

COMPANIES ACT 2013

Accounts & Auditor


Organised by

Hyderabad Branch of SIRC of ICAI

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Account of Companies (Sec. 128 to 138)
Audit and Auditors (Sec. 139 to 148)
Recent Amendments <ul style="list-style-type: none">• Account and Auditor• Schedule III along with CARO



ACCOUNTS OF COMPANIES

CHAPTER IX

Chapter IX : Sec. 128 to Sec. 138

Sec. 128 : Books of account etc. to be kept by company

Sec. 129 : Financial Statement

Sec. 129A: Periodic Financial Results

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Books Of Accounts

Maintain at Registered Office

- Except decided by Board and filed with Registrar
- Books to be kept on accrual basis and according to double entry system
- Permitted to maintain in electronic mode.

Branch office in India or outside India :

- Books at branch and quarterly submission of summarised Returns to company at registered office

Period of maintenance:

- Atleast for 8 financial years immediately preceding a financial year

Inspection of Books of Accounts

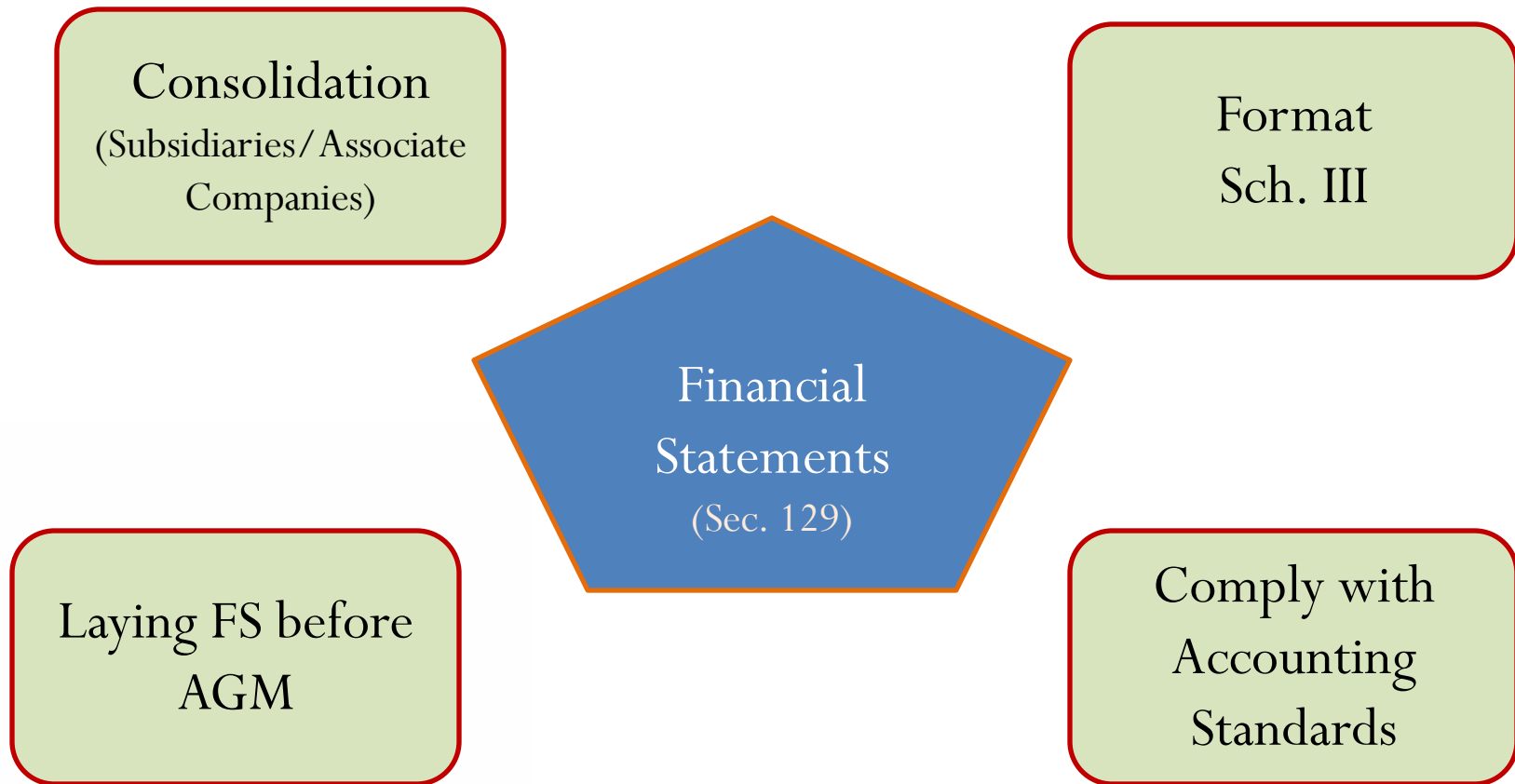
- Maintained **in India**- Open for inspection during business hours by any director
- Maintained **outside India** - company to submit within 15 days of written request by a director
- In case of inspection of books of accounts of **subsidiary companies**, the person should be duly authorised by the Board of Directors of the Holding Company

Financial Statements

Sr. No.	As per Companies Act 2013 Includes..
1.	Balance sheet
2.	Profit and Loss Account (for companies carrying activities not for profit - Income & Expenditure Account)
3.	Cash flow statement (except one person company, Small Companies, Dormant company)
4.	Statements of change in equity, if applicable
5.	Any explanatory note forming part of the above statements

Financial Year

- 1st April to 31st March as FY for all the companies except
 - Holding/ subsidiary of foreign company with requirement to consolidation and
 - Exempted by the tribunal
- **Exception** : *Incorporated on / after 1st January*
If it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year.



