mentioned in the ICSI

Example:

Section 179(3) of the Companies Act, 2013 read with Rule 8(4) of the Companies (Meetings of Board and its Powers) Rules, 2014 provides that the Independent Auditor and Secretarial Auditor of the company shall be invited to attend the meeting in which the report is considered. Therefore, the Auditor should ensure that he is invited to the Board Meeting. For example, Key Managerial Personnel or Senior Management Team, should be informed to attend the Board Meeting

➢ AUDIT ENGAGEMENT LETTER

An Audit Engagement Letter is a document that records and confirms the Auditor's acceptance of the appointment, the objective and scope of the audit, the responsibilities of the auditor and the auditee, and the form of the report to be issued. It is issued by the Auditor to the Auditee, usually after the auditor has been appointed by the shareholders in the annual general meeting. It is also known as Audit Agreement, or Audit Mandate. It is governed by the Standard on Auditing issued by the ICSI.

The **Responsibilities of Auditor** are mentioned in the Audit Engagement Letter as follows:

1. To express an opinion on the financial statements of the company.
2. To conduct the audit in accordance with the Standards on Auditing issued by the ICSI, which require that the auditor plans and performs the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
3. To consider the internal financial controls with reference to the financial statements as per the criteria established by the company considering the essential components of internal control stated in the Guidance Note on Audit of Internal Financial Controls over Financial Reporting issued by the ICSI.
4. To report on the matters specified in the Companies (Auditor's Report) Order, 2016 (CARO 2016) issued by the Central Government in terms of section 143(11) of the Act, to the extent applicable to the company.
5. To read other information received by the auditor, whether financial or non-financial information (other than financial statements and the auditor's report thereon) included in the annual report, to identify material inconsistencies with the financial statements, if any, or material misstatements of such other information, and to report such material misstatements with the management and take necessary actions as may be applicable in the circumstances.

The **Responsibilities of Auditee** are mentioned as follows:

1. To provide unrestricted access to all books of account and vouchers, minutes books, records, documents, other information, as required by the auditor, which is relevant to the preparation of financial statements such as records of all assets of the company, including those pledged as collateral for loans or held in trust for others.
2. To provide additional information that may be requested by the auditor for the purpose of the audit and to provide unrestricted access to persons within the company from whom the auditor determines it necessary to obtain audit evidence.
3. To provide written representation to the auditor, on matters, where the auditor is unable to obtain sufficient appropriate audit evidence regarding Management's primary responsibility for the assertions and its accuracy.
4. To provide details of the name of Previous Auditor or Previous Cost Auditor, in case of the appointment of new auditor in place of the outgoing auditor.

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3. CON□□ICT O□ INTEREST

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The **conflict of interest** rules apply to Advocates employed by any person other than a client or to Advocates who are partners of a firm in relation to their partnership firm.

a. Advocate should not act if he or his relative has a financial interest of more than Rs. 50,000

b. Advocate should not act if Advocate or his relative owns more than Rs. 5,00,000

c. Advocate is not to act where Advocate or his relative has a close connection with the other party to the litigation. Close connection with Advocate includes close relatives or any person who is living in the same household as Advocate.

The Advocate shall not represent conflicting interests except with the consent of all concerned given after full disclosure of the circumstances. Close connection with Advocate includes close relatives or any person who is living in the same household as Advocate.

a. Advocate should not act if he or his relative has a financial interest of more than Rs. 50,000

b. Advocate should not act if Advocate or his relative owns more than Rs. 5,00,000

c. Interested person means a person or body corporate in which Advocate, or relative has any interest in the matter.

d. Advocate should not act where Advocate or his partner has personal interest in the subject matter of litigation.

Substantial conflict of interest means

However, this rule does not apply where Advocate or relative has a financial interest of more than Rs. 50,000, if after full disclosure of the circumstances and consent, the Advocate or relative or partner, has ceased to act in the matter, including withdrawing any confidential information of the client.

The same rule does not apply where Advocate or relative has a financial interest of more than Rs. 50,000, if after full disclosure of the circumstances and consent, the Advocate or relative or partner, has ceased to act in the matter, including withdrawing any confidential information of the client.

Illustration 1 Mr. A, Mr. B and Mr. C are partners in A&C, LLP, a firm of Practising Company Secretaries. Mr. B and Mr. C are Designated Partners in XYZ Ltd. While audit of Mr. A, Mr. B and Mr. C found that Board of Directors in their meeting held on 1st April-2021 approved the appointment of XYZ Ltd. Mr. A was appointed Secretarial Auditor in XYZ Ltd.

In this case, Mr. A can accept the appointment of XYZ Ltd. However as per 3.1 of CSAS-1, Mr. A can accept it only if the appointment is approved by the Board of XYZ Ltd. In case Board approves the appointment on 1st April-2021, then Mr. A can accept the appointment of XYZ Ltd. Otherwise, he cannot accept the appointment of XYZ Ltd.

Illustration 2 Mr. A, Mr. B and Mr. C are partners in A&C, LLP, a firm of Practising Company Secretaries. Mr. A and Mr. B are Designated Partners in XYZ Ltd. Board of Directors in their meeting held on 1st April-2021 approved the appointment of Mr. B and fixed remuneration of ₹ 60,000 in XYZ Ltd. Mr. A was appointed Secretarial Auditor in XYZ Ltd.

In this case, although Mr. A and Mr. B are Designated Partners in XYZ Ltd. but as per 3.1 of CSAS-1, they can accept the appointment only if the appointment is approved by the Board of XYZ Ltd. In case Board approves the appointment of Mr. B on 1st April-2021 and fixed remuneration of ₹50,000 in XYZ Ltd. Then Mr. A can accept the appointment of Secretarial Auditor in XYZ Ltd.

Illustration 3 Mr. A, Mr. B and Mr. C are partners in A&C, LLP, a firm of Practising Company Secretaries. Mr. A & Mr. B jointly hold 0.5% shareholding in XYZ Ltd. Net profit of XYZ Ltd. for the year ended 31st March-2021 is ₹ 20,000. Mr. A was appointed Secretarial Auditor in XYZ Ltd.

In this case, although Mr. A can accept the appointment of XYZ Ltd. The fees is limited to 0.5% of profit for the year. Therefore, Mr. A was appointed Secretarial Auditor in XYZ Ltd. In case Board of Directors in their meeting held on 1st April-2021 approved the appointment of Mr. A and fixed remuneration of ₹ 60,000. Therefore, Mr. A can accept the appointment of Secretarial Auditor in XYZ Ltd. In this case, fees is not limited to 0.5% of profit for the year as per CSAS-1.

Illustration 4 Mr. A, Mr. B and Mr. C are partners in A&C, LLP, a firm of Practising Company Secretaries. Mr. A and Mr. B are Designated Partners in XYZ Ltd. Net profit of XYZ Ltd. for the year ended 31st March-2021 is ₹ 60,000. Turnover of XYZ Ltd. for the year ended 31st March-2021 is ₹ 90,000. Mr. A was appointed Secretarial Auditor in XYZ Ltd.

In this case, although Mr. A can accept the appointment of XYZ Ltd. However, fees is limited to 0.5% of profit for the year as per 3.1 of CSAS-1. Therefore, Mr. A can accept the appointment of XYZ Ltd. However, fees is limited to ₹ 50,000, Secretarial Auditor can accept the appointment of XYZ Ltd. Therefore, in case Board of Directors in their meeting held on 1st April-2021 approved the appointment of Mr. A and fixed remuneration of ₹ 50,000, then Mr. A can accept the appointment of XYZ Ltd. as per CSAS-1.

Illustration 5 Mr. A, Mr. B and Mr. C are partners in A&C, LLP, a firm of Practising Company Secretaries. Mr. A and Mr. B are Designated Partners in XYZ Ltd. Net profit of XYZ Ltd. for the year ended 31st March-2021 is ₹ 60,000. XYZ Ltd. is a subsidiary of ABC Ltd. which is holding company of A&C, LLP.

In this case, although Mr. A can accept the appointment of XYZ Ltd. as Mr. A and Mr. B are Designated Partners in XYZ Ltd. but as per 3.1 of CSAS-1, Mr. A can accept the appointment of XYZ Ltd. only if the fees is limited to 0.5% of profit for the year. Therefore, Mr. A can accept the appointment of XYZ Ltd. only if fees is limited to ₹ 50,000 in XYZ Ltd. Therefore, in case Board of Directors in their meeting held on 1st April-2021 approved the appointment of Mr. A and fixed remuneration of ₹ 50,000 in XYZ Ltd. as per CSAS-1.

Indebtedness of the Auditor for an amount exceeding rupees five lakh other than that arising out of ordinary course of business of the Auditee

A [illegible]

[illegible]. T[illegible]

[illegible]

[illegible]

Illustration [illegible] Mr. A [illegible] Pr[illegible] C[illegible] S[illegible]. H[illegible] R[illegible] 5,00,000 [illegible] LLP [illegible] Mr. [illegible] Mr. A. T[illegible] Mr. A [illegible] LLP.

In the given case, Mr. A has a conflict of interest in XYZ LLP, but it doesn't debar Mr. A from [illegible] LLP. Mr. A [illegible] A[illegible] A[illegible]

Illustration 2 Mr. A [illegible] Pr[illegible] C[illegible] S[illegible]. H[illegible] R[illegible] 5,00,000 [illegible] L[illegible] M[illegible] D[illegible]. Mr. A [illegible] S[illegible] A[illegible] L[illegible].

[illegible] Mr. A [illegible] A[illegible] R[illegible] 5,00,000, [illegible] I[illegible] A[illegible] A[illegible]

Illustration 3 Mr. P [illegible] Pr[illegible] C[illegible] S[illegible] S[illegible] A[illegible] A[illegible]C L[illegible]. Mr. P [illegible] D[illegible] R[illegible] 6,00,000. W[illegible] S[illegible] A[illegible] E[illegible] A[illegible]C L[illegible].

I[illegible] case, Mr. P has a substantial conflict of interest in ABC Ltd. And therefore he can't accept [illegible]

Illustration [illegible] Mr. A [illegible] Pr[illegible] C[illegible] S[illegible]. H[illegible] R[illegible] 25,00,000 [illegible] L[illegible]. H[illegible] L[illegible]. D[illegible] Mr. A [illegible] 2 [illegible] Mr. A [illegible] S[illegible] A[illegible] L[illegible].

T[illegible] Mr. A [illegible] L[illegible]. [illegible] A[illegible] L[illegible]. [illegible] Mr. A [illegible]. T[illegible] Mr. A [illegible] S[illegible] A[illegible] L[illegible].

Where the Auditor [illegible] Auditee, [illegible] or [illegible] and 2 [illegible] years [illegible] lapsed from the date of [illegible], [illegible] A PCS or [illegible] PCS firm [illegible] undertaking [illegible] the Certificate of Practice, unless two years have lapsed from the date of cessation of [illegible]. The PCS [illegible] two years have lapsed from the date of cessation of [illegible] Auditee.

Illustration 1: Mr. A was the Company Secretary of PQR Ltd. from 1st October, 2015 till 31st March, 2018. He left the job i.e. [illegible] 31st March, 2018 and joined [illegible] ABC and Associates (PCS Firm) as a partner. On 1st November 2020, ABC and Associates have been offered to undertake Secretarial Audit of ST Ltd. for the F.Y. 2020-21. ST Ltd. is the holding company of PQR Ltd.

According to para 3 of CSAS-1, Mr. A or ABC and Associates, [illegible] partner [illegible] undertake [illegible] PQR Ltd. [illegible] 31st [illegible], 2020, [illegible] two years from the date of cessation [illegible] PQR Ltd. Therefore, ABC and Associates [illegible] undertake the Secretarial Audit [illegible] ST Ltd. for the F.Y. 2020-21.

Illustration 2 Mr. A was the Company Secretary of PQR Ltd. from 1st October, 2015 till 31st March, 2018. He left the job i.e. [illegible] 31st March, 2018 and joined ABC and Associates (PCS Firm) [illegible]. On 1st November 2020, ABC and Associates have been offered to undertake Secretarial Audit of ST Ltd. for the F.Y. 2020 -21. ST Ltd. is the holding company of PQR Ltd.

Since Mr. A has joined ABC and Associates [illegible], ABC and Associates can undertake the Secretarial Audit [illegible] of ST. Ltd. for the F.Y. 2020-21.

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. CONFIDENTIALITY

[illegible]

The Auditor should not agree to a change in the circumstances, request to change the terms of the engagement if there is no reasonable justification for the change. A change in circumstances may ordinarily be regarded as reasonable justification for a request, by the client, for change in the engagement that was originally agreed to.

If the Auditor is unable to agree to a change in the engagement and is not permitted by the management to continue the original engagement, the Auditor should withdraw from the engagement and determine whether there is any obligation, contractual or otherwise, to report the circumstances to other parties.

5. CHANGES IN TERM OF ENGAGEMENT

A request for change in the terms of the engagement may indicate that there are unusual circumstances that may affect the nature and scope of the audit, misunderstanding as to the nature of the original engagement or the reporting. The Auditor should ascertain the reasons for the request and consider the implications of the change for the audit engagement. For this purpose, the Auditor may have to refer to the original terms of engagement, relevant laws or contracts governing the engagement. If the Auditor concludes that the request for change is reasonable, he should make sure that the revised terms of engagement are appropriately recorded to avoid misunderstanding between the Auditor and the management.

The Auditor should not agree to a change in the circumstances, request to change the terms of the engagement if there is no reasonable justification for the change. A change in circumstances may ordinarily be regarded as reasonable justification for a request, by the client, for change in the engagement that was originally agreed to. The Auditor should not agree to a change where there is an apparent intention to conceal or misrepresent matters that are relevant to the engagement. The Auditor should also not agree to a change in the engagement where there is no reasonable justification for the change. If the Auditor is unable to agree to a change in the engagement and is not permitted by the management to continue the original engagement, the Auditor should withdraw from the engagement and determine whether there is any obligation, contractual or otherwise, to report the circumstances to other parties.

The Auditor should consider whether the new terms of engagement or the circumstances necessitating the change are consistent with the following:

1. The Auditor should consider the reasons given for the change, particularly the implications of information that is no longer to be provided or is to be provided in a different form.
2. In the case of a change to a Auditor Engagement Letter, the Auditor should review any existing Auditor Engagement Letter and consider the need to issue a revised Auditor Engagement Letter.
3. *Any request to change to avoid or circumvent unfavorable Auditor's report is also unjustified and should not be accepted.*

4. [illegible]

Q1. [illegible]

Q2. [illegible]

CHAPTER 13 AUDIT PRINCIPLES AND TECHNIQUES

1. INTRODUCTION

An auditor is expected to have the following qualities:

1. **Independence:** An auditor must be independent of the company he is auditing. An auditor should not be biased, prejudiced, or influenced by others. He should express his opinion without fear or favour.
2. **Confidentiality:** An auditor gets access to many books of accounts, documents, information. He should maintain secrecy. He should not disclose any information to any person without the consent of the client. He should not use the information for his personal benefit.
3. **Skill and Competence:** The audit work is to be assigned to persons with adequate training and technical proficiency. He should have adequate knowledge, experience and skill in the areas he undertakes to audit.
4. **Documentation:** The auditor should document matters which are important in providing evidence to support his audit report and that he exercised due care in accordance with the requirements of the standards.
5. **Planning:** The auditor should properly plan the audit work to perform it in an effective, efficient and timely manner. He should acquire knowledge of client's accounting system, its control procedures and the nature of the business to the extent that is relevant to the audit. He should also ensure that assistants are properly supervised.
6. **Audit evidence:** The auditor should obtain sufficient appropriate audit evidence through inspection, observation, inquiries and confirmations to enable him to draw reasonable conclusions on which to base the audit opinion.
7. **Audit conclusions and report:** On the basis of the audit conclusions drawn, the auditor should express whether the financial statements are presented fairly, in all material respects, in accordance with the applicable financial reporting framework. The auditor should express a clear written opinion regarding the financial statements. In case he is unable to express an opinion, or his opinion is a qualified one, the report should contain a clear description of all the reasons for the same.

2. AUDITING TECHNIQUES

Auditing techniques are the methods by which auditors obtain audit evidence. Auditors may use one or more techniques during the course of an audit engagement, depending on the circumstances and the nature of the audit evidence sought. Some of the techniques are:

1. **Inspection of documents and records:** Inspection consists of examining records, documents and tangible assets. The term is also used to describe the type of procedure involved in examining tangible assets. The following documents are commonly inspected:
   - Cash receipts received by the entity.
   - Share certificates held for investment purposes.
   - Title deeds for property.

   When inspecting records and documents, the auditor looks at the way in which they have been prepared, looking for signs of consistency or inconsistency. The auditor may also physically examine the records or documents for such things as signs of alteration. Documents may be inspected to obtain evidence about another event. Documents may also provide evidence about assets. Examining sales invoices may be evidence that a sale has taken place, but may also provide evidence about the existence of the customer.

   Physical inspection of assets is a direct method of obtaining audit evidence. It may be used to verify the existence of an asset, but is not necessarily conclusive evidence about the quality or ownership of the asset.

   a. Materiality: Does the item have a significant impact on the financial statements?

   b. Materiality: Does the item have a significant impact on the financial statements?

   c. Risk: Does the item have a significant impact on the financial statements?

   d. Risk: Does the item have a significant impact on the financial statements?

2. **Observation:** Auditors may observe processes or procedures performed by others. For example, the auditor may observe the counting of inventory by the entity's staff to ascertain whether procedures are followed properly.

3. **Inquiry and confirmation:** Inquiry consists of seeking information of knowledgeable persons inside or outside the entity. Inquiries may be made formally or informally. Confirmation is a specific inquiry and response to verify information or an assertion. For example, the auditor may send a letter to a debtor asking for confirmation of the balance owed by that debtor.

[illegible]

4. **Computation** [illegible]

5. **Analytical procedures** [illegible] R[illegible]-[illegible], R[illegible]

3. AUDIT PLANNING

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7. COMPLIANCE TEST OF INTERNAL CONTROL SYSTEM

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The auditor should perform audit procedures to obtain sufficient appropriate evidence that sufficient and appropriate evidence exists to provide a basis for the auditors' conclusion. Following are the audit procedures to be used for the purpose of audit:

1. **Documents/Records scrutiny:** Under this audit procedure, the auditor examines the records, documents, etc. in order to obtain audit evidence. However, this procedure is not sufficient in itself to provide audit evidence.
2. **Tests of Controls/Interviews and Analysis:** Under this procedure, the auditor tests the internal controls of the entity, interviews the concerned persons and analyses the information to obtain audit evidence.
3. **Questionnaires:** In this procedure, questions are asked to the concerned persons in order to obtain audit evidence.
4. **Confirmation:** Confirmation refers to the process in which the auditor seeks direct written response from a third party (confirming party) to verify the accuracy of information contained in the records being audited.
5. **Analytical procedures:** Analytical procedures refer to the comparisons made by the auditor to study the relationships between financial and non-financial information. It includes comparison of current year's information with previous year's information.

Evaluation of Evidence: Auditor must evaluate the evidence obtained by him to form an opinion on the financial statements. While evaluating the evidence, the auditor should be careful about the following points. Auditor should not rely on the evidence which is not sufficient and appropriate. Auditor should not rely on the evidence which is not consistent with other evidence. Auditor should not rely on the evidence which is not relevant to the audit objectives. Auditor should not rely on the evidence which is not reliable. Auditor should not rely on the evidence which is not material to the financial statements. Some of the factors which affect the auditor's evaluation of evidence are as follows:

1. Nature of the risk of the item being audited
2. Audit procedure performed
3. Competence of the source of information
4. Nature of the item being audited
5. Subsequent knowledge of matter and expectation of legislature and pubic from auditor's report.

1. DEPENDENCE ON OTHER EXPERT

In case auditor is dependent on the work of other expert, such as in the case of valuation, actuarial calculations, engineering or technical aptitude, or in the field in which the expert's competence is recognized. When auditor is dependent on the work of other expert, such auditor should seek sufficient appropriate audit evidence that the work of such other expert is adequate for the purpose of the audit. However, the auditor is not required to have the same expertise as that of the expert. However, the auditor should have sufficient knowledge to communicate the objectives of the work to be performed by the expert, to evaluate whether the expert's work will provide sufficient appropriate audit evidence.

2. EXTERNAL EXPERT OPINION

The Auditor may take Expert's opinion on various technical matters and use it in the for[illegible] [illegible] audit evidence. The Auditor should consider the professional competence of such expert, the [illegible] of that expert's work for the purposes of the audit. The Auditor should evaluate adequacy of Expert's work after considering following:

a) **Relevance of findings/conclusions:** *Relevance and Reasonableness of expert's conclusions and their application in the light of the audit objectives.*

b) **Relevance of methods used:** *Relevance and Reasonableness of methods used in expert's work.*

c) **Relevance etc. of source data:** *Relevance and Reasonableness of assumptions and methods used by expert with which they are used in the auditor.*

d) **Additional actions:** *Performance of additional appropriate audit procedures in case Expert's work is not adequate for the purposes of the auditor's report.*

e) **Agreement of further work:** *Appropriate terms and scope of the expert's work should be agreed with the expert by the auditor. Auditor should consider the need for further work by the expert in case expert's work is found to be inadequate for audit purpose.*

Reference of Expert's opinion in Audit Report:

If by the work of expert the auditor's opinion remain unmodified, [illegible] [illegible] mentioned in auditor's report unless provided in any law or regulation. However, if the opinion of the auditor is modified due to work of expert, [illegible] [illegible] reference to the work of the expert is necessary for the proper understanding of the modification. In such circumstances auditor should indicate that reference does not reduce the auditor's responsibility of auditor's opinion.

External Confirmation

External confirmation is a process of obtaining and evaluating evidence through a direct communication from a third party in response to a request for information about a particular item affecting financial statements. Some of the External Confirmation procedures are as follows:

1. Auditor sends request to the third party to confirm the specified information directly.
2. Such request is sent to the person or organization who is expected to have knowledge of the information.
3. Documentation of the entire process of external confirmation procedures.
4. Sending reminders for non-receipt of external confirmation.

Results of External Confirmation – Reliability of Response

The auditor may consider the following factors when assessing the reliability of the response received, and the auditor may obtain audit evidence to support that the response is reliable for the audit purpose:

1. Whether the auditor has any doubt as to the reliability of the confirmation, the auditor should obtain sufficient appropriate audit evidence to resolve that doubt.
2. If a response is oral, the auditor should request that it be put in writing or other medium in order to consider reliability of response.
3. Whether the confirmation was sent to the appropriate respondent, for example, confirmation requests sent electronically may have less reliability.
4. Whether the response was received directly by the auditor, the auditor may consider that the response has less reliability if it was received by the client. For example, if the auditor observes that the response has been sent from a personal e-mail account.

B. COLLECTION OF AUDIT EVIDENCES

- Audit evidence is a term that includes all information used by auditor in arriving at the conclusions on which the audit opinion is based. The audit evidence is cumulative in nature and includes evidence obtained from audit procedures performed during the course of audit and may include evidence obtained from other sources, such as previous audits and quality control procedures for client retention and acceptance.
- Information that is to be used as audit evidence may have been prepared by an auditor's expert or obtained from another party external to the entity. Audit evidence comprises both information that supports and corroborates management's assertions, and information that contradicts such assertions.

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c. The auditor should consider whether, based on the audit evidence obtained, one or more misstatements detected by the procedures performed indicate that fraud or error may exist in the financial statements.

- When the auditor identifies a misstatement of the financial statements, the auditor should consider whether such a misstatement is indicative of fraud and consequently the possible effect on the financial statements, even if the amount is not material, for example, misstatement may be indicative of fraud if it has arisen from misrepresentation or intentional failure to disclose information, or from an override of internal control, *the client's accounting or other records. The auditor should adopt reasonable procedures for* obtaining sufficient appropriate audit evidence to determine whether fraud or error has occurred.
- Auditor's ability to detect fraud depends on such factors as the skillfulness of the person committing the fraud, the frequency and extent of manipulation, the degree of collusion involved, the relative size of individual amounts manipulated and the seniority of those individuals involved.
- The Ministry of Corporate Affairs has notified the Companies (Audit and Auditors) Rules, 2014 and MCA notification dated 24th March, 2021 has amended the Companies (Audit and Auditors) Rules, 2014 wherein auditor has been mandated to report on fraud in the Auditor's Report. However, the said reporting requirement is applicable for the financial year commencing on or after 1st April, 2022.

5. MATERIALITY

- Materiality is a matter of professional judgment. It may be considered from the point of view of the auditor and the user of financial statements. The auditor's concern is to obtain sufficient appropriate audit evidence regarding all material items in the financial statements.

a. The auditor's assessment of what is material is a matter of professional judgment. It is affected by the auditor's perception of the financial needs of the users of the financial statements, the size or nature of a misstatement, or the misleading nature of an item, judged in the surrounding circumstances.

b. The auditor's assessment of materiality may be based on a single factor or a combination of factors, such as the monetary amount of misstatements or omissions, the nature of a transaction or event, or the relationship between elements in the financial statements.

c. The auditor's assessment of materiality and its relationship with audit risk may be affected by the entity's size, its ownership characteristics, the way it is controlled, its financing arrangements and the nature of its business.

d. The auditor's judgment as to what is material is influenced by the auditor's perception of the financial information needs of users as a group. The possible effect of misstatements on specific individual users, whose needs may vary widely, is not usually considered.

e. In planning the audit, the auditor is concerned with matters that, either individually or in aggregate, could be material to the financial statements. If a misstatement is not detected because it falls below materiality and it, or other immaterial misstatements accumulated during the audit, could still be material, any conclusion that the financial statements give a true and fair view or are presented fairly, in all material respects, is inappropriate.

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CHAPTER □□□ AUDIT PROCESS AND DOCUMENTATION

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Report to the Auditor The auditor should be provided with the following, which should be properly signed by the directors:

1. Understanding of the Audit Committee and its responsibilities.
2. Understanding of the auditor's responsibility to express an opinion on the Financial Statements, Report and Recommendations.
3. Overall Audit Plan and Internal Control Over Material Misstatement and Identification of Material Errors and Risk Areas.
4. Risk Assessment and Understanding of Internal Control Over Material Misstatement.
5. Discussion with Audit Auditor Regarding Responsibility to Prepare Financial Statements and Audit Plan.
6. Identification of Key Audit Areas.
7. Discussion of Significant Audit Procedures Expected to Address Risk of Material Misstatement, Value and Nature.
8. Provision of Audit Procedures.
9. Audit Completion Procedures Expected to Audit Evidence.
10. Fraud and Other Illegal Acts.

2. PRELIMINARY PREPARATION

First step towards the audit is preliminary preparation. Preliminary preparation includes understanding the business, its environment, internal control and risk assessment. Auditor should have a clear understanding of the audit process and should be able to identify the key areas of audit.

1. Understanding the company's activities and financial position of the company.
2. To identify and discuss with management regarding accounting policies, procedures or estimates, changes in accounting policies, and the reasons for such changes and to evaluate whether the accounting policies are appropriate and adequate.
3. Assessment of risk and internal control in relation to funding, financial targets and brief assessment of company's financial position.
4. Assessment of the risk of material misstatement due to fraud and its impact on the audit.
5. Determining the nature, timing and extent of audit procedures, assigning of work to audit team members and the level of supervision required of, and review of the work performed by, audit team members.
6. A plan is prepared for the engagement and communicated to those charged with governance. The plan is a guide for the auditor's work and helps in the allocation of time and resources to the various areas of the audit.

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3. **Confirmation** – It is the written document issued by the auditor stating the extent to which he has verified the accounts. Generally, the confirmation should be sent to the debtors before the balance sheet date, but later, after the balance sheet date. It is the duty of the auditor to ensure that the confirmation should be received from the debtors. It should not be the duty of the client to get the confirmation. The auditor should not rely on the confirmation received from the client.

5. AUDIT PROGRAMME

- Many times the term is used in the sense of audit work schedule. It is a detailed plan of the auditing work to be performed during the audit period. It includes the nature, extent and timing of the audit procedures to be applied to the various items in the financial statements. It is prepared in advance before the commencement of the audit work. It helps in the proper distribution of the audit work among the assistants, fixing responsibility for various parts of the audit work and in the timely completion of the audit work. However, the auditor should not follow the programme blindly. He should modify it according to the circumstances of each case.
- Additional procedures to be applied when the auditor suspects the presence of fraud or error. An additional procedure is one that is not normally performed during the audit but is considered necessary in the circumstances of the particular audit. It includes detailed examination of transactions, analysis of ratios, etc. Additional procedures are applied, for example, when the auditor suspects that there is a misstatement due to fraud or error.
- Mandatory procedures to be applied as per the requirements of the statute governing the audit. Some of the statutes governing the audit require the auditor to perform certain procedures in addition to those he would perform in the normal course of audit.
- Test of control to be applied when the auditor intends to rely on the internal control system of the client in determining the nature, timing and extent of substantive procedures.
- Audit procedures to be applied to comply with the requirements of Standards on Auditing.
- Audit procedures to be applied in respect of some material account balances and disclosures that may require special audit consideration, such as investments in the securities of real estate or amounts owed by related parties.

Difference between audit plan and programme

Audit Plan	Audit Programme
A document which describes the activities and resources required for a particular audit. It includes the audit objectives, scope, criteria, duration, dates and resources required.	A document or set of instructions used by internal auditors to conduct audits, which specifies the procedures, methods and checklists required for planning, conducting and reporting audits.
Prepared by the audit team leader in consultation with the auditee. Helps in coordination of audit activities. Ensures availability of resources and facilities. Helps in resolving conflicts, if any, between auditee and auditor. Provides a basis for monitoring the audit progress.	It is prepared by the internal auditor or audit team. Helps in effective planning of audit. Assists in coordination of audit activities. Helps in scheduling and assigning duties to auditors. Helps in evaluating the performance of auditors.

2. IDENTIFICATION OF APPLICABLE LAWS

Every firm must be aware of the laws and regulations relevant to its industry, operations and jurisdiction. A firm must identify the applicable laws and regulations to ensure compliance and avoid legal penalties. For example, a firm should identify and comply with labor laws, environmental regulations and tax laws.

1. Should have a system in place to monitor changes in laws, rules, regulations and guidelines.

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II. [illegible] ***Non-financial Reporting Requirement***

The company's financial statement, directors' report, annual return, websites, filing with the r[illegible]. T[illegible]

[illegible]

[illegible]

III. [illegible] *and regulatory requirement* [illegible]

IV. *Matter of Shareholder and public interest* *T*[illegible]

the shareholder and public interest in the company's activities and finan[illegible]

through factors such as small shareholder's interest, public deposit, corporate social

r[illegible]

[illegible]. **Re[illegible]e[illegible] of Contro[illegible]En[illegible]ronment[illegible]** [illegible]

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8. [illegible]OR[illegible]ING PAPERS AND MAINTENANCE O[illegible] [illegible]OR[illegible] SHEET

[illegible] [illegible]ork[illegible] Papers

[illegible] W[illegible] [illegible] working papers auditor's provide the conclusions and the reasons as to w[illegible]

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d[illegible] W[illegible]

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[illegible] *Working papers are the connecting link between the client's records and the audited records.*

[illegible] *client files a suit against the auditor's negligence. The working papers are*

[illegible]

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2. Scanned Documents as [illegible] papers

3. Tick marks

Tick marks are used to indicate the work done by the auditor. These are usually small symbols placed next to the figures or items in the working papers. Tick marks help the auditor to quickly identify the work done and the results obtained.

4. Cross References

Cross References are used to link related information in different working papers. This helps the auditor to easily navigate between papers and ensure that all relevant information is considered. A cross reference might look like "See Audit Program, Step 5" to indicate where the auditor should look for the next step in the audit procedure.

5. Standard Working papers

Working papers are the connecting link between the client's records and the audited records. They are the evidence that the auditor has carried out the audit in accordance with the auditing standards. In case of any dispute, the auditor can use the working papers as evidence to defend himself in a court of law. For example, in a suit against the auditor's negligence. The working papers are the property of the auditor and are his responsibility to maintain. However, the auditor is not free to disclose the contents of working papers to anyone without the client's permission. In addition, the auditor is required to retain working papers for a period of time after the completion of the audit. A standard set of working papers should include the following:

6. General Ledger

General Ledger is a record of all the accounts that are affected by transactions during the year. In addition to the accounts, it also contains information about the opening balances, closing balances, and the total debits and credits for each account. The General Ledger is the primary source of information for preparing financial statements. An auditor must examine the General Ledger to ensure that all transactions have been recorded correctly and that the financial statements are accurate.

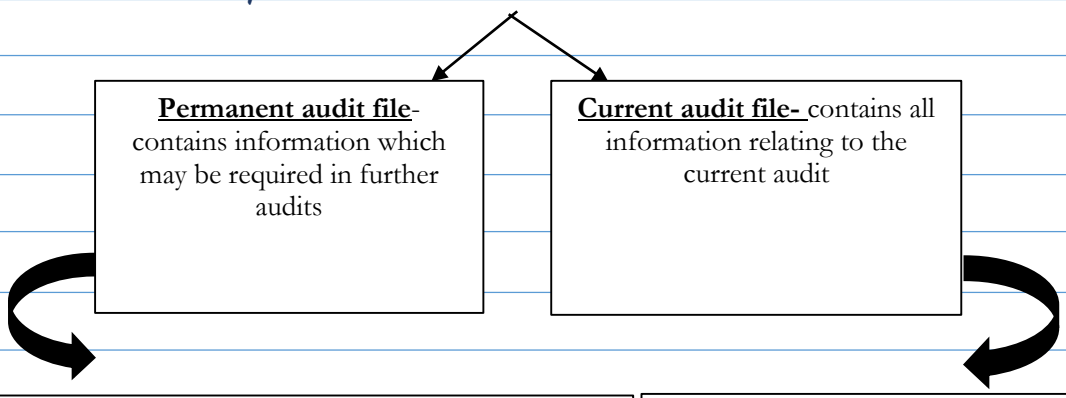
2. Work paper file

Work papers must be drawn up in such a manner that they are sufficiently complete and detailed for an experienced auditor with no previous connection with the audit to ascertain from them the evidence that they purport to provide for the conclusions reached. The work papers should be sufficiently complete and detailed to indicate that the objectives of the audit procedures were achieved, including the findings that require special attention and the conclusions reached thereon.

3. Future Audit Considerations

Auditors may encounter matters that may require additional attention during subsequent audits. Such matters should be documented in the "Comments for next audit" section of the working file. Examples of matters that auditors may consider documenting include:

Types of Work Papers



- Statutory Documents.
- Memorandum of Association, Articles of Association, Certificate of Incorporation / Commencement of Business and Registration documents under various statutory bodies.
- The Company's registered office address and all other units/premises, with a short description of the work carried on at such places.
- -Details of all departments and sub-divisions showing hierarchy of management.
- An outline history of the organization.
- Notes on internal control with Details of study & evaluation of internal controls in the form of questionnaires or flow charts etc.
- List of all holding, subsidiary and associate companies.
- list of the company's advisors such as bankers, merchant bankers, stockbrokers, solicitors, valuers, insurance brokers etc

- Appointment letter for the Current Year, along with the defined scope of Audit.
- Extracts of important board/management meetings.
- List of responsible persons with their designation and contact details
- Audit Plan/Audit Program
- Current year's Secretarial Records Communications with the company/management team
- Audit review points and highlights of analysis

7. Audit Trail

An Audit Trail is the record of activities, sometimes called logs, that affect or manipulate the contents of a specific piece of data. An audit trail may be required for any data that is subject to regulatory requirements, internal policies, or standard security practices.

8. Working paper Retention

Organizations should have a policy for retaining working papers and the documents that are created during the audit process. This should include the length of time the working papers should be retained. The retention period should be determined by the auditor's professional judgment, the auditor's experience with the entity, and the likelihood of future litigation. The retention period should also consider:

1. Documentation that is expected to support the auditor's report.
2. Retention time periods for audit documentation.
3. Documentation that is required for the auditor to demonstrate that the audit was performed in accordance with professional standards and regulatory requirements.
4. Documentation that is helpful to the auditor in planning and performing subsequent audits.
5. Establishing policies and procedures for deciding the retention time period for audit documentation.
6. Documentation that is relevant to matters that are continuing.

9. Ownership and Protection of Working papers

All working papers prepared by or for the auditor, whether in paper, electronic or other media, are the property of the auditor. The auditor should adopt reasonable procedures to maintain the confidentiality of working papers. Working papers should be adequately protected to prevent unauthorized access to them. The auditor should establish reasonable procedures to retain the working papers for a period sufficient to meet the needs of the practice and any relevant regulatory requirements.

10. Retention Policy

All working papers prepared by or for the auditor should be retained for the period mentioned in the Auditor. A time period should be established for each type of working paper retained. The period should be determined by the auditor's professional judgment and relevant regulatory requirements.

11. IDENTIFICATION OF THE EVENT AND CORPORATE ACTIONS

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[illegible] BOARD COMPOSITION

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1. BOARD OF DIRECTORS

- The Board of Directors shall be responsible for the overall governance, strategic direction, and oversight of the company.
- The Board shall consist of a minimum of [number] directors, including executive directors, non-executive directors, and independent directors.
- The Board shall meet at least [number] times a year to discuss and approve the company's strategic plans, financial statements, and other important matters.
- The Board shall appoint the Chairman of the Board, who shall preside over Board meetings and ensure that the Board operates effectively.
- The Board shall establish and maintain a system of internal controls to safeguard the company's assets and ensure the accuracy of its financial reporting.
- The Board shall appoint the Chief Executive Officer (CEO) and other senior executives and shall oversee their performance.
- The Board shall ensure that the company complies with all applicable laws and regulations.

2. AUDIT COMMITTEE

- The Audit Committee shall be responsible for overseeing the company's financial reporting process.
- The Committee shall consist of at least [number] independent directors.
- The Committee shall meet at least [number] times a year to discuss and review the company's financial statements.

3. NOMINATION AND REMUNERATION COMMITTEE

- The Nomination and Remuneration Committee shall be responsible for identifying and recommending candidates for the Board of Directors.
- The Committee shall consist of at least [number] independent directors.
- The Committee shall meet at least [number] times a year to discuss and review the company's remuneration policies.
- The Committee shall also be responsible for overseeing the company's diversity and inclusion initiatives.

4. STAKEHOLDER RELATIONSHIP COMMITTEE

- The Stakeholder Relationship Committee shall be responsible for overseeing the company's relationships with its stakeholders.
- The Committee shall consist of at least [number] independent directors.
- The Committee shall meet at least [number] times a year to discuss and review the company's stakeholder engagement activities.

2. BOARD PROCESSES

The Board of Directors is responsible for the management of the affairs of the Company. It is a group of individuals elected by the shareholders of the Company to oversee the management and operations of the Company. The Board is responsible for setting the strategic direction of the Company, appointing and removing the Chief Executive Officer (CEO) and other senior executives, and ensuring that the Company is managed in the best interests of its shareholders.

The Board of Directors is governed by various laws and regulations, including the Companies Act, 2013, and the Secretarial Standards issued by the Institute of Company Secretaries of India (ICSI). The Secretarial Standards provide guidance on the conduct of Board meetings, including the preparation of agenda, the recording of minutes, and the maintenance of statutory registers. The Board is also responsible for ensuring that the Company complies with all applicable laws and regulations, and that it maintains adequate internal controls and risk management systems.

CHAPTER 15 FORMING AN OPINION AND REPORTING

1. INTRODUCTION TO THE PROCESS OF FORMING AN OPINION

The auditor has to form an opinion on the financial statements as a result of the audit. However, it is not sufficient that the auditor forms an opinion, it is also necessary that the opinion is communicated, reported to the users of the financial statements. For this purpose the auditor prepares a report in which he expresses his opinion on the financial statements. The report is the only means by which the auditor communicates his findings to the users. However, the auditor is not required to report on all the matters that come to his notice in the course of audit. He is required to report only on those matters which are specified by the statute or by the auditing standards.

Auditor, therefore, has the responsibility to report on the following:

1. The Companies Act requires that the auditor should report whether the balance sheet and profit and loss account are in agreement with the books of account.
2. The auditor is required to report whether in his opinion, the balance sheet, profit and loss account, cash flow statement and changes in equity statement comply with the accounting standards.
3. The Companies Act requires that the auditor should report whether the transactions of the company which have come to his notice are within the powers of the company.
4. The Companies Act requires that he should report certain matters specified in the Companies (Auditor's Report) Order.
5. The Companies Act requires that he should report whether the financial statements are in conformity with the accounting principles.

2. FORMS OF OPINION

An auditor's report can be of two types: unmodified opinion or a modified opinion. Modified opinion can be further categorized into a qualified opinion, adverse opinion or disclaimer of opinion.

UNMODIFIED/UNQUALIFIED OPINION

An unmodified opinion is issued when the auditor is satisfied in all material respects. The auditor concludes that sufficient appropriate audit evidence has been obtained and that the financial statements are free from material misstatement. The auditor expresses an unmodified opinion when he concludes that the financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework, such as Ind AS, IFRS, etc.

The auditor should express an unmodified opinion when he concludes that:

1. The financial statements have been prepared using acceptable accounting policies.
2. The accounting policies are appropriate in the circumstances and have been consistently applied.
3. The financial statements adequately disclose all material matters relevant to the proper understanding of the financial statements in the circumstances.

CSAS-3

CSAS-3 [illegible]

[illegible] the condition of the Auditee's business, and in accordance with the applicable Laws.

[illegible]

Compliance in terms of timelines:

[illegible] MGT-7 [illegible] 60 [illegible]

Compliance in terms of process: [illegible] 2013 [illegible]

MODI[illegible]IED OPINION

[illegible]

The auditor [illegible]

1. There [illegible]
2. The r[illegible]rd[illegible] [illegible]
3. There [illegible]
4. There [illegible]

On [illegible]

1. **[illegible]ua[illegible]ified Op[illegible]ion[illegible]** [illegible]
2. **Ad[illegible]erse Op[illegible]ion[illegible]** [illegible]
3. **D[illegible]sc[illegible]a[illegible]mer of Op[illegible]ion[illegible]** [illegible]

W[illegible] [illegible] A[illegible]d[illegible]r [illegible] **e[illegible]t[illegible]er [illegible] [illegible]ta[illegible]cs or [illegible]o[illegible]d [illegible]etters**. W[illegible] A[illegible]d[illegible]r [illegible] opinion, the Auditor shall state in opinion paragraph that, in Auditor's opinion, because of the [illegible]

[illegible]

3. **EMPHASIS OF MATTER**

[illegible] should be the part of the Directors' Report or the Management Discussion and Analysis report [illegible] the company in the Directors' report [illegible] Auditor's Report.

[illegible]

1. Legal Uncertainty [illegible]
2. Litigation Certainty [illegible]
3. Early adoption of new AS [illegible]
4. New Technology [illegible]
5. Changes in regulatory environment [illegible]
6. Major Catastrophe [illegible]
7. Early Application of new AS [illegible]
8. Major Catastrophe continued effect [illegible] have, a significant effect on the entity's financial position.

MATERIALITY

[illegible]

[illegible]

1. [illegible]

2. [illegible]

3. [illegible]

4. [illegible]

Determining Materiality is a matter of professional judgment and depends on the Auditor's interpretation of the user's needs. A matter can be judged material if it is likely to influence [illegible]

[illegible] professional judgment of the Auditor and its teams' experience.

[illegible] CSAS-2. [illegible] CSAS- 2 [illegible] CSAS-3 [illegible]

5. PROCESS O[illegible] [illegible]ORMING OPINION

[illegible]

1. [illegible]

Audit Evidence requirements, audit procedures, auditor's report, etc. and should be read in conjunction with the relevant SAs.

2. The auditor shall comply with relevant ethical requirements, including those pertaining to independence, relating to financial statement audit engagements. Independence is to be understood to mean freedom from circumstances and influences that impair the ability of a professional to act with integrity and exercise objectivity and professional skepticism so that an opinion would not be affected by bias, conflict of interest or undue influence of others. Objectivity is the ability to exercise judgment, express opinions, and present recommendations with impartiality. It requires auditors to be unbiased and free from conflicts of interest. Independence of mind is the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, allowing an individual to act with integrity, and exercise objectivity and professional skepticism. *Independence of mind is the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, allowing an individual to act with integrity, and exercise objectivity and professional skepticism. This state of mind allows a firm to act with integrity and maintain objectivity and professional skepticism when issuing an assurance report. It is the mindset in which no circumstance or influence is allowed to override professional judgment with regard to all considerations relevant to the task and is sometimes described as 'independence of mind'.*

Threats to objectivity

The auditor's objectivity may be affected by a wide range of circumstances that create threats to objectivity. The auditor's objectivity may be affected by a wide range of circumstances that create threats to objectivity. The auditor's objectivity may be affected by a wide range of circumstances that create threats to objectivity.

a. ***Self-interest threat:*** *A threat that could affect Auditor's objectivity from a financial or other self-interest conflict that could influence or bias the Auditor's judgment or behavior.*

b. ***Self-review threat:*** *This threat arises when a previous judgment needs to be evaluated by the individuals responsible for that judgment or when an individual who was part of the engagement team becomes a director or officer of the client, or an employee in a position to exert direct and significant influence over the subject matter of the engagement.*

c. ***Advocacy threat:*** *if Auditor becomes an advocate for (or against) the Auditee's position in any adversarial proceedings or situations, there is an apparent threat to the Auditor's objectivity.*

d. ***Familiarity or trust threat:*** *A threat that arises from the auditor's long or close relationship with and knowledge of the auditee's management and personnel.*

e. ***Intimidation threat:*** *This threat occurs when a member is deterred, or is likely to be deterred, from acting objectively by actual or perceived pressures, including attempts to exercise undue influence over the member.*

f. *Auditor's should avoid situations that could lead them to have conflicts of interest or perceived conflicts of interest. Auditor's should not perform non-audit services that would impair their independence.*

g. *A strong peer pressure should be maintained for integrity. Reliance on one another's integrity should not lead to complacency. Auditor's should not accept significant gifts or hospitality that could influence their objectivity.*

[illegible]

3. [illegible]

4. [illegible]

[illegible]

[illegible]

JUDGMENT CLARIFICATION AND CONFLICTING INTERPRETATION

When there are two Acts and one Act is amended by the other or repeals and re-enacts with modifications or in the absence of any express provision, the question arises as to which Act will prevail. In such circumstances, the following principles are applied.

JUDGEMENTS

For this purpose the following judgements are relied upon:

In Dr. Fredie Ardeshir Mehta v. Union of India, the terms "indirectly" and "loans", were explained as following:

- The word "Loan" was defined by the court as 'a thing lent; something the use of which is granted by the owner or bailor, on condition that the same or its equivalent be returned to him with or without compensation for the use'.
- The word "indirectly' means providing loan through agencies or any other medium but does not include any transaction which cannot be described as loan.
- The phrase "any loan represented by book debt" is inserted in order to plug the loophole created in the case of "Dr. Fredie Ardeshir Mehta v. Union of India" where court took the view that book debt can't be treated as loan.

Similarly in the case of Ashoka Marketing Ltd. v. Punjab National Bank, the Supreme Court held that the interest on delayed payment of compensation did not form part of the capital value of the compensation awarded and was, therefore, a revenue receipt.

CLARIFICATIONS

In order to avoid any conflict in the interpretation of the provisions of the Act or Rules, the Central Board of Direct Taxes, Ministry of Finance, Government of India, has been empowered to issue clarifications in respect of the provisions of the Act.

Circulars issued by the Central Board of Direct Taxes, Income-tax Department, Government of India, are binding on the Income-tax authorities.

CONFLICTING INTERPRETATION

In a case where the revenue authorities adopt a particular interpretation, which is disputed by the assessee, the matter is referred to the Appellate Tribunal, Revenue Authority, etc.

ROLE OF PRECEDENCE AND PRACTICES

Previous audit and other assignments of a firm are an important consideration for the Auditor in determining the nature and extent of his procedures. Records of previous audits and other assignments, if well kept, would normally contain information relevant to the current audit, such as matters of continuing significance which require disclosure in the financial statements so that the auditor can take necessary steps to ensure that such matters are dealt with appropriately in the current audit.

1. THIRD PARTY REPORT OR OPINION

When a firm of auditors is appointed as auditors of a company, they should obtain a letter from the retiring auditors, if any, stating that there are no circumstances connected with their retirement which should be brought to the notice of the members or creditors of the company. In the absence of such a letter, the auditor should make such inquiries as he deems necessary and should also request the directors to write to the retiring auditors. However, the auditor should not rely solely on the information received from the retiring auditors. He should also make such other inquiries as may be necessary to satisfy himself that there are no circumstances which would make it undesirable for him to accept the appointment.

i. The auditor should ascertain whether he is duly qualified and independent with respect to the proposed audit engagement and should ensure that his appointment is not in violation of any law, rule or regulation governing his appointment.

ii. The auditor should ensure that the terms of his engagement are properly documented.

iii. The auditor should, when planning the audit, take into consideration the knowledge of the business of the client and his understanding of the accounting and internal control systems.

iv. The auditor should, on the basis of his judgment and assessment of materiality, perform such tests and examinations as would enable him to report whether the financial statements are presented fairly and in accordance with his understanding and interpretation thereof.

In case the auditor proposes to rely on the Third Party, the auditor should:

a. Consider whether the Third Party's work is adequate for the purposes of the audit;

b. *Take account of the Third Party's professional competence for the specific audit;*

c. *Consider the scope of the Third Party's work;*

d. Determine that the audit procedures performed by the Third Party are adequate for the purposes of the audit;

e. Perform procedures to test the Third Party's work or to test the underlying information to which the Third Party's work was applied (this may include reviewing the Third Party's working papers); and

f. Consider the implications of the Third Party's work for the auditor's report. Where there is a material inconsistency between the Third Party's work and the auditor's conclusions, the auditor should d

[illegible]

[illegible]

[illegible] MANAGEMENT REPRESENTATION [illegible]ETTER

[illegible]

8. OPINION OBTAINED BY MANAGEMENT

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] EXIT CON[illegible]ERENCE

[illegible]

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□2. AUDITOR'S RESPONSIBILITY

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The Auditor shall report on the matters specified in other sections of the Act to the extent applicable to the Company.

Auditor's Report includes a separate section with heading "Auditor's Responsibility" that will include the following:

1. *Whether the audit has been conducted in accordance with the Auditing Standards.*
2. *Whether the Auditor has obtained sufficient and appropriate audit evidence to provide a basis for his opinion, stated in the Report.*
3. *The Auditor shall state in the report the extent to which the audit has been considered necessary in the circumstances of the case, and the Report shall also state whether, in his opinion, proper books of account as required by law have been kept by the Company.*
4. *Whether the Auditor has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements.*

3. FORMAT OF REPORT

1. Where the Auditor is a firm, the report shall be made in Form MR-3 by the Secretarial Auditor or by other Auditor, if any, in the name of the firm, or the partner responsible for the audit and signed by such partner stating his membership number and the address.
2. In case any Auditor appointed or re-appointed by the Company is unable to act as Auditor, after his appointment, he shall indicate the circumstances relevant to his inability in the report.
3. Secretarial Auditor's report shall not contain any qualification, reservation or adverse remark or disclaimer, if the Secretarial Auditor, in respect of such matter:
4. The Auditor's report shall state whether the financial statement disclose the impact of pending litigations on its financial position.
5. In case of a listed company and every other public company having such paid up share capital or turnover as may be prescribed, the Auditor's report shall also include a statement on such matters as may be prescribed.
6. The Audit Report or any report by the Auditor submitted to the shareholders shall state the name of the engagement partner who signs the Auditor's report or where the audit is conducted by a firm, the name of all the partners who are in charge of the audit on behalf of the firm. The duly authorised Audit Report or any report of the Auditor is signed by the Auditor or where the Auditor is a firm, by the person authorised by the partners of the firm in their general meeting or by the Board of Directors of the firm, duly authorised by the partners of the firm in their general meeting, and in either case, the person signing the report shall specifically state that he is signing the report in the capacity of the Auditor, duly authorised by the firm in general meeting or by the Board of Directors of the firm, as the case may be, authorised by the partners of the firm in their general meeting.

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I[illegible] Audit [illegible] A[illegible] A[illegible] scope of Audit, which is likely to affect the Auditor's opinion, the Auditor shall request the Authority to remove the limitation. If Management refuses the Auditor's request to remove a [illegible] M[illegible] Auditor [illegible] W[illegible] M[illegible] Auditor [illegible] Audit E[illegible] I[illegible] Auditor [illegible] Audit E[illegible] Auditor [illegible]

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15. PRE[illegible]RE[illegible]UISITE [illegible]OR THE REPORTING

A[illegible] A[illegible]

1. **Accurate** – [illegible]
2. **Objective** – [illegible]
3. **Clear** – [illegible] I[illegible]
4. **Concise** – [illegible]
5. **Constructive** – [illegible]
6. **Complete** – [illegible]
7. **Timely** – [illegible]

11. SUBMISSION OF AUDIT REPORT

As per Regulation 24A(2) of the Listing Regulations, the auditor of a listed entity shall submit a limited review report or audit report, as the case may be, to the listed entity within 45 days from the end of the quarter or financial year, as the case may be.

In case of delay in submission of the report by the auditor, the listed entity shall inform the Stock Exchanges within 24 hours of receipt of such report, stating reasons for such delay.

12. SIGNING OF AUDIT REPORT

Section 143(3) of the Companies Act, 2013 provides that every auditor's report shall be signed by the auditor in his name, or where the audit is conducted by a firm of auditors, in the name of the firm, by the person authorised by it in this behalf.

In case of an individual auditor, the auditor's report shall be signed by him and where the audit is conducted by a firm of auditors, the report shall be signed by the partner authorised by the Board of Directors or the Audit Committee in this behalf and where there is no such partner, then by any partner of the firm who is in India. The auditor's report shall also state the date on which it is signed.

In case of PCS firm, the auditor's report shall be signed by the partner authorised by the Board of Directors or Audit Committee in this behalf and where there is no such partner, then by any partner of the FCS/ACS firm who is in India. The auditor's report shall be signed before the publication of the financial results. The PCS firm shall be required to obtain a peer review certificate from the ICSI and mention the same in the audit report.

13. REPORTING WITH QUALIFICATION

1. A qualification, reservation or adverse remark relating to the maintenance of accounts and other matters, if any, which has been commented upon in the previous year's report and which has a consequential effect on the current year's figures.
2. In case the auditor has commented upon non-compliance of any law, which has a material effect on the financial statements of the company.
3. In case where the auditor has expressed his inability to form an opinion on any material item, the reasons for such inability shall be stated in the report.
4. In case the auditor has given an adverse report on any of the above matters, the Audit Committee shall review the report before its submission to the Board and discuss the matter with the auditor. Further, the Board of Directors shall in its report also disclose the fact and reasons for such adverse report.

CHAPTER [illegible] SECRETARIA[illegible] AUDIT[illegible] [illegible]RAUD DETECTION AND REPORTING

INTRODUCTION

[illegible] intentional or deliberate act to deprive another's property or money by deception or unfair [illegible]

Fraud" is defined by Black's Law Dictionary as:

1. A [illegible]
2. A [illegible]
3. A [illegible]
4. Unconscionable dealing; in contract law, the unfair use of the power arising out of the parties' [illegible]

Contract Act

As per section 17 of the Indian Contract Act, 1872 "Fraud" means and includes any of the [illegible]

1. T[illegible]
2. T[illegible]
3. A [illegible]
4. A[illegible]
5. A[illegible]

Ind[illegible]an Pena[illegible] Code

Section 25 of IPC defines "Fraudulently" as: As a person is said to do a thing fraudulently [illegible]

Companies Act 2013

Section 447 of Companies Act, 2013, Fraud is defined

"any act, omission, concealment of any fact or abuse of position committed by any person or any other person, with **intent to deceive**, to gain undue advantage from, or to injure the interests of, the company or its shareholders or any other person, whether or not there is any wrongful gain or wrongful loss."

2. TYPES OF FRAUD

Fraud committed by some people who are part of a company management or employees, directors, or any other people, with knowledge that it may create benefits to the company and Non-monetary fraud.

1. **Financial & Accounting Fraud:** Financial statement fraud includes overstating revenues, understating expenses, improper asset valuations, or improper disclosures. It involves manipulation of financial records. Another is misappropriation of assets, such as embezzlement. For example, a company or organization may misstate its financial statements, such as overstating revenues or understating liabilities, to make the company appear more profitable than it is.
2. **Non-financial fraud:** Non-financial fraud, misrepresentation about director's qualification, false statement or misleading information, concealing material facts, false statement in relation to the company's performance, non-disclosure of related party transactions, non-compliance with regulatory requirements.

3. DUTY TO REPORT FRAUD

According to section 143 of Companies Act, 2013, auditor of company, Secretarial auditor, cost auditor of company, or any other person may, while discharging his duties as auditor, has reason to believe that an offence of fraud which is being or has been committed in the company by its officers or employees, he shall report the matter to the Central Government within such time and in such manner as may be prescribed.

1. **Duty of Report Fraud to Central Government:**

According to section 143 of Companies Act, 2013, read with Companies (Audit and Auditors) Rules, 2014, if the auditor has reason to believe, during the course of the audit that

[illegible] fraud [illegible] reported [illegible] Central Government [illegible]

2. Duty of Report [illegible]raud to Aud[illegible]t Comm[illegible]ttee [illegible] Board [illegible]

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[illegible] Report[illegible] of frauds [illegible]y aud[illegible]tor [illegible] amount more t[illegible]an Rs.[illegible]crore[illegible]

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2. **Reporting of frauds by auditor involving amount less than Rs. crore**

In case the auditor has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed. The report shall include the following details of the fraud in the Board's Report:

during the year to be disclosed in the Board's Report: -

1. Nature of fraud with description
2. Approximate amount involved
3. Parties involved, if remuneration of such parties is pending
4. Remedial actions taken to date.

5. FRAUD DETECTION AND REPORTING REQUIRES THE PRACTICING COMPANY SECRETARY TO FOCUS BEYOND COMPLIANCE

In case of a listing of Global Mobility Limited on Main Board of Stock Exchange, Corporate Governance Report should disclose the details of any whistle blower policy in place and affirmation that no personnel has been denied access to the audit committee. In case of any fraud, the auditor is required to report the matter to the Fraud. The directors are required to disclose in the Board's Report that they have taken proper and sufficient care for the maintenance of adequate accounting records for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities.

should not use the company's money or other property or information or other matters in

Fraud is a wide abroad legal concept and auditors do not make legal determination of fraud. Therefore, it is important that auditors obtain an understanding of the risk of fraud and indicators of fraud. In addition, it is important that auditors exercise professional skepticism when considering the risk of fraud and be alert to those conditions which may increase the risk of fraud.

Fraud under section 447 means "any act, omission, concealment of fact or abuse of

loss."

Of the aforesaid sum of money under section 447 of the Companies Act, 2013, and the

1. A person who is found guilty of fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to deceive the company or its members or creditors or the Registrar or any other authority shall be

2. A person who is found guilty of fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to deceive the company or its members or creditors or the Registrar or any other authority shall be

3. A person who abets or colludes in fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to deceive the company or its members or creditors or the Registrar or any other authority shall be

4. A person who makes or abets in making multiple applications for the allotment of shares of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to deceive the company or its members or creditors or the Registrar or any other authority shall be

5. A person who is found guilty of fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to gain for himself or for any other person or with intent to deceive the company or its shareholders or creditors or any other person shall be

6. A person who is found guilty of fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to defraud the company or its members or creditors or the Registrar or any other authority shall be

7. A person who abets or colludes in fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to gain for himself or for any other person or with intent to deceive the company or its shareholders or creditors or any other person shall be

8. A person who abets or colludes in fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to defraud the company or its members or creditors or the Registrar or any other authority shall be

9. A person who abets or colludes in fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to gain for himself or for any other person or with intent to deceive the company or its shareholders or creditors or any other person shall be

10. A person who abets or colludes in fraud in any matter of the company or any other matter made under this Act or the rules made thereunder or in connection with any application or any document which is required to be delivered or filed to the Registrar or any other authority under this Act or the rules made thereunder with intent to defraud the company or its members or creditors or the Registrar or any other authority shall be

11. [illegible]

12. [illegible]

[illegible]

TRANSACTION WHICH MAY INVOLVE THE FRAUD

[illegible]

1. Related Party Transactions
2. Earnings Management/Window dressing
3. Insider Trading
4. Inter Company Transactions
5. Mergers and Amalgamations
6. IPO Frauds

WHO IS CONSIDERED AS AN AUDITOR FOR FRAUD REPORTING?

The auditor includes here:

1. Statutory Auditors of the company appointed under section 139 of the Companies Act, 2013
2. Company Secretary in practice conducting Secretarial Audit under section 204 of the Companies Act, 2013
3. Cost Accountant in practice conducting cost audit under section 148 of the Companies Act, 2013 and
4. The Branch Auditors appointed under section 139 of the Companies Act, 2013.

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8. REPORTING O□ □RAUD A□READY REPORTED BY THE MANAGEMENT

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□. REPORTING O□ □RAUD BY SECRETARIA□ AUDITOR A□READY REPORTED BY OTHER AUDITORS

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- Non-disclosure of material facts by one party paves way for other party to avoid the contract.

11. SPECULATION

Speculation is considered as an act in which one party to the contract or collateral agreement has more knowledge than the other party. This knowledge may be in the form of information, which could be used to the detriment of the other party. In Stock exchange, share brokers are considered as speculators, because they have more knowledge than the investors.

12. SUSPICION

Suspicion is the state of mind which could exist in the absence of proof or evidence. The following circumstances could create suspicion:

1. Concealment of material facts by one party from the other party.
2. Non-disclosure of facts by one party which is necessary to be disclosed.
3. Non-fulfilment of promises by one party to the other party.
4. Misrepresentation of facts by one party to the other party.
5. Non-disclosure of information by one party to the other party.
6. Non-performance of contract by one party to the other party within the stipulated time.
7. Non-fulfilment of conditions precedent by one party to the other party.
8. Non-disclosure of facts by one party to the other party in a fiduciary relationship.
9. Non-payment of consideration by one party to the other party.
10. In case of contracts where payment is to be made by cheques, bankers drafts etc, non-payment by the party to the other party within the stipulated time.

13. DETECTION OF FRAUD

The Auditor should consider whether the identified misstatements may be indicative of fraud and if there is such an indication, the auditor should consider the implications of the misstatement in relation to other aspects of the audit, particularly the reliability of management representations. Section 447 of the Companies Act, 2013 defines fraud in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss.

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PRO[illegible]ESSIONA[illegible] RESPONSIBI[illegible]ITY AND PENA[illegible]TY [illegible]OR INCORRECT AUDIT REPORT

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15. EAR[illegible]Y [illegible]ARNING SIGNA[illegible]S O[illegible] [illegible]RAUDS DETECTIONS

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14. [illegible] NOC [illegible]
15. [illegible]
16. [illegible]
17. [illegible]
18. [illegible] ROC [illegible]
19. [illegible]
20. [illegible]
21. [illegible]

22. H□□□ □□□□□ RTGS □□□□ □□□ □□ □□r□□□□d □□r□□□

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25. S□□□□□□□□r□□□□d □□r□□ □r□□□□□□□□□

26. M□□r□□□d□□r□□□□□□□ □□ □□□ □□□□□□r□□□r□

27. S□□□□□□□ □□□□□□□□□□□□ □□□□□ □□□ □□□□□□r□□□r□

28. P□□r d□□□□□□□r□ □□ □ □□□r□□□□ □d□r□□ □□□□r□ □□□□□ □□d □□ □□□□□□□□□□□ □□ □□□ □□□□□□□r□ □□d□□r□

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1. Procedure for decision making process adopted by channels of supervision and accountability

- For the purpose of investigation into the affairs of SFIO under section 212, the Central Government, on the recommendation of the Director, may direct any of its officers to investigate.
- The investigation officer shall report to the Director, who shall submit the report to the Central Government. On receipt of the report, the Central Government may take such action as it deems fit.
- The Investigation Officer, Director, Deputy Director, Assistant Director, Legal Advisor and Chief Executive Officer of the Serious Fraud Investigation Office.

2. Manner of discharge of functions of SFIO

- For the purpose of investigation, the Central Government may designate a person as an officer of the Serious Fraud Investigation Office to investigate.
- Officers designated to discharge duties, powers and functions of Director, Deputy Director, Assistant Director or any officer of the Investigation Office.
- Subject to such directions as may be issued by the Central Government, the Director may constitute Project Groups, Expert Advisory Committee, Legal Cell, Economic Intelligence Unit, Data Management Unit, Forensic Audit Unit, Information Technology Unit and such other units as may be necessary.

3. Investigation Procedure

- As per Section 212 (1) of the Companies Act, 2013, the Central Government may, in the following circumstances, investigate into the affairs of the Serious Fraud Investigation Office – (a) on receipt of a report of the Registrar or Inspector under section 208; (b) on intimation of a special resolution passed by a company regarding matters relating to fraud, misconduct or mismanagement; (c) in public interest; or (d) on request from any department of the Central Government or State Government.
- On receipt of such report, SFIO may conduct investigation in the manner as specified in this section.
- The investigation report shall be submitted by the Director to the Central Government. On receipt of such report, the Central Government may take such action as it deems fit.

- The Director SFIO [illegible] to the Central Government for the [illegible] under section 217 of the Companies Act, 2013.
- If on the [illegible] investigation, the Director is [illegible], he may [illegible] the [illegible] and [illegible] the [illegible] to the Central Government, [illegible], and [illegible] shall [illegible] the [illegible] to the [illegible] and [illegible] the [illegible] to the [illegible].
- On the [illegible] of the [illegible], the SFIO [illegible] to the Income Tax Authorities, Reserve Bank of India, Customs Authorities, [illegible].

CHAPTER [illegible] QUALITY REVIEW

1. INTRODUCTION

[illegible] 2011 [illegible]

[illegible]

2. PEER REVIEW

[illegible] and is a method of evaluation of a person's work or [illegible]

[illegible]

3. RATIONALE OF PEER REVIEW

[illegible] (PCS) [illegible]

Authority for Peer Review: [illegible] 1980 [illegible] (PCS) [illegible]

Good governance can be achieved by practicing the following principles in the organization:

1. The organization should have a clear vision, mission and objectives.
2. The organization should have a strong leadership which can lead the organization in the right direction.
3. The organization should have a transparent system of working and should disclose all the relevant information to the stakeholders.
4. The organization should have a competent board of directors.

4. OBJECTIVES OF PEER REVIEW

- **Technical Standard and Proper Systems** The aim of peer review is to ensure that the Practicing Unit follows the technical standards issued by the Institute of Chartered Accountants of India (ICAI) and the Standard on Auditing issued by ICAI are followed in the audit engagements.
- **Enhancement of Quality** Peer Review is considered as a continuous process to ensure that the Assurance and Allied Services are performed in accordance with the professional standards, regulatory requirements and firm's own policies and procedures. Effective, consistent and timely performance of assurance and allied services is the key to maintain the reputation of the profession.
- **Peer review process and expectations from the members** The objective is to provide a framework to the Peer Reviewer and the reviewed firm to ensure that the Peer Review is conducted in a manner that is consistent with the requirements of the Standard on Peer Review.

5. BENEFITS OF PEER REVIEW

The benefits of peer review are:

1. A successful peer review will provide reasonable assurance that the firm has established and complied with quality control policies and procedures that are consistent with professional standards, regulatory and legal requirements.
2. Identification of practices that are considered, in some circumstances, to be deficient or inconsistent with an effective system of quality control.

3. [illegible]

4. [illegible] ICSI.

5. [illegible]

6. [illegible]

· an additional limit of 5 secretarial audits per partner/PCS in case the unit is peer reviewed. [illegible] FY 2016-17 onwards) ·an additional limi[illegible] 5 [illegible], 2015 [illegible], 2020 [illegible]

7. [illegible]

- [illegible] 100 [illegible] 31 [illegible], 2020 [illegible] 1, 2020.
- [illegible] 92 [illegible], 2013 [illegible] 500 [illegible] 31 [illegible], 2021 [illegible] 1, 2021.
- [illegible] V, [illegible] E [illegible], 2015 [illegible] 1, 2022.

d. [illegible] 40 [illegible], 2015 [illegible] 1, 2023.

- [illegible] 76 [illegible], 2018 [illegible] 1, 2023.
- [illegible]
- [illegible] 2021.
- [illegible]

For [illegible] Company [illegible] dated [illegible] PCS [illegible] Peer Review

Company [illegible]

For [illegible]

Company Secretary

Name .....

FCS .....

CP .....

PR .....

1. SCOPE OF PEER REVIEW

Under [illegible] Peer review, [illegible] [illegible]

1. Applicable Regulation: Companies (Accounts) Rules, 2013
2. Company Identified: [illegible] Regulation 40 (9) of SEBI (LODR) Regulations, 2015
3. Secretarial Audit Regulation: [illegible] Section 204 of the Company Act, 2013 (Regulation 24A of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
4. Applicable Secretarial Compliance Regulation: [illegible] SEBI (LODR) Regulations, 2015
5. Internal Audit Regulation: Section 138 of the Company Act, 2013
6. Audit Regulation: [illegible] 76 of SEBI (Depositories and Participants) Regulations 2018
7. Company [illegible] Regulation: S6 of LODR Regulations 34(3) read with Schedule V, Part C, Clause (10)
8. Code [illegible] Company [illegible] E, Schedule V of SEBI (LODR) Regulations, 2015
9. Internal Audit Regulation: Rule 5 Transfer Agents (RTA) under SEBI Circular No SEBI/HO/MIRSD/CIR/P/2018/73
10. Internal Audit Regulation: Credit Rating Agencies under SEBI Circular No. SEBI/MIRSD/CRA/Cir-01/2010
11. Internal Audit Regulation: Company Depository Participants

11. Have [illegible] [illegible] [illegible] [illegible] [illegible].

Guidelines for mandatory Peer Review for rendering certain Professional Services.

The Council [illegible] Peer Review Board [illegible] Peer Review [illegible] Peer Review Board [illegible] Practice Units- Secretarial Audit, Secretarial Compliance Audit, Secretarial Compliance [illegible] SEBI (LODR) and Depositories and Participants [illegible]

1. S□r□□□r□□□ A□d□□ □ A□□□□□□ S□r□□□r□□□ C□□ □□□□□□□□ R□□□r□ □□d□r SE□I □LODR□ □□ T□□ 100 □□□ □□□□□□ □□□□□d □□ □□d□r□□□□□ □□ □ □□□r r□□□□□□d PCS, □r□□ A□r□□I, 2020.
2. S□r□□□r□□□ A□d□□ □ A□□□□□□ S□r□□□r□□□ C□□ □□□□□□□□ R□□□r□ □□d□r SE□I □LODR□ □□ T□□ 500 □□□ □□□□□□ □□□□□d □□ □□d□r□□□□□ □□ □ □□□r r□□□□□□d PCS, □r□□ A□r□□I, 2021.
3. S□r□□□r□□□ A□d□□ □ A□□□□□□ S□r□□□r□□□ C□□ □□□□□□□□ R□□□r□ □□d□r SE□I □LODR□ □□ □□□ □□□□□d □□□ □□□□□□ □□□□□d □□ □□d□r□□□□□ □□ □ □□□r r□□□□□□d PCS, □r□□ A□r□□I, 2022.
4. S□r□□□r□□□ A□d□□ □ A□□□□□□ S□r□□□r□□□ C□□ □□□□□□□□ R□□□r□ □□d□r SE□I □LODR□ □□ □□□ □□□□ □□□□□□ □□□□□d □□ □□d□r□□□□□ □□ □ □□□r r□□□□□□d PCS, □r□□ A□r□□I, 2023.
5. I□□□□□□□□ □□ D□□□□□□□□□ R□□□r□ □□r □□□□□ □□ □□□□ □□ C□□□□r□□□□ L□□d□□□ □ M□□□□□□□□ □□□□□□□ Arr□□□□□ □□□□ □□ □□ □□d□r□□□□□ □□□□ □□ P□□r R□□□□□□d PCS □r□□ A□r□□I, 2020.

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8. THE REVIEWER'S APPROACH

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5. H□ □□□□d □r □□d □□□ □□□□ □dd□□□□ □□ Pr□□□□□ U□□ □d □□□ □ □r□□ □d □□□ □ □□□ □□□ □□r□□□.

6. *In determining issues which are subjective, the purpose is not to replace the PU's opinion with* [illegible]

[illegible]

[illegible] EXPECTED [illegible]UA[illegible]ITIES O[illegible] RE[illegible]IE[illegible]ER

1. [illegible]
2. [illegible] ICSI.
3. [illegible] ICSI.
4. *Get himself/herself acquainted with decisions of various courts on 'cases relating to deficiency in service'.*
5. [illegible] CS A[illegible] 1980, [illegible] A[illegible], E[illegible] A[illegible], IPC, [illegible]
6. [illegible] ICSI.
7. [illegible]
8. [illegible]
9. [illegible]
10. [illegible]
11. [illegible]

[illegible] PEER RE[illegible]IE[illegible] PROCESS

[illegible]

1. [illegible]

Tec[illegible]n[illegible]ca[illegible] standard means and [illegible]c[illegible]udes[illegible]

- [illegible]
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2. The requirement of at least ten years' experience as a member does not apply specifically to PCS. E□□□ □ □ □□ □□r □ □□ □□□ □□r□□□r □□□□ □□ □□ □□□□□ □□□ □□r 10 □□□□r□ □□□ □ □□□ □□ □□□□□□□□□□ □□r □ R□□□□□□r □r□□□d□d □□□□□□ □□ □□□d□□□ □ □□r□□□□□□□ □□ □r□□□□□□ □□ □□□d□□ □□ □ □□□□□ □□□ □□□□□□□□□□.

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[illegible]

4. [illegible]

5. [illegible]

6. [illegible]

7. [illegible]

STATEMENT O[illegible] CON[illegible]IDENTIA[illegible]ITY

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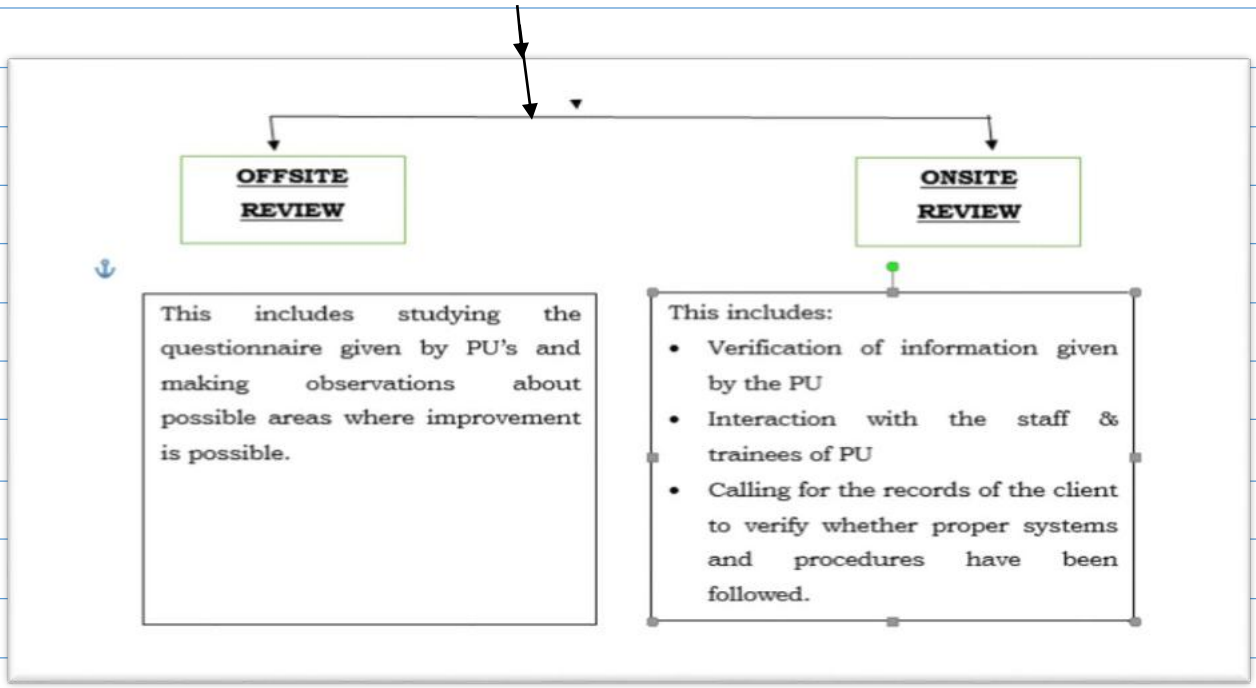

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2. [illegible]

3. [illegible]

b) [illegible]

c) [illegible]

d) [illegible]

COST OF PEER REVIEW

1. [illegible] PU. [illegible]
2. [illegible] company.
3. [illegible] referred practice unit.
4. [illegible] 30 days [illegible]

PERIODICITY OF PEER REVIEW

[illegible]

[illegible]

RE[illegible]IE[illegible] [illegible]RAME[illegible]OR[illegible]

[illegible]

REPORTING

[illegible]

[illegible]2. [illegible]UESTIONNAIRE [illegible]OR PRACTICE UNITS

The PU's are required to provide few basic information to peer reviewers in the form of [illegible]

[illegible]

[illegible]

3. REVIEW PROCESS

1. Preparation

a. The Practice Unit shall maintain adequate documented policies and procedures for the review process and a comprehensive checklist for the review, as applicable.

b. The practice unit shall maintain a panel of reviewers who are Qualified Chartered Accountants in IS domain and have adequate experience in the field of attestation services and have undergone training for the review.

c. The selected reviewer shall not have any personal, professional or financial interest in the entity to be reviewed.

d. The selected reviewer shall not be involved in preparation of the reviewed financial statements.

2. Planning

Once the reviewer has been selected, the practice unit shall enter into an engagement letter with the reviewed entity to perform the review in accordance with the applicable standards. The engagement letter shall clearly define the scope of the review.

Sample of Attestation services Engagements

From time to time, the practice unit may receive requests to perform attestation services, the practice unit shall enter into an engagement letter with the reviewed entity to perform the review. A copy of the engagement letter, signed by the reviewed entity, shall be retained in the review file.

Confirmation of Fees

For each engagement, the practice unit shall enter into a fee agreement with the reviewed entity. The fee agreement shall be signed by the reviewed entity before the review is commenced.

3. Execution

a. **On site review** - An on-site review means the review conducted at the practice unit's head office. The on-site review is the review of the practice unit by the reviewer at the practice unit's head office. The reviewer shall maintain adequate documentation of the review, including the checklist used for the review, findings, and conclusions reached.

b. **Initial meeting** - At the commencement of the review, the reviewer shall hold an initial meeting with the reviewed entity, if considered necessary by the reviewer. The

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5. **Retention of records**

The reviewer shall ensure that adequate documentation is retained for the review in accordance with the retention policy of the reviewed unit.

Compliance Approach

a. Compliance testing procedures are designed to provide reasonable assurance that the reviewed unit's internal controls are operating effectively and that the unit is in compliance with the standard of quality control.

b. In this approach, the Practice Unit's quality control system, policies, and procedures are tested for compliance with the standard of quality control. In addition, the Reviewer shall ensure that Statements of Attestation engagements are issued in accordance with the Reviewed.

Substantive Approach

A substantive testing procedure is designed to test the reviewed unit's compliance with the standard of quality control. The reviewer shall ensure that the reviewed unit's general controls on attestation engagements or is of the opinion that the standard of quality control is not operating effectively. The substantive testing procedures are designed to test the reviewed unit's compliance with the standard of quality control. The reviewer shall ensure that the reviewed unit's Statements of Attestation engagements are issued in accordance with the standard of quality control.

III. REVIEW PROCESS AS PER PEER REVIEW MANUAL

1. **PLANNING**

a. **Notification:** A Practice Unit shall be informed about the selection for the review at least 90 days before the proposed date of Peer Review and shall submit the duly filled Questionnaire.

b. **Return of completed Questionnaire:** The Practice Unit shall submit the duly filled Questionnaire and relevant documents to the Secretariat of the Board. The Secretariat shall ensure that all the documents are received in accordance with the Review Manual.

c. Practice Unit shall be required to provide a list of engagements in which Attest and Audit Standards, Regulations, etc. are applicable.

d. From the list of engagements in which Attest and Audit Standards, the reviewer shall select the Reviewed Unit and Practice Unit shall be informed about the selection at least 2 weeks before the proposed date of review, requesting the relevant Attest and Audit Standards, and other relevant documents.

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- H[illegible]r, [illegible] r[illegible] r [illegible]d[illegible]r [illegible] d[illegible] r [illegible] r[illegible]-[illegible] of the Practice Unit's Attestation and Audit Services engagements, he/she may make further [illegible]

2. EXECUTION

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  Peer Review visits will be conducted at the Practice Unit's head office or any other office/branch [illegible]r [illegible] P[illegible]r R[illegible]d. T[illegible], [illegible]-[illegible]r[illegible] [illegible]d [illegible]d [illegible]d [illegible]d 3 [illegible]r[illegible]d[illegible]
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In order to ensure that the engagement team has sufficient appropriate evidence to support the report, the reviewer should consider whether:

Sufficient and appropriate evidence has been obtained to support the report.

The work performed by the engagement team complies with the requirements of the Practice Unit's Attestation and Audit Standards.

- The work performed by the Attestation and Audit Standards has been properly documented.

1. The documentation of the procedures performed is sufficient to enable an experienced auditor, having no previous connection with the engagement, to understand the work performed.

2. The significant findings or issues arising during the Attestation and Audit Standards engagement have been appropriately resolved or described in the Practice Unit's Attestation and Audit Standards report.

- The conclusions reached in formulating the proposed report are appropriate and that the report is consistent with the results of the work performed. If the reviewer believes that the report is inappropriate, the reviewer should discuss the matter with the engagement team's management and, if necessary, the Practice Unit's Attestation and Audit Standards management.

3. REVIEW OF RECORDS

A review of the working papers and the records should be carried out to ensure that:

1. Compliance with Attestation and Audit Standards has been documented in the working papers and is supported by sufficient appropriate evidence to support the report.

2. Significant matters Attestation and Audit Standards that place reliance on the Practice Unit's specific controls on attestation engagements or is of the opinion that the report should be modified.

5. REPORTING

Preliminary Report of Reviewer

After completion of the pre-issuance review, reviewer will prepare a report, which should be submitted to the PU. The reviewer may be required to discuss his report with the engagement team. If the reviewer's report is not satisfactory or the reviewer has reservations about the appropriateness of the report, he should communicate his reservations to the engagement team's management and, if necessary, the Practice Unit's Attestation and Audit Standards management.

The Practice Unit should establish a time limit within which reviewer's report should be received, after the date of the Review, IS should discuss the matter with the reviewer's report.

2. Data Report of Receiver

1. The Receiving Clerk is responsible for checking the goods received from the Purchase Unit. He must ensure that the goods received are in good condition and match the Purchase Order. He must also check the quantity of goods received against the delivery note. The Receiving Clerk then prepares a Goods Received Note (GRN).
2. The GRN is a document that lists the goods received, their condition, and any discrepancies between the goods received and the Purchase Order. The GRN is signed by the Receiving Clerk and the delivery person. The GRN is then sent to the Purchase Unit, the Accounts Department, and the Stores Department.
3. If the goods received are damaged or defective, the Receiving Clerk must report this to the Purchase Unit immediately. The Purchase Unit will then contact the supplier to arrange for the return of the goods or for a replacement. The Receiving Clerk must also make a note of the damaged goods on the GRN.
4. The GRN is also used to update the inventory records. The Purchase Unit uses the GRN to match the invoice received from the supplier with the goods received. The Accounts Department uses the GRN to make payments to suppliers. The GRN is also used to track the movement of goods within the organization.
5. A discrepancy is any difference between the goods received and the Purchase Order. For example, if the quantity of goods received is less than the quantity ordered, this is a discrepancy. If the goods received are damaged or defective, this is also a discrepancy. The Receiving Clerk must report any discrepancies to the Purchase Unit. The Purchase Unit will then investigate the discrepancy and take appropriate action. The Receiving Clerk must also make a note of the discrepancy on the GRN.

III. OFFICE SYSTEMS AND PROCEDURES

The Receiving Clerk is responsible for receiving goods from suppliers and checking them against the purchase order. The Receiving Clerk must also inspect the goods for damage and report any discrepancies to the Purchase Unit. The Receiving Clerk must also maintain accurate records of all goods received.

[illegible]

Training programs for staff (including apprentices) concerned with attestation functions.

[illegible]

a. [illegible]

b. [illegible]

c. [illegible]

d. [illegible]

e. [illegible]

[illegible]

REFERRAL OF DISPUTES AND APPEAL

1. **Limitation Period for referral of Dispute** [illegible] 2 [illegible]

2. **Dispute to be decided within 6 Months** [illegible] 6 [illegible]

3. **Issuing Directions and their compliance** [illegible] 30 [illegible] 15 [illegible]

7. **Appeal to Council:** Where any member or any other person aggrieved by any decision of the Disciplinary Committee, may prefer an appeal to the Council within 2 months of the receipt of the order.

8. QUALITY REVIEW BOARD

The Quality Review Board shall consist of such persons as may be co-opted by the Council from amongst the members of the Institute or from amongst persons who are not members of the ICSI. It shall be the duty of the Quality Review Board to review the quality of secretarial services rendered by the Company Secretaries in practice, in such manner as may be specified by the Council.

The Company Secretaries Act, 1980 provides for the constitution of the Quality Review Board by the Central Government on the recommendation of the Council. The Act has been amended by the Amendment Act 2006 and sections 29A to 29D were inserted to provide for constitution of Quality Review Board.

THE COMPANY SECRETARIES (AMENDMENT) ACT 2006

Section 29 A: Establishment of Quality Review Board	1. Constituted by the Central Government 2. Consists of such number of persons as may be prescribed 3. Chairman and other members appointed from amongst persons of ability, integrity, standing or special knowledge 4. The Quality Review Board shall function in such manner as may be prescribed by the Central Government
	5. Constituted by the Central Government 6. Consists of such number of persons as may be prescribed 7. Chairman and other members appointed from amongst persons of ability, integrity, standing or special knowledge 8. The Quality Review Board shall function in such manner as may be prescribed by the Central Government
Section 29 B: Functions of the Board	1. Monitor and enforce the quality standards in the practice of profession of Company Secretaries and may recommend to the Council for the purpose of improving the quality of the services rendered by them. 2. Review the quality of the secretarial services rendered by the Company Secretaries in practice to ensure that the same conforms to the standards of professional conduct and etiquette.

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□□. GUIDANCE MANUA□ ON □UA□ITY O□ AUDIT AND ATTESTATION SER□ICE

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C. Quality Assurance Includes Guideline for Practice and Prevention

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D. Quality Control Includes Strategy of Detection and Improvement

[illegible]

2. ICSI GUIDANCE MANUAL ON QUALITY MANAGEMENT SYSTEMS

QUALITY CONTROL ELEMENTS WITHIN THE FIRM

Leadership Responsibilities

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   - P□□□□□□ □d □r□□d□r□□ r*equired to ensure compliance with the auditor's independence* r□□□□□□ □□□ □d□r □□□ r□□□□□□□ □□□ □ □ r□□□

- *Requirements for the engagement partner to obtain information, identify breach of the firm's*

- *M*

3. **Familiarity Threat** [illegible]

[illegible]

4. **Integrity** [illegible]

F

[illegible]

The nature of the client's operations, including its business practices.

[illegible]

5. ***Professional Competence and Due Care*** *T*

- *A*
- *S*
- *A*

6. **Confidentiality** *T*

7. **Technical Standards** The audit firm or audit engagement team should comply with relevant technical standards and regulatory requirements.

8. **Monitoring** It refers to evaluation of firm's quality control systems to provide reasonable assurance that they are relevant, adequate and operating effectively.

Monitoring may include Inspection or Periodic Review Procedures

- Monitoring procedures should be performed by competent and qualified person.
- Consider the nature and extent of findings or deficiencies in the firm and their effect on the firm's system of quality control.
- Report any deficiencies noted during the monitoring process to the appropriate level of management in a timely manner.

Monitoring may be Ex-ante and Post Facto Review

- Determine the nature and content of the firm's monitoring program.
- Determine when there is a modification in the firm's quality control policies and procedures, whether the firm's other quality control policies and procedures are operating effectively.
- Determine the competence and qualifications and relative experience of the persons to be assigned to the monitoring process.
- Provide a basis for the firm to evaluate the effectiveness of its quality control policies and procedures.
- Evaluate the significance of deficiencies and their effect on the audit report, or the circumstances in which the firm may withdraw from the audit.

9. **Reporting & Corrective Measures**

It is the duty of the auditor to report the deficiencies in the quality control system of the firm to the management and suggest the corrective measures which should be taken.

1. Determine the nature of the deficiencies in the quality control system.
2. Determine the recommended corrective measures to be taken in the quality control system.
3. Report both, findings and recommendations to firm's Management together with corrective measures required.
4. Determine when deficiencies require modifications to the firm's policies.

5. [illegible]

[illegible] WITH RESPECT TO CUSTOMER [illegible] CUSTOMER RE[illegible]ATIONSHIP ACCEPTANCE [illegible] CONTINUATION O[illegible] C[illegible]IENT RE[illegible]ATIONSHIP AND SPECI[illegible]IC ASSIGNMENTS

[illegible] A [illegible]

[illegible] T[illegible]

[illegible] T[illegible]

[illegible] T[illegible]

2. T[illegible]e f[illegible]m s[illegible]ould esta[illegible]s[illegible] procedures for e[illegible]a[illegible]uation of prospect[illegible]e c[illegible]ents [illegible][illegible]c[illegible] could [illegible]c[illegible]ude fo[illegible][illegible][illegible]

[illegible] O[illegible]

[illegible] E[illegible]

[illegible] C[illegible]

d[illegible] Evaluate the firm's independence and ability to serve the prospective client.

[illegible] D[illegible]

3. E[illegible]

[illegible] M[illegible]

[illegible] D[illegible]

[illegible] O[illegible]

d[illegible] L[illegible]

- F
- L

5. **Preconditions of acceptance/continuance of any professional engagement:** The auditor should check for the following:

- W
- W
  - Pr
  - D
  - Pr
  - Pr
  - Pr

6. **Limitation on scope prior to engagement acceptance:** I
   In the scope of the auditor's work and the auditor believes the
   S
   ,

7. **Other factors affecting engagement acceptance:** T
   .

7. **Agreement on engagement terms:** The auditor and the client should agree on the terms of the engagement. The agreed terms would need to be recorded in an audit engagement letter or other suitable form of contract. The terms of the engagement should include the following:

a. The objective and scope of the audit

b. The auditor's responsibilities

c. The auditor's reporting responsibilities

d. The auditor's responsibilities to communicate with those charged with governance

e. Identification of the applicable financial reporting framework

f. Reference to the expected form and content of any reports to be issued by the auditor and a statement that there will be circumstances in which a report may be different from its expected form and content.

8. **Criteria for decision to accept and withdrawal from an Engagement:** Auditor should have procedures for deciding whether to accept a new engagement or to continue an existing one. Potential threats to integrity or other fundamental principles, such as familiarity or intimidation threats, should be identified and evaluated. If a threat is not at an acceptable level and safeguards are not available or cannot be applied to reduce the threat to an acceptable level, the auditor should decline the engagement or withdraw from it.

a. Client's status/information that is likely to impact adversely on integrity of client's management.

b. A client that is reluctant to provide the auditor with access to necessary information for the audit, or any restriction on the auditor's ability to perform the audit procedures that the auditor considers necessary, may create a threat to the auditor's ability to perform a sufficient audit.

c. Circumstances where the auditor cannot perform the procedures it considers necessary to obtain sufficient appropriate evidence as to whether material misstatement exists.

9. **Integrity of client and ethical requirements on the part of the firm. In this context following policies and procedures are needed:**

A. Procedures for the firm and its personnel to determine whether acceptance and continuance of a client relationship, or an audit engagement, would create a threat to compliance with the fundamental principles.

B. Procedures for the firm to identify and evaluate circumstances and relationships that create threats to compliance with the fundamental principles when undertaking a new engagement.

C. A requirement for a client to agree to appropriate terms of engagement before the audit engagement is undertaken.

D. Policies and procedures for dealing with and responding to circumstances that may impair independence or ethical behavior. For example, the firm may decide that a member of the audit team should withdraw from the audit engagement when the member has a personal or family relationship that gives rise to a threat that is not at an acceptable level.

Assignment of human resources for engagement performance

The engagement team and engagement quality control reviewer shall be assigned to the engagement team as follows:

- Professional judgment and competence required to perform the engagement in accordance with professional standards and applicable legal and regulatory requirements, and the ability of the firm or the engagement team to issue a report that is appropriate in the circumstances.
- Professional judgment and competence required in the areas of accounting, auditing and financial reporting, and specialized skills or knowledge, where appropriate.
- Professional judgment and competence required in the areas of accounting, auditing and financial reporting, and specialized skills or knowledge, where appropriate.

Assignment of Engagement Partners Policies & Procedures

- Engagement team and engagement quality control reviewer shall be assigned to the engagement team as follows:
- Professional judgment and competence required to perform the engagement in accordance with professional standards and applicable legal and regulatory requirements, and the ability of the firm or the engagement team to issue a report that is appropriate in the circumstances.

CHAPTER 8: VALUES ETHICS AND PROFESSIONAL CONDUCT

1. INTRODUCTION

- Individuals, groups, organizations, society, and nations are governed by certain principles, rules and regulations to live in a civilized manner. Some of these principles are self-imposed and some are imposed by others. These principles are based on the values, beliefs, attitudes and behaviour of individuals, groups, organizations, society, and nations. Some of these principles are universally accepted, while some are specific to a particular individual, group, organization, society, nation or region.
- Today's business environment is complex and highly competitive and demands high standards of performance, a high degree of professionalism, a high level of integrity, honesty, and ethical behaviour in all walks of life. The increasing awareness of the general public and their demand for quality products and services, transparency in business transactions, and fair practices in business dealings have put pressure on business organizations to behave ethically in their business dealings. The old adage that "all is fair in love and war" is no longer valid in the business world. Unethical acts can be ignored if "the ends justify the means". This attitude has led to a deterioration in moral standards in society, unscrupulous practices, dishonesty, and corruption in business dealings. Ethical behaviour is now being recognized as the key to success in the long run. Ethical behaviour is good for business, employees, and society.
- The term "ethics" is derived from the Greek word "ethos" which refers to character or customs or accepted behaviour.

2. TYPES/BRANCHES OF ETHICS

The study of ethics is divided into three branches:

1. **Descriptive Ethics** describes moral standards that individuals or groups claim to follow. It is an empirical investigation that involves research and surveys and questionnaires to observe and describe the behaviour of individuals or groups.
2. **Normative Ethics** tries to develop standards that govern how people should behave and how actions should be judged as right or wrong. It is the study of ethical behaviour and tries to develop criteria for right and wrong behaviour.
3. **Meta Ethics or Analytical Ethics** is the study of the origin of ethical principles. It tries to find out the meaning of right and wrong, and what gives them their authority. It is the study of judgments about what is right and wrong, and how they can be justified.

4. **Applied Ethics:** [illegible]

3. KEY DIFFERENCES BETWEEN ETHICS AND VALUES

1. E[illegible]
2. E[illegible]
3. E[illegible]
4. V[illegible]
5. E[illegible]

4. ETHICAL PRACTICES

1. **Beneficence:** [illegible]
2. **Least Harm:** [illegible]
3. **Utilitarian:** [illegible] [illegible]sequences of the acts. It moves beyond one's own interest and considers the interest of [illegible]
4. **Autonomy:** [illegible]
5. **Justice:** [illegible]

5. PROFESSIONAL ETHICS

Ethics is a code of conduct or rules and principles which should guide the behaviour of a person in his dealings with others. Professional ethics are the standards of behaviour that guide the conduct of a person engaged in a profession. Integrity, objectivity, professional competence and due care, confidentiality, professional behaviour, ethical conduct are some of the fundamental principles of professional ethics. Company Secretaries in practice or in employment should maintain professional ethics in the conduct of their professional activities.

Code of Ethics for Professional Accountants issued by International Federation of Accountants (IFAC) is a model code which can be used by professional bodies in developing their own national codes. The fundamental principles of professional ethics which a professional accountant should comply with are as follows:

1. To act in the public interest whenever dealing with clients or employers.
2. Perform duties with due skill, care, diligence and have adequate training and supervision.
3. Maintain integrity and objectivity, avoid any activity or relationship that may impair or appear to impair objectivity.
4. Comply with relevant laws, regulations and avoid any action that discredits the profession.
5. Respect the confidentiality of information acquired as a result of professional and business relationships and not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose. Not use the information for the personal advantage of the accountant or third parties.

6. MODEL ETHICAL PRINCIPLES OF COMPANY SECRETARIES

In the absence of a codified Code of Ethics Guidance Note on Professional Ethics for Company Secretaries in practice, the following principles should guide the behaviour of Company Secretaries in practice and in employment:

1. **Strive for excellence:** The pursuit of excellence should be the guiding principle in the behaviour of a professional person and in the quality of service provided. Excellence is a state of mind and a way of life. It can be achieved only when one is committed to excellence in all walks of life and strives hard to live up to the highest standards of professional and personal conduct.
2. **Be Trustworthy:** In relationships with and service to the public, professional persons should be trustworthy. Fundamental to this is honesty, a quality that must be expected of the professional person. Trustworthiness is also the basis for the confidential relationship that exists between a professional person and a client.
3. **Be Accountable:** One is accountable to those who are dependent on the services rendered by him and should discharge responsibilities with a sense of commitment.

4. **Be Courteous and Respectful**: C□□r□□□□□ □ □□□□ □□□□ □r□□d□□, □□□□□□ □□d □ □□□□ □□□□r□d. I□ □□□□□ □□ □□□d □□□□□□□ □□d □□r□ r□□□□□□ □□ □□□ □r□□□□□□□□□. R□□□□□□ □□ □□□□ □□□r □ □r□□d □□ □□□ □ □□□ □□□ □□ □□□□ □ □□□ □□□ □□□□□□□d□r□□□ □□□□□□.

5. **Be Honest□Open and Transparent**: H□□□□□□ □ □□□□ □□□□□□□, □□□r□□□□, □□□□□r□□. I□ □□ □□□□□□ □□□r□□□□□d □□ □□□ □r□□□□□□□□□ □□d □□□□□d □□ □□ □□□□□□□□, □□□□□□□, □□□□□□□□□□□ □□d □□□□□□□□. I□ □□ □ □ □r□□ □□□r□□□□r □ □□□□ □□□□ □ □ □□□□□□□□□ □□□r□□□□ □□ □□□ □r□□□□□□□□.

6. **Be competent and □mpro□e continuously**: C□□ □□□□□□□□ □□ □□□ □□□□□□□ □□ □r□r□ □□□ □□□ □□□□□□□□□□. I□ □□ □ □□□ □□□□□□□□ □□ □□□□□□□ □□ □□□□□□d□□ □□d □□□□□d □□ □r□□ □ □r□□□□ □□□□r□□□□ □□d □□ □□□ □□□□□□ □□□ □□ □□□□□□ □□ □□□r□ □□d □d□□□. C□□□□□□□□□ □□□□-d□□□□□□□□ □□□ □□ □ r□-r□□□□□□□□ □□ □□□□r□□□ □r□□□□□□□□□□□r□□□ □□ □□□ □□□.

7. **Be Et□□a□**: *E□□□□□□ □□□□□□□r □□ □□□□□ □ □□□□□ □r□□ □□d□□ □□ □□□□rd□□ □ □r□ □□d □□□□ generally accepted code of conduct or rules. It is always safe for a professional to "play by the rules".*

8. **Respect Confident□□ity**: *Over the course of one's career, one may gain many confident□□□* □□□r□ □□□□□ - □□□□r □r□□ □□□ □r□□□□□□□□□□ □r □r□□ □□□□□□□□□□□□ □□d □□ □□ □□ □r□□□□ □□ □□□r□ □□□□d□□□□□□□ □□ □□□ □□□ □. *O□□ □□□□□ □r□□□ □□d r□□□□□□ □□ □□□r□□□ □□□□d□□□□□□□ □ □□□□□ □□□□□□□□ □r □r□□□□□□□□□□r□d□□□□□□ □ □□□□□ □□□ □r□□□□□□□□□□.*

9. **Set Good E□amples**: *A □□□□□□□□ □□□ □r□□□□□□ r□□□ □□□□□ □□□ □□ □□ □r□□ □r□□□ □□ □r□□□□□□□□□□□□ □□ □□ □r□□ □□□□□d □□□ □□□□□ □□□ r□□□ □□d □□□□. O□□ □□□□□□ □□ □□□□ □□d □□□d □□ □□□□□□□□ □□□d □□□□ □□r□ □□□□ □□□ □□□□□□. M□d□r□ □r□r□□□ □□□□r□□□□ r□□□□□□□□ d□□ □□d□ □ □□□ □r □□□□□□□□□□, □□□□r□d□□□□□□□□r □ □□□r□□□□ □□□ □□□ □ □□□□□□□ □□□ □□d □□□□r□□ □□ □□□ □□□□□□□□ W□□□ □□□ □□□□□□□□□ □r□□□□□□□ □□ □□r□r□□□ □□□□r□□□□, □r□□□□□□□□□□□□ □□□d □□ □r□□□□□□ □ □□□□ r□□□□□□□□□□□□□. C□r□r□□□□ □□□□□ □□□□ C□□ □□□□ S□□r□□□r□□ □□ □r□□d □ □□□d□□□□ □□d d□r□□□□□□□□ r□□□r□d □□□ □□□□□□□□□□ □r □□□□□□□□□□ □□d □□r□r□□□ □□□□r□□□□ □r □□□□□□□□□□.

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1. **Inte□r□ty**: I□□□r□□□ □□ □□□□ □□□□□□□□ □□ □□□□□ □□□□□□□□ □□d □□□□□□ □□r□□ □ r□□□r□□□□□□□□□. I□ r□□□□□□□□□□ □ □□□ □□r□ □r □□ □□r□□□□□, □□d □□□□□□d □□□□ □□d □□□□□r□ □d. I□ □□□□□d □□□□

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[illegible]

2. **<u>High Standard of service or professional competence</u>** : A [illegible]
professional competence should be delivered throughout one's work [illegible]

[illegible]

3. **<u>Transparency</u>** : Tr[illegible]

[illegible]

4. **<u>Professional Behavior</u>** : Pr[illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. breaking any of the Institute's byelaws or Charter or Regulations
5. [illegible]
6. [illegible]

The Singapore association of the Institute of Chartered Secretaries and Administrators (ICSA) [illegible]

1. Members are required to uphold the Institute's Charter and comply with the Bye-[illegible]
2. M[illegible]
3. M[illegible]
4. M[illegible]
5. M[illegible]
6. M[illegible]

ICSI CODE O[illegible] CONDUCT

T[illegible] Company Secretaries of India ("Institute"), its members, students and [illegible]

[illegible]UNDAMENTA[illegible] DUTIES O[illegible] PRO[illegible]ESSIONA[illegible]

1. [illegible]
[illegible]
[illegible]
[illegible]
d[illegible]
[illegible]

2. **Confidentiality:** The client's confidential information is a valuable asset. All confidential
[illegible]

- [illegible]
- [illegible]
- *obtaining advice in connection with the solicitor's legal or ethical obligations.*
- [illegible]
- [illegible]

3. **Conflicts:** [illegible]
4. **Integrity of Evidence:** [illegible]
   - *Draws the witness's attention to inconsistencies or other difficulties with the* [illegible]
   - [illegible]
5. **Anti discrimination and Harassment:** [illegible]
6. **Inadvertent Disclosure:** [illegible]
7. **Mistakes of other Solicitor:** [illegible]
8. **Client Documents:** *A professional for a client's matter, must ensure that, upon completion or* [illegible]

[illegible]

9. **Dea[illegible] [illegible]t[illegible] t[illegible]e med[illegible]a**: A [illegible]

10. **Profess[illegible]ona[illegible] Opportun[illegible]ty**: T[illegible] [illegible]

11. **Undertak[illegible]s**: A [illegible]

12. **Dea[illegible] [illegible]t[illegible] ot[illegible]er persons**: [illegible]

[illegible]

d. I[illegible] [illegible]

8. ETHICA[illegible] DI[illegible]EMMA

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- *An "absolute" or "pure" ethical dilemma only occurs when two (or more) ethical standards □□□□□ □□ □ □□□□□□□□□□ □□□□ □r□ □□ □□□□□□□□□ □ □□□□ □□□□□ □□□□r. I□ □□□□□□□□d□□□ □ □ □□ □ □□ □□□□ □□□□ d□□□□□□□□ □□□□ □□ □ □□□d □r□□□ □□□□□d□ □□□□□□□□□ □□□□□□r.*
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□. COMMON CAUSES O□ □OSS O□ ETHICS AND □A□UES

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5. **Pressure from management** – Employees may feel pressured to engage in unethical behavior to meet unrealistic targets or deadlines set by management. This pressure can be particularly intense in high-stakes industries, such as finance or healthcare, where the consequences of failure can be severe. For example, a salesperson may feel pressured to misrepresent the features of a product to meet their sales quota, or a doctor may feel pressured to prescribe unnecessary medications to meet patient demand. To prevent this, companies should establish clear ethical guidelines and provide employees with the support they need to make ethical decisions, even if it means missing a deadline or losing a sale.
6. **Conflicting values** – Employees may have personal values that conflict with the values of the organization. For example, an employee may value honesty and transparency, but work for a company that engages in deceptive practices. This can lead to moral distress and ethical dilemmas. To address this, companies should provide opportunities for employees to discuss their values and how they align with the organization's values. They should also provide training on ethical decision-making and encourage employees to speak up when they see unethical behavior.
7. **Ambition and Disorientation** – Individuals may be driven by a desire for success or recognition, but may lack the skills or knowledge to achieve it ethically. They may be *under hunger for recognition. If they can't get the rewards they seek through accepted channels,* they may be tempted to engage in unethical behavior to get ahead. Moreover, individuals may be so focused on their goals that they lose sight of the ethical implications of their actions. This can lead to a culture of unethical behavior within the organization. To prevent this, companies should provide training on ethical decision-making and encourage employees to consider the ethical implications of their actions.

Organisation for Economic Co-operation and Development (OECD) has also developed corporate governance principles on "Corporate Governance" one of these Principle includes Disclosure and Transparency which states that A) Organizations Transparency practices should ensure that timely and accurate disclosure is made on all material matters regarding the corporation including the financial situation, performance, ownership, and governance of the company.

1. Board & management- Details, such as size and composition of the board & committees and information about key executives and their remuneration should be disclosed.
2. *Annual Reports should be posted on the organization's website for easy access.*
3. Board and Directors' details such as their qualifications, shareholding in the company, potential conflicts of interest, remuneration, etc should be disclosed on the organization's website.
4. Corporate governance & Code of conduct
5. Financial and Operating Results
6. Auditing standards, etc.

7. *Annual Reports (Posted on the organization's website for easy access)*
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2. **Ends not to justify the means**: It is the ethical code which states that one should not do anything unethical to achieve the desired goal. The ethical code is to be followed in every walk of life. Ethical code should be followed in the personal life as well as professional life. Ethical code should be followed by the employees of the company as well as by the employer. Ethical code should be followed by the employees in relation to the company and vice versa.

3. **Ethical leadership**: It is the ethical code which should be followed by the leaders in the society. Leaders should lead by example. They should lead the society in the right direction. Hence, leaders should follow the ethical code. Mahatma Gandhi, Nelson Mandela, Martin Luther King Jr. are the examples of ethical leaders.

4. **Character**: "If Character Is Lost Everything Is Lost", highlights the importance of good character. Character is the ethical code which is followed by the individuals in their personal life, professional life, business life and in the society in relation to the environment.

2. CASES

There are many cases which relate to the violation of the ethical code. Some of the cases are discussed below:

1. *The first example relates to the government's decision to sell its stake in IDBI Bank to the Life Insurance Corporation of India (LIC).*

IDBI Bank's non-performing assets (NPA) and bad debts were very high. The government, therefore, decided to sell its stake in the bank to LIC. The government, in this case, violated the ethical code. The government should not have sold its stake in the bank to LIC, because LIC would suffer huge losses. Therefore, the government violated the ethical code. The government should not have sold its stake in the bank to LIC because it would infect other bank with IDBI's losses and shutting it down is a non-viable option. Hence, the government violated the ethical code. The government should not have sold its stake in IDBI Bank to the Life Insurance Corporation of India (LIC). The government violated the ethical code.

Further, how did LIC come to a decision that it should buy the stake in IDBI Bank? It used policyholders' funds, or the premium they pay to the insurance company for the insurance. Therefore, LIC violated the ethical code. The government violated the ethical code as well.

[illegible] IDBI [illegible]
to policyholders but has now been diverted? Also, theoretically, LIC's investment in IDBI Bank [illegible].

T[illegible] issue is the regulator's discretionary powers. The Insurance Regulatory and D[illegible] A[illegible] (IRDAI) [illegible] IDBI-LIC [illegible] IRDAI [illegible] H[illegible] G[illegible] bank is Government's responsibility. It is duty-[illegible].

2. R[illegible] V[illegible] S[illegible]

3. In another instance, the country's largest two wheeler maker Hero Moto Corp has removed around 30 employees for violation of the company's code of conduct, These executives were [illegible] some of vendors, suppliers and dealers in violation of the company's internal 'code of conduct. A [illegible] W[illegible].

O[illegible]

1. **United Dra[illegible]s a B[illegible]oo[illegible]ed Passen[illegible]er Off a [illegible]** [illegible] U[illegible] CEO O[illegible] M[illegible] D[illegible] L[illegible] U[illegible] D[illegible] didn't stop and complaints increased from 13%.

2. **Apple's Slowed Down iPhones:** C[illegible] A[illegible]

it a “misunderstanding,” and offered to sell battery replacements for $29 instead of the usual $79. Apple has said that once the battery is replaced, the iPhone’s speed will pick up again.

3. **[illegible] Stee[illegible] M[illegible]tsubishi Materials, and Japan’s Corporate Governance Woes:** Japan’s economy [illegible] GDP [illegible] 2001 [illegible] 2017. H[illegible], [illegible] K[illegible] S[illegible] [illegible] F[illegible]rd, T[illegible], [illegible] 2007. C[illegible] N[illegible] [illegible] S[illegible] [illegible] 395,000 [illegible] 2017, [illegible]

4. **21st Century Fox and Bill O’Reilly** [illegible] S[illegible] 2017, [illegible] 21[illegible] C[illegible] F[illegible] F[illegible], Gretchen Carlson filed a lawsuit against Fox News Channel’s news chief Roger Ailes, alleging [illegible] [illegible]ut it didn’t stop there. It was reported that star commentator Bill O’Reilly [illegible] T[illegible] a lot and by April, O’Reilly was out. Still, the news was upsetting to shareholder[illegible] F[illegible] agreed to pay $90 million to settle shareholder claims related to the O’Reilly and Ailes scandal, [illegible]

5. **Equifax’s Data Breaches:** Cr[illegible] E[illegible] S[illegible] [illegible] 145 [illegible] U.S. [illegible]

6. **Samsun[illegible]s Bribery Charges**

I[illegible] 2016, S[illegible] N[illegible] 7 [illegible] I[illegible] 2017, [illegible] r[illegible] Or[illegible] L[illegible] S[illegible] L[illegible] H[illegible]

S[illegible] E[illegible] [illegible]-CEO K[illegible] O[illegible]-[illegible] O[illegible], [illegible] Samsung’s leadership woes. “As we are confronted with unprecedented crisis inside out, I [illegible] [illegible]dership to better respond to challenges arising from the rapidly changing IT industry,” he [illegible]

7. Wells Fargo's Woes Continue

After creating fake accounts in 2016 for its customers, Wells Fargo was fined $185 million. But Wells Fargo's woes only deepened in 2017, when the company admitted that it had charged auto loan customers $70,000 unnecessary insurance premiums that they did not need. Additionally, over 20,000 customers were forced to cancel their auto loans because they were unaffordable. Wells Fargo said it would pay $80 million in remediation. Wells Fargo's head of 37 consumer banking and some 70 senior managers in the bank's retail banking segment were also cut as a result. In 2018, Wells Fargo was fined $1.4 billion after it was discovered that it had improperly charged 2.1 million customers for auto insurance. Additionally, the bank was ordered to pay $1 billion.

8. Money Laundering Scandals in Europe

Denmark's largest bank, Danske Bank, came under fire from authorities from multiple countries, as it was revealed that the bank's Estonian branch may have assisted in money-laundering to the tune of EUR 200 billion. The bank's non-resident portfolio in Estonia was found to be involved, including Denmark and the U.S. Then, Deutsche Bank's offices in Frankfurt were raided over suspicions that it was involved in money-laundering related to the Panama Papers. In response, European regulators said they would be on the lookout for banks that were involved in money-laundering. The response from Deutsche Bank was that it was cooperating with the authorities. In May, 2018 Danske Bank's CEO and chairman resigned over the scandal, and the bank's shares were downgraded to junk status.

9. Software Errors (SWIFT)

Over a dozen banks, including KLA Investment Bank, were affected by software errors that caused fraudulent transactions to be made. The banks were using software provided by SWIFT. The errors resulted in fraudulent transactions totaling $81 million. The software provided by SWIFT, called Alliance Access, was vulnerable to hackers. Vietnam Maritime Bank was one of the banks that was affected. Customers' accounts were debited. Vietnam Maritime Bank was not the only bank in the UK that was affected. Bangladesh Bank was also affected. Cybercriminals were able to steal $81 million. Most of the stolen money was transferred to accounts in the Philippines.

1. ILFS

ILFS Group is one of the leading infrastructure development and project management companies in India. It was promoted by Ravi Parthasarathy in 1987. The company has its headquarters in Mumbai. ILFS Group has a diversified portfolio in the infrastructure sector. It has a net worth of Rs. 91000 crore. Many of the projects undertaken by the company are executed through Special Purpose Vehicles (SPV). The SPV model helps in ring-fencing the risk associated with the project. It also helps in bringing investors to the project. The company has been a pioneer in the Build Operate Transfer (BOT) model in India. It has executed projects in the roads, power, urban infrastructure, water treatment, railways, ports, airports, IT parks, SEZ, and education sectors.

- Promoters have the right to appoint the majority of the directors on the board of the company.
- It is a public sector undertaking. It is owned by the Government of India.
- Employees have the right to appoint one director on the board of the company.
- Other shareholders have the right to appoint one director on the board of the company.
- Two meetings of the board of directors must be held in a year. The gap between two meetings should not be more than 120 days.
- Quorum for the meeting of the board of directors is one-third of the total strength of the board or three directors, whichever is higher.
- Number of directors – Minimum 3 and maximum 12.
- Number of directors – Minimum 2 and maximum 15.

2. DHFL

DHFL is one of the largest housing finance companies in India. It was promoted by Kapil Wadhawan in 1984. It has its headquarters in Mumbai. It has a diversified portfolio in the housing finance sector. It has a net worth of Rs. 11000 crore. It has a network of 1000 branches in India. It has a presence in the UAE and Singapore. It has been a pioneer in the affordable housing segment in India.

- Government has the right to appoint one director on the board of the company.
- Lenders have the right to appoint one director on the board of the company. It is the right to appoint one director on the board of the company.
- Employees have the right to appoint one director on the board of the company.

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2. YES Bank

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D[illegible] RBI [illegible] AQR [illegible] F[illegible] SBI. E[illegible]

3. Harvey Weinstein's Multiple Sexual Assault Accusations

M[illegible] 100 [illegible] H[illegible] W[illegible]. W[illegible] — but it wasn't enough to save the termination from Weinstein Co., nor did it calm the public's growing outrage over how Weinstein had [illegible]. I[illegible], W[illegible] [illegible]-Mossad agents to tail the accusers in question. But as turns out, it wasn't just Weinstein's

CHAPTER [illegible] DUE DI[illegible]IGENCE I

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- [illegible] company's main asset, but the target company is nervous about letting the potential buyer [illegible]
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5. ***Information from external sources:*** [illegible] information from company's vendors and customers.
6. ***Limit the report to only material facts:*** [illegible]
7. ***Structure of information:*** [illegible]

3. STAGES/PROCESS OF DUE DILIGENCE

Pre-Due Diligence

Pre-[illegible]

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3. *In case some issues are not applicable spell it out as "Not Applicable".*
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3. **Post Diligence**

[illegible]

TECHNIQUES OF DUE DILIGENCE AND RISK ASSESSMENT

1. **Know your Client:** [illegible]

2. **Properly Identify the Risks:** [illegible]

3. **Actions taken to control any risks:** [illegible]

a. Periodically test and/or monitor certain 'risks' that is associated to a particular category.

b. [illegible]

c. [illegible]

d. [illegible]

e. [illegible]

4. **Responding to Incidents:** [illegible]

8. TYPES OF DUE DILIGENCE

There are different types of due diligence that are carried out depending on the purpose, industry, complexity, and other factors. Some of the most common types of due diligence are:

1) Operational Due Diligence

Operational due diligence is the process of evaluating the target company's operations, including its management team, business model, and operational processes. The goal is to identify any potential risks or challenges that may affect the company's ability to achieve its growth objectives. This type of due diligence may include an assessment of the company's supply chain, production processes, and customer relationships.

For example, an operational due diligence team may visit a manufacturing facility to observe the production process, assess the quality control measures in place, and identify any potential bottlenecks or inefficiencies that may affect the company's ability to meet demand.

2) Strategic Due Diligence

Strategic due diligence is the process of evaluating the target company's strategic fit with the acquirer's overall business strategy. The goal is to identify any potential synergies or conflicts that may arise from the acquisition.

3) Financial Due Diligence

Financial due diligence is the process of reviewing the target company's financial statements and other financial information to assess its financial health and identify any potential risks or opportunities. It provides a deep understanding of all the company's financials, including audited financial statements, tax returns, revenue projections, expenses, and cash flow. It is usually conducted by a team of financial experts, such as accountants, auditors, etc. It is important to note that financial due diligence is not limited to just looking at the numbers, it also includes understanding the company's business model, industry trends, and competitive landscape. The Financial Due Diligence team will also look at

[illegible]

- [illegible]
- [illegible]
- [illegible]
- [illegible]
- [illegible]

Scope of [illegible]ork under f[illegible]anc[illegible] due d[illegible]ence[illegible]

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2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
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12. [illegible]
13. [illegible]
14. [illegible]
15. [illegible]

A. Technical Due Diligence

[illegible]

1. **Intellectual Property Due Diligence** [illegible]

[illegible] *and scope of target company's right over the intellectual property, to evaluate the validity of* [illegible]

- [illegible]
- [illegible]
- [illegible]
- [illegible]

2. **Technology Due Diligence** *technology, company's existing technology, further investments required etc. Technology due* [illegible]

B. Environmental Due Diligence

[illegible]

- [illegible]
- [illegible]
- [illegible]
- [illegible]

[illegible]

[illegible] environment[illegible]

[illegible]

- [illegible]
- [illegible] EPA, [illegible]
- Whether the company's disposal methods of various by products are in sync with the regulated conditions.
- [illegible]

List of important statutes for environment protection in India:

- The Air (Prevention and Control of Pollution) Act, 1981
- The Water (Prevention and Control of Pollution) Act, 1974
- The Environment Protection Act, 1986
- The Wildlife Protection Act, 1972
- The Forest Conservation Act, 1980
- Public Liability Insurance Act, 1991
- The Biological Diversity Act, 2002
- The National Green Tribunal Act, 2010

C. Human Resource Due Diligence

[illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]

D. Labour Laws Due Diligence

Labour laws due diligence to ensure company's compliance with all applicable labour laws and regulations, including those relating to wages, working hours, benefits, and employee rights. This process helps identify potential risks and liabilities related to labour practices and ensures that the company is operating in accordance with legal requirements. It may involve reviewing employment contracts, payroll records, and workplace policies.

1. Labour law compliance audit
2. Employment contracts review
3. Wage and hour compliance
4. Labour disputes and litigation history review
5. Minimum wage compliance
6. Verification of compliance by contractor engaged by the company; • Observing liability as per labour laws.

List of major labour laws in India

1. Employees' Compensation Act, 1923
2. Payment of Wages Act, 1936
3. Minimum Wages Act, 1948
4. Factories Act, 1948
5. Maternity Benefit Act, 1961
6. Payment of Bonus Act, 1965
7. The Payment of Gratuity Act, 1972
8. Employees' State Insurance Act, 1948
9. Industrial Disputes Act, 1947
10. Trade Union Act, 1926
11. The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013

E. Information Security Due Diligence

Information security due diligence is the process of assessing and evaluating the effectiveness of an organization's information security practices and controls. It involves reviewing policies, procedures, and technical measures to identify potential risks and vulnerabilities. The goal is to ensure that the organization is adequately protecting its information assets.

1. Information security policy

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c. The application shall be made in Form No. 1 of the Schedule I of the NCLT Rules, 2016 and shall be signed and verified in the manner laid down therein by the applicant or by a person authorised under the rules made in this behalf and shall be supported by an affidavit in Form No. 4 of the Schedule I of the NCLT Rules, 2016 and verified in the manner laid down therein by the person making the application.

d. The application shall be accompanied by a fee calculated in the manner specified in the Companies (Fees) Rules, 2014 by way of demand draft in favour of the Registrar of the Bench concerned where the application is filed or where the Bench proposes to hold its sitting.

e. The application shall contain the particulars of the applicant in the beginning of the application.

f. The cause title of the petition/application shall be "Before the National Company Law Tribunal" and in the heading thereof, the jurisdiction under which the petition is filed shall be specified.

g. As per rule 4 of the NCLT Rules, 2016 read with section 434 of the Companies Act, 2013 the NCLT Rules, 2016 shall not apply to the proceedings pending before the Board for Industrial and Financial Reconstruction.

h. The application shall contain a concise statement of the facts on which the claim is based and the grounds for relief and the provisions of law, if any, under which such relief is sought.

i. The application shall state the name of the respondent, his description, address, and such particulars as are known to the applicant, and as far as possible, the manner in which the respondent is connected with the facts and circumstances of the case.

j. The application shall state the jurisdiction of the Bench, limitation, and all the facts relating to the dates on which the cause of action arose, and how the application is within limitation, or if it is beyond limitation, the ground for condoning delay in filing the application.

k. Every application, reply, rejoinder or affidavit or document filed by a party to the proceedings before the Tribunal shall be typewritten in double spacing in such font as may be specified by the Registrar in this behalf.

l. The applicant shall, unless exempted by the Tribunal, furnish all the documents on which he relies in support of the claim raised in the application along with the application.

m. Subject to the provisions of section 424 of the Companies Act, 2013 and rule 11 of the NCLT Rules, 2016, the Tribunal shall not be bound by the Code of Civil Procedure, 1908 but shall be guided by principles of natural justice and, subject to the other provisions of the Act and of these rules, the Tribunal may regulate its own procedure.

n. Proceedings of the Tribunal shall be held at such place as the Bench may fix in this behalf. The Tribunal

demand draft / PO drawn in favour of the "The Pay & Accounts Officer, Ministry of Corporate Affairs, New Delhi" or can be paid through online at nclt.g□□ □□.

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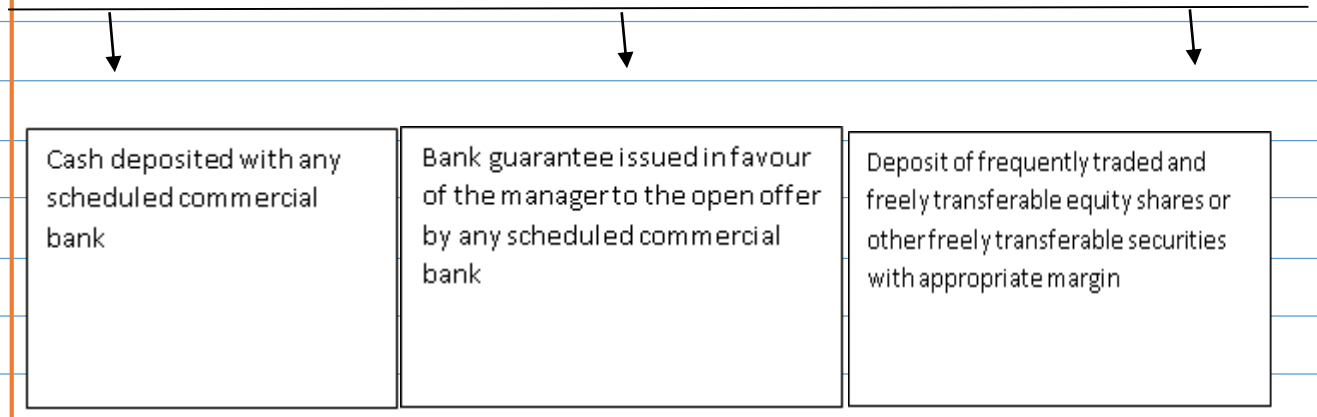
2. Escrow account should be opened with any one of the following:



However, the acquirer may deposit in the Escrow account any one or more of the above mentioned instruments.

a. In the event the Escrow account consists of cash deposit, no interest is payable to the acquirer.

b. The cash lying in the Escrow account may be invested in term deposits of a scheduled commercial bank, in the name of the acquirer and pledged in favour of the merchant banker.

c. The acquirer shall deposit or cause to be deposited such sums in the Escrow account, as per the following formula, namely:

Ninety five per cent. of the consideration payable under the open offer, assuming full acceptance

d. The acquirer shall deposit cash in the Escrow account, calculated in the manner mentioned in clause (c) above, in case the Escrow account is in the form of bank guarantee or deposit of securities.

e. The bank guarantee shall be valid irrevocable and shall be kept valid till the completion of the open offer period.

Important: The deposit of the escrow amount should be made before the date of publication of the detailed public statement and the escrow account should be operational before the date of publication of the detailed public statement.

3. In case the acquirer fails to deposit the escrow amount in the manner specified above, the manager to the open offer shall, within one working day from the date of the detailed public statement, issue a public announcement in the newspapers in which the detailed public statement is published, stating inter alia the fact of non-receipt of the escrow amount.

[illegible]

4. [illegible] to issue a banker's cheque or [illegible]

5. [illegible]

6. [illegible]

7. [illegible] 30 d[illegible] 21.

d. [illegible]

[illegible]

1. [illegible] 23 [illegible]

2. [illegible] 21.

3. [illegible]

4. [illegible]

5. [illegible]

[illegible]

Due Diligence for Issue of Securities

[illegible]

1. [illegible]
2. [illegible]

[illegible]

[illegible]

[illegible] Companies Act, 2013 and SEBI [illegible] [illegible]

Due D[illegible]ence Report for Bank

[illegible] Company Secretary [illegible]

GUIDANCE ON DI[illegible]IGENCE REPORTING

1. [illegible]

2. [illegible] PCS [illegible] Company Secretaries Act, 1980.

3. [illegible]

4. [illegible] PCS [illegible]

5. [illegible] RBI [illegible] Company Secretary [illegible] (PCS) [illegible]

[illegible] Act, 1980 [illegible]

6. [illegible]

FEMA Due D[illegible]ence

[illegible] (FEMA) [illegible] FEMA [illegible]

FEMA [illegible]

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible] RBI
6. FDI P[illegible]
7. [illegible]

[illegible]CRA Due D[illegible]ence[illegible] F[illegible]r[illegible] C[illegible] R[illegible] A[illegible], 2010 [illegible]r[illegible]d [illegible] r[illegible]d the inflow of foreign funds received by NGO's. The FCRA legislation state that an organization [illegible]r[illegible]d[illegible]r[illegible] [illegible]r[illegible]d [illegible]d[illegible]r [illegible] F[illegible]r[illegible] C[illegible]rr[illegible] [illegible]R[illegible] A[illegible], 2010 [illegible]r [illegible]d [illegible]r[illegible]r [illegible] A[illegible], [illegible] r[illegible]r[illegible]d NGO[illegible] [illegible]d [illegible]r[illegible]r[illegible] r[illegible], [illegible]r[illegible]d[illegible]d [illegible] A[illegible]

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- <u>**Scope of t[illegible]e Act[illegible]**</u>

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- <u>**Re[illegible]strat[illegible]n[illegible]**</u> [illegible]r[illegible]r[illegible] [illegible]d, NGO[illegible] [illegible]r r[illegible]d [illegible]r[illegible] M[illegible]r[illegible] H[illegible] A[illegible] [illegible]d[illegible]r FCRA. T[illegible], NGO[illegible] [illegible]r [illegible]r [illegible]r[illegible] [illegible]r [illegible]r [illegible]r[illegible] r[illegible]r[illegible] [illegible]d [illegible]r [illegible]r[illegible]d [illegible]r[illegible] I[illegible] [illegible]r[illegible]r, [illegible]r[illegible] M[illegible]r[illegible] H[illegible] A[illegible] r[illegible]d [illegible]r[illegible] r[illegible] [illegible]r[illegible] I[illegible], NGO[illegible] [illegible]r r[illegible], [illegible]r[illegible]r [illegible]d[illegible] r[illegible]r[illegible] [illegible]r[illegible]d.
- <u>**[illegible]ore[illegible]n [illegible]und[illegible]**</u> NGO[illegible] [illegible]d [illegible], [illegible]d[illegible] [illegible]r[illegible] [illegible]r[illegible] T[illegible] [illegible]r[illegible] [illegible]d [illegible]d [illegible]r [illegible]r[illegible] [illegible]r [illegible]r[illegible] r[illegible]d.

- **Due Diligence and Reporting Requirements**

1. An NGO or any recognized body or association or organization receiving any donation from any foreign source or any person receiving any donation from any foreign source on behalf of any association or organization or any person receiving any donation from any foreign source for any political purpose, shall furnish the declaration containing such particulars in such form and manner and within such time to the Government as may be prescribed.

- Such person shall maintain such accounts in such manner as may be prescribed
- Proper audit of such accounts shall be conducted as may be prescribed
- Maintenance of records for such period as may be prescribed

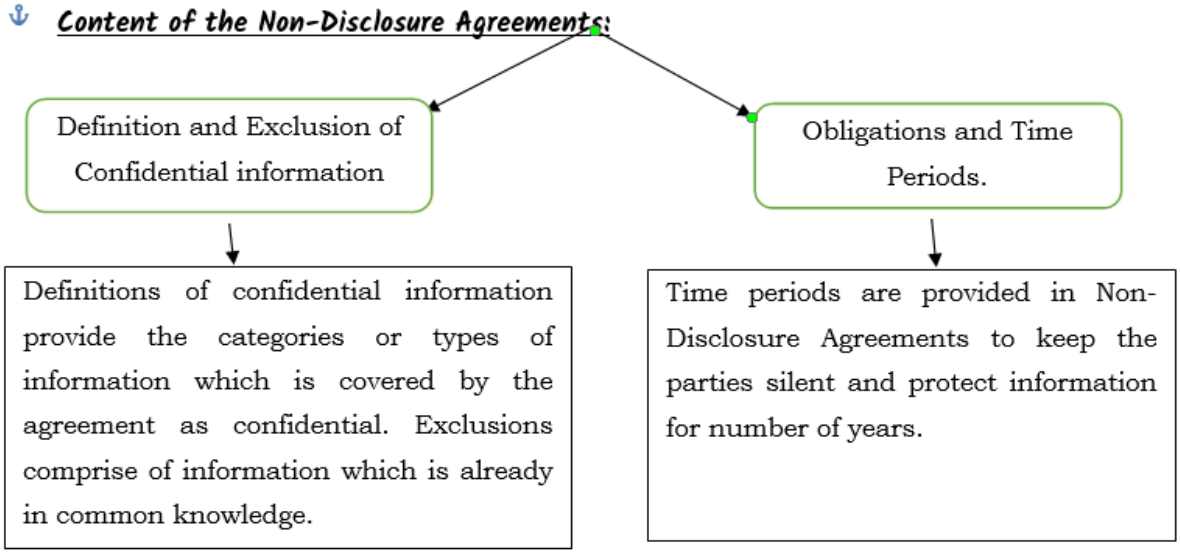
2. The person receiving foreign contribution shall disclose the receipt of foreign contribution in its annual income-tax return, balance-sheet or any other document, as may be required by any law for the time being in force, to the Government or any authority specified in this behalf by the Government.

NON-DISCLOSURE AGREEMENT

- Non-Disclosure Agreement (NDA) or a confidentiality agreement is a legal contract between two parties that outlines confidential information that they wish to share with one another for certain purposes, but wish to restrict access to or use by others. The party disclosing the confidential information may require the receiving party to enter into an NDA before the disclosure occurs, or the terms may be implied by the circumstances or by trade custom.
- The NDA creates a confidential relationship between the parties to protect any type of trade secret. As such, an NDA can protect non-public business information. Business leaders often NDAs when they plan to do business with another company or individual with a particular interest in learning more about their company's trade secrets, inventions or processes.
- A mutual non-disclosure agreement (MNDA) or bilateral non-disclosure agreement (BNDA) is a contract between at least two parties that outlines confidential material, knowledge or information that the parties wish to share with one another for certain purposes, but wish to restrict access to or use by others. In such agreement, each party may disclose confidential information.

1. The NDA agreement should clearly define what is considered as confidential in the NDA, including any exceptions to what is considered confidential, such as information that is already publicly known.
2. In some countries, non-disclosure agreements may be unenforceable in certain circumstances.
3. In the United States, trade secrets are governed by state laws, so the enforceability of NDAs may vary from state to state.

Content of the Non-Disclosure Agreements:



CHAPTER 20: DUE DILIGENCE II

1. INTRODUCTION

[illegible]

2. PROSECUTORAL PROCEDURES

[illegible]

3. NON-COMPLIANCES UNDER COMPANIES ACT, 2013

[illegible]

[illegible]

1. Depending on the type of punishment [illegible]

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- [illegible]
- [illegible]
- [illegible]
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2. **Dependent on Contravention**

- Civil liability for any contravention of any provision of the Act or rules made thereunder or any order passed by the Tribunal.
- Non-Compliance with any provision of the Act or rules made thereunder or any order passed by the Tribunal.

3. **Dependent on Basis of Liability** The basis of liability is the contravention of any provision of the Act or rules made thereunder or any order passed by the Tribunal.

5. PROCESS OF PROSECUTION UNDER THE COMPANIES ACT 2013

1. A list shall be prepared by the Registrar containing the names of Specified and Other Officers and Non-Filing Companies. Specified Officers shall be the Chief Executive Officer, the Registrar or the Chief Financial Officer and such other officer as may be specified by the Chief Executive Officer, the Registrar or the Chief Financial Officer as per Companies Act, 2013 and Specified Officers shall be the Company Secretary or any director of the Company.
2. On such list being prepared, a notice shall be issued, calling upon the Specified Officers, to file the pending documents with the Registrar. If the Specified Officers fail to file the pending documents, then a due date shall be fixed.
3. If such Specified Officers fail to file the pending documents, then the Registrar shall issue a show cause notice to the company and officer's in default sow as to show why a proceeding should not be initiated against them.
4. If such Specified Officers fail to show cause to the Registrar or the Registrar is not satisfied with the explanation, the Registrar shall file complaint before the Hon'ble NCLT for initiating proceedings, wherein he may pray for imposition of fine on such Specified Officers.
5. If Specified Officers fail to comply with the notice issued by the Registrar of Companies, then the Registrar of Companies will proceed further to file a complaint before the Hon'ble National Company Law Tribunal ("NCLT"), then the Registrar of Companies will proceed further to file a complaint before the Hon'ble Special Court constituted under the Criminal Law Amendment Act.
6. As per the provisions of Section 441(1) of the Companies Act, 2013, where the Companies Act, 2013 or the rules made thereunder or any order made thereunder, whether before or after the commencement of this Act, provides that a company or any officer of the company shall be liable to a penalty or punishment for any default, and no Tribunal or other authority is specified in this behalf, the Tribunal may, on application made to it by the Registrar or any person authorised by him in this behalf, or on a reference made to it by the Central Government, have jurisdiction to impose such penalty or punishment.

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5. DEA□ING □ITH COMP□AINT BY ROC AND S□IO IN SPECIA□ COURT

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1. The police officer in charge of the SHO may forward the report received under section 173 of the Criminal Procedure Code, 1973. However, this does not prevent the Magistrate from taking cognizance of the offence if the report received under section 190 of the Criminal Procedure Code, 1973.
2. The police officer in charge of the investigation may also request the victim to re-examine the witness as per the requirement of the SHO.
3. After the police officer in charge of the SHO has forwarded the report received under section 173 of the Criminal Procedure Code, 1973, the Magistrate may take cognizance of the offence under section 204 thereof if there is sufficient ground for proceeding. However, this power is subject to the Magistrate taking cognizance of the offence under section 200 and 203 of the Code and the Magistrate is not bound to issue process.

Under Section 200 Criminal Procedure Code, 1973, the Magistrate has to record the statement of the complainant and the witnesses present, and the substance of the same is reduced to writing. After the Magistrate has taken cognizance of the offence, he may postpone the issue of process and may inquire into the case himself. The Magistrate may also direct an investigation to be made by a police officer for the purpose of deciding whether there is sufficient ground for proceeding. In certain "complaint" cases, action may have to be taken by the magistrate under the provisions of Section 202 Criminal Procedure Code, 1973, i.e., the magistrate has to conduct an inquiry or an investigation of the complaint. After the magistrate has taken cognizance, he may direct an investigation to be made by a police officer, or if he thinks fit may hold an inquiry himself under Section 203 of Criminal Procedure Code, 1973 if the latter is found, he may proceed to issue process, i.e. to issue summons under Section 204 of Criminal Procedure Code, 1973.

COMPLAINT BY ROC	COMPLAINT BY SHO
The complaint of the ROC is governed by the provisions under section 190 of the Criminal Procedure Code, 1973	The complaint of the SHO is governed by the provisions under section 173 of the Criminal Procedure Code, 1973
The complaint of the ROC does not require examination under section 200 of the Criminal Procedure Code, 1973	The complaint of the SHO must be examined under section 200 of the Criminal Procedure Code, 1973

T[illegible] ROC	D[illegible] S[illegible] 204 [illegible]

[illegible]. DI[illegible]ERENCE BET[illegible]EEN [illegible]INE AND PENA[illegible]TY

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7. COMPOUNDING

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8. COMPOUNDING O□ CERTAIN O□□ENCES UNDER COMPANIES ACT□2□□3

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9. E□□ECTS O□ COMPOUNDING

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CASE STUDY ON COMPOUNDING

[illegible] DECRIMINA[illegible]ATION O[illegible] O[illegible]ENCES

MCA [illegible] A[illegible] [illegible] C[illegible]G[illegible] certain 'acts' punishable as compoundable offences to 'acts' c[illegible]

T[illegible] C[illegible]

1. R[illegible] 16 [illegible] 81 [illegible]

2. I[illegible]

3. S[illegible]

4. D[illegible] NCLT [illegible] R[illegible] D[illegible] (RD) [illegible] D[illegible] C[illegible] L[illegible] C[illegible] S[illegible] 2019. T[illegible] C[illegible] (A[illegible]) [illegible] A[illegible] 2020 [illegible] I[illegible]

T[illegible] D[illegible]

1. **Om[illegible]s[illegible]on of certa[illegible]n offences[illegible]**

T[illegible] C[illegible] (A[illegible]) [illegible] A[illegible] 2020 [illegible] NCLT, [illegible] NCLT [illegible] S[illegible] C[illegible] F[illegible] S[illegible] 342(6) [illegible] C[illegible] A[illegible] 2013 [illegible]

[illegible]

2. **Removal of imprisonment and subjecting the offences to fine alone**

[illegible] Section 26.

3. **Recategorisation of Offences**

[illegible] 2020 [illegible] 454 [illegible] 2013, [illegible] 92(4) [illegible] 137 [illegible]

4. **Extended applicability of section 446B**

[illegible] 2020 [illegible] 446B [illegible] 2013 [illegible]

5. **Offences for which alternate mechanism is provided**

[illegible] RD [illegible] 16(3) [illegible]

[illegible]

[illegible]

[illegible] ENFORCEMENT MECHANISM OF SEBI

In order to [illegible] SEBI has been empowered to [illegible]

1. **Civil [illegible] Adjudicating proceedings:** SEBI has the power to [illegible] penalty [illegible]
2. **Adjudicating Officer:** [illegible] SEBI has appointed [illegible] Rules 25 [illegible] 3 [illegible]
3. **Executive Proceedings:** [illegible] SEBI has delegated [illegible]
4. **Test [illegible] Section 11 [illegible] 11D [illegible]**
2. **Prosecution (Criminal Proceedings):** [illegible] SEBI [illegible] Securities [illegible] 10 [illegible] 25 [illegible]
3. **Settlement (Compound):** [illegible] SEBI [illegible] Adjudicating [illegible] Proceedings) Rules, 2018.
4. **Recovery:** [illegible] SEBI [illegible]

2. CONSENT ORDER UNDER SEBI (LODR) REGULATIONS

CONSENT ORDER

- Consent order is also an order passed by the adjudicating authority in which the person against whom proceedings are initiated agrees to settle the matter without admitting or denying any of the charges levied against him. However, the person is required to pay the settlement amount determined by the adjudicating authority.
- Consent order is passed in order to avoid lengthy and complex legal proceedings. It is a mutually agreed settlement between the parties. The settlement amount is determined by the adjudicating authority. The SEBI has the power to accept or reject the consent application. The adjudicating authority has the power to determine the settlement amount.

The following are the steps in the process of Consent order, adopted by SEBI:

1. Consent application is filed by the person against whom proceedings are initiated, admitting the facts, denying the violation, agreeing to pay the settlement amount determined by SEBI, and also undertaking to comply with the directions issued by SEBI in the future. The consent application is filed before the adjudicating authority.
2. No proceedings can be initiated against the person who has filed the consent application, in respect of the matter mentioned in the consent order. However, the proceedings can be initiated against the person in respect of other matters not mentioned in the consent order.
3. No appeal can be filed against the consent order passed by SEBI. The only remedy is to file a writ petition.
4. If the person does not pay the settlement amount determined by SEBI, the consent order is void and proceedings can be initiated against the person within 60 days from the date of the order. However, the person is required to pay the interest at the rate specified in the Securities Contracts (Regulation) Rules, 1957.
5. The consent order is not a conviction or an order of punishment. It is a settlement between the parties. The person against whom proceedings are initiated is not required to admit the guilt. The consent order is not a conviction or an order of punishment. It is a settlement between the parties.

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[illegible]

[illegible] T[illegible] A [illegible]

AO [illegible] WTM [illegible] Add[illegible]

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[illegible]

[illegible]

6. T[illegible]

[illegible]

7. T[illegible] HPAC [illegible] P[illegible] WTM [illegible]

[illegible]

[illegible] SE[illegible]I A[illegible]

[illegible]

[illegible]

[illegible]

8. T[illegible] HPAC [illegible] C[illegible] H[illegible] C[illegible]

[illegible]

9. I[illegible] C[illegible] C[illegible] G[illegible] M[illegible]

[illegible] D[illegible] C[illegible] O[illegible] D[illegible] E[illegible]

D[illegible] HPAC.

10. I[illegible]

[illegible] SE[illegible]I [illegible]

11. SE[illegible]I [illegible]

[illegible]

[illegible]3. HIGH[illegible]IGHTS O[illegible] SEBI (SETT[illegible]EMENT PROCEEDINGS) REGU[illegible]ATIONS [illegible]2[illegible]8

SE[illegible]I [illegible] H[illegible]-L[illegible] C[illegible] C[illegible] R[illegible]d. [illegible] A. R.

D[illegible] S[illegible] C[illegible] I[illegible] SE[illegible]I S[illegible] Ad[illegible] C[illegible]

Pr[illegible] R[illegible], 2014 [illegible]

[illegible]

The SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 provided a framework for settlement of proceedings. However, there were certain issues in the framework. Hence, after consultation with stakeholders, SEBI has notified the SEBI (Settlement Proceedings) Regulations, 2018 which have been notified on 30.11.2018 and shall come into force on 01.01.2019.

Some of the major changes introduced in SEBI (Settlement Proceedings) Regulations, 2018 are as follows:

1. *Limitation period for filing a Settlement Application:* Under the New Settlement Regulations, SEBI received many applications after the completion of investigation or adjudication proceedings. Therefore, the New Settlement Regulations have introduced the following limitation period:
   - The Applicant shall make the application within 60 days from the date of receipt of the show cause notice, in case of adjudication proceedings. However, SEBI may extend the time period for making the application.
   - In case of Settlement application made after 120 days from the date of receipt of show cause notice in SEBI, such application shall be made after payment of additional fee which shall not exceed 25%.
   - No application shall be entertained by SEBI received after 180 days from the date of receipt of show cause notice in case of adjudication proceedings.
2. *Settlement applications in case of repetitive defaults:* SEBI, under the New Settlement Regulations, has introduced the concept of repetitive defaults. Any person who has entered into settlement proceedings in respect of any specified order within a period of 3 years from the date of receipt of the show cause notice in respect of any specified order, shall be considered as a repetitive defaulter. However, the Settlement Authority may consider such settlement application.
   - In case of repetitive defaults, fee shall be increased by 25% for each settlement.
   - In case of fraud, manipulation or front running or insider trading or misrepresentation of financial results, the settlement application shall not be considered.

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3. ***Increas□ t□e Scope of Sett□ment□*** U□d□r □□□ □□□ r□□□□ □ □□□d□□□□□□ □□□ □□ □□□□□□d □□□□□□ □□□ □□□□□□d d□□□□□□ □ □□□□ □□ □□□ □□□□□□□ □□ SE□I – □□□□ □ □r□□□ □ d□ □□ □□□□, □□□□□ □□□□ □□ □ □□r□□ □□□ □□r □□ □□□□□□□r, □r □□□□□□ □□□ □□□□□r□□□ □□ □□□ □ □r□□□ U□d□r □□□ O□d S□□□□□□ □□□ R□□□□□□□□□, SE□I □□□□□□□□□□□ □r□□□□□□d □□□ S□□□□□ □□□ □□r □□□ d□□□□□□□ □□□□□□□□ □□□ □□□□□ □□□□

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6. ***Increase □n Ind□at□e Amount for Sett□ment□*** E□r□□r, □□ I□d□□□□□□ □□ □□□ □□□□□□d □□d□r O□d S□□□□□□ □□□ R□□□□□□□□□ □r □□□□□□□□ □ □□ R□ 2 □□□□□ □r □□□ □□ □ □□□□□□□□ □d R□ S □□□□ □r □□□r□ U□d□r □□□ N□□ S□□□□□□ □□□ R□□□□□□□□□, □□□ □ □□□ □□ I□d□□□□□□ □□ □□□ □□□ □□□ □□□ □□d r□□ 2 □□□□ □□ 3 □□□□ □r □□ □□□ □ □□□□□□□□□ □d r□ S □□□□ □□ 7 □□□□ □r □□□r□

7. Settlement of Non-confidential Matters

- An application made by the person against whom proceedings are initiated in respect of any violation of the provisions of the Act, Rules or Regulations made thereunder may be filed with the Board.
- Provided that such application may be filed with the Board at any stage of the proceedings before the passing of the order, and in case of a settlement proposal filed after the passing of the order, such settlement proposal may be filed within fifteen days from the date of such order.
- Co-operation in the investigation, inspection, inquiry or audit conducted by the Board in the matter, including furnishing of information and records.
- Nature of violation, gravity of violation, and impact or likely impact of the violation in the securities market and whether such violation is one time or has occurred repeatedly.
- The quantum of disgorgement in the matter, if any, and whether the same has been paid or is forthcoming, and if paid, whether the same is liable to be remitted or returned.
- Updation of investors, wherever required, in the matter, including compensation paid to them or any other investor protection measures undertaken.
- The quantum of fine, if any, which may be imposed in the matter, and whether the same is commensurate with the nature of violation, gravity of violation, and impact or likely impact of the violation.
- Any other factor which may have a bearing on the proceedings in the matter.

However, the following matters shall not be considered for settlement:

- Matters involving fraud
- Matters involving serious violations of securities laws
- Matters involving repeat defaulters

8. ADJUDICATION AT SEBI

- Officer of SEBI not below the rank of General Manager
- The Adjudicating Officer shall, after giving a reasonable opportunity of hearing to the person alleged to be liable for any penalty under the Act, Rules or Regulations made thereunder, in writing, by an order, determine whether any of the provisions of the Act, Rules or Regulations made thereunder has been contravened or not

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- However, the Managing Director or Whole Time Director or Manager is not liable for any contravention committed without his knowledge or if he has exercised due diligence to prevent the commission of such contravention.
- The Insolvency and Bankruptcy Code, 2016 has also amended the Companies Act, 2013 to provide that the promoters, directors or key managerial personnel of a company shall be ineligible to be appointed as directors of a company for **five years** if the company has failed to pay its debt and a resolution plan or liquidation order has been passed against it.

15. PUNISHMENT FOR NON-COMPLIANCES UNDER SEBI ACT, 1992

1. If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of SEBI Act or any rules or regulations made thereunder, he shall be liable to penalty not exceeding one crore rupees or imprisonment for a term which may extend to ten years, or both, if such contravention is committed in relation to securities listed or proposed to be listed on a recognised stock exchange.
2. If any person fails to enter into any agreement with any custodian or depository or participant as required by any regulations, he shall be liable to penalty not exceeding one crore rupees or imprisonment for a term which may extend to ten years, or both, if such contravention is committed in relation to securities listed or proposed to be listed on a recognised stock exchange.
3. If a person fails to enter into any agreement with any custodian or depository or participant as required by any regulations, the Recognised Stock Exchange is empowered to recover the penalty from the person in any of the following ways:
   - attachment and sale of the person's movable property
   - attachment of the person's bank accounts
   - attachment and sale of the person's immovable property
   - any other mode as may be prescribed by the rules
   - appointing a receiver for the management of the person's movable and immovable properties
4. However, Section 12A of the SEBI Act, 1992 prohibits any person from indulging in any fraudulent and unfair trade practices relating to securities. Such practices include dealing in securities in a fraudulent manner, using any manipulative or deceptive device, insider trading and substantial acquisition of securities or control not in accordance with the regulations.
5. Any of the above, the adjudicating officer after holding inquiry, may impose such monetary penalty specified in the relevant regulations as he thinks fit which is commensurate with the loss suffered by any investor or group of investors due to such contravention or the unfair advantage made by the defaulter due to such contravention.

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5. A[illegible] SAT.

6. T[illegible] C[illegible]G[illegible]

[illegible]. PENA[illegible]TIES AND AD[illegible]UDICATION UNDER SEBI ACT[illegible]2

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NON-COMPLIANCE WITH CERTAIN PROVISIONS OF THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

- In order to ensure that the recognised stock exchanges, in addition to the actions available to it under the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992, take uniform action in case of non-compliance of provisions of the Listing Regulations, SEBI has specified a framework in 2018. The framework lays down, inter alia, actions to be taken by recognised stock exchanges in case of non-compliance by listed entities with the provisions of the Listing Regulations, as under:

1. The stock exchanges shall put in place a system driven mechanism for suspension and revocation of trading in case of non-compliance by listed entities with the Listing Regulations.
2. Follow the Standard Operating Procedure ("SOP") for suspension and revocation of trading in order to ensure uniformity in action.

- In order to ensure that the actions taken by recognised stock exchanges in case of non-compliance with the Listing Regulations, are dissuasive in nature, the stock exchanges shall ensure that the penalty imposed on the listed entities, for non-compliance with the provisions of the Listing Regulations, is recovered before revocation of trading.
- Stock Exchanges are mandated to put in place systems to ensure that trading in the shares of the listed entities, who do not pay the fine imposed, for non-compliance with the provisions of the Listing Regulations, are suspended, till the fine is paid.

STANDARD OPERATING PROCEDURE (SOP)

The SEBI has specified the SOP for dealing with non-compliance by listed entities under SEBI (LODR) Regulations, 2015. In the specified circumstances, the stock exchanges are required to move the scrip of the listed entities to the "Z" category wherein trades shall take place on 'Trade for Trade' basis by following the below procedure:

1. ***Move the scrip of the listed entity to "Z" category wherein trades shall take place on 'Trade for Trade' basis by following the below procedure:***

- In the specified circumstances, the stock exchanges shall, move the scrip of the listed entity to "Z" category where trades shall take place on 'Trade for Trade' basis.
- Before moving the scrip to "Z" category or while moving the scrip out of "Z" category, the recognised stock exchanges shall issue notice of 7 days to the listed entities.

- If the listed entity fails to comply with the requirements and does not pay the fine, the exchange shall move back the scrip of the listed entity from "Z" category to the original category.

2. **Suspend trading in the shares of such listed entity by following the below procedure:**

- Where a listed entity does not pay the fine, the exchange shall issue a notice to the listed entity, informing that the trading in the shares of the listed entity shall be suspended after 21 days from the date of the notice.
- If the listed entity pays the fine to the exchange and files the requisite documents, the exchange shall revoke the suspension of trading in the shares of the listed entity.
- If the listed entity fails to submit the requisite documents, the exchange shall issue a reminder to the listed entity and inform that the trading in the shares of the listed entity shall be suspended.
- When the listed entity submits the requisite documents, the exchange shall revoke the suspension of trading in the shares of the listed entity.
- After IS days from the date of suspension, the trading in the shares of the listed entity shall be allowed on 'Trade for Trade' basis, on the first trading day of every week for 6 months.
- The exchange shall issue a notice to the trading members and inform the trading terminals, as follows: "Trading in shares of the <name of the entity> is presently under 'suspension and trade to trade basis' and trading shall stop completely. compulsory delivery in the scrip is mandated and trading shall take place in the exchange.

Criteria for suspension of trading in the shares of the listed entities:

1. Failure to pay the fine.
2. Failure to file the requisite documents or the documents submitted are incomplete, or not in the prescribed format.

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Procession of Compounding Application

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2. [illegible]
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Technical Material for Sensitive contravention

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- However, the Adjudicating Authority shall not impose any penalty under RBI Act unless the person concerned has been given a reasonable opportunity of being heard in the matter.

Personal Hearing

In the case of adjudication proceedings, the Adjudicating Authority shall, at the request of the person concerned, give him an opportunity of personal hearing before taking any decision against him. Such hearing shall be granted by the Adjudicating Authority within a period of thirty days from the date of receipt of such request from the person concerned.

Adjournment of hearing may be granted by the Adjudicating Authority only if sufficient cause is shown by the person concerned to the satisfaction of the Adjudicating Authority. The Adjudicating Authority shall not grant more than three adjournments in the case of any proceedings to the person concerned during the hearing of the proceedings.

Adjudication proceedings shall be conducted, as far as may be, in accordance with the principles of natural justice. The Adjudicating Authority shall have the power to regulate its own procedure.

On realisation of the sum for which contravention is compounded a certificate shall be issued by the Reserve Bank indicating that the applicant has complied with the order passed by the Compounding Authority.

Where a contravention pertains to export, the period of realisation, as prescribed by the Reserve Bank, from time to time, for the realisation of export proceeds, shall be reckoned as the date of the contravention.

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- Intermediate Level
- Final Level
- CA Articleship Training
- Post Qualification Courses

Manner of Reporting of Non-Compliance

a) A [illegible] Auditor [illegible].

b) When [illegible].

c) In [illegible].

d) In [illegible].

e) The [illegible].