Schedule III:

- Division – I AS
- Division – II Ind AS
- Division – III NBFC

Periodic financial results (sec. 129A)

- ❑ May prescribe class of unlisted companies
 - Prepare financial results on periodic basis (and such form)
 - Obtain BOD approval and complete Limited Review or Audit
 - File with ROC within 30 days of completion of period

Amendment effective from 22.01.2021

Change of Accounts

Re-opening of Accounts

Sec. 130

- ✓ On Court or tribunal order
- ✓ On application by CG, IT, SEBI, any person concerned
 - ✓ On the basis of fraud or mismanagement
- ✓ Re-opened upto 8 years (unless specific order by CG for longer period)

Voluntary Revision of FS / DR

Sec. 131

- ✓ Application by Director to Tribunal
 - ✓ FS (not as per Sec. 129)
 - ✓ DR (not as per Sec. 134)
- ✓ Voluntary
- ✓ Maximum 3 years in one financial year

Case:- Reopening of accounts by Tribunal (sec. 130)

- ❑ The Central Government after considering the fact that thousands of crores of public money is involved and in the public interest, moved the National Company Law Tribunal (NCLT), Mumbai seeking for *reopening the books of accounts and re-casting of the financial statements of IL&FS and two other companies for the past five years* viz. FY 2012-2013 to 2017-2018 under Section 130 of the Companies Act, to ascertain financial mismanagement, after issuing notice to all concerned including the Central Government, Income Tax Authorities, SEBI, other Statutory Regulatory Body and even to the erstwhile Directors of IL&FS and other two companies.
- ❑ The Hon'ble NCLT had allowed the application filed by the Central Government and had directed/permited reopening of the books of accounts and recasting the financial statements of IL&FS and other two companies for the last 5 years, viz., F.Y 2012-2013 to 2017-2018.

Authentication of FS and Board Report

- Signed atleast by the chairperson – authorised by the board, or by 2 directors (one will be MD if any) and CEO, CFO, CS
- BOD report to include:
 - Web address if any annual return placed
 - Number of BOD meetings
 - Director's responsibility statement
 - Fraud reported by auditor
 - Statement of declaration given by independent directors
 - explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer by auditor / CS
 - particulars of loans, guarantees or investments u/s. 186
 - particulars of contracts or arrangements with related parties u/s. 188
 - State of company's affairs

Directors Responsibility Statement

Sec. 134(5)

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

Board Report.....2

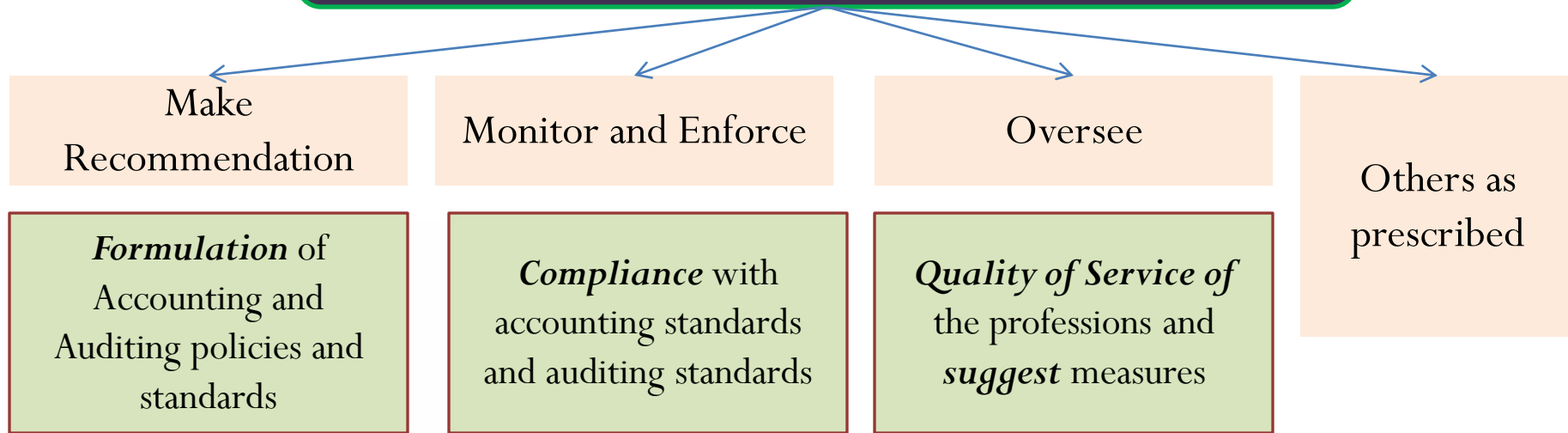
- BOD report to include:
 - Amount if any which proposes to carry to any reserves
 - Recommended dividend
 - Material changes and commitments (subsequent events)
 - Conservation of energy, technology absorption, foreign exchange earnings and outgo
 - Risk management policy related
 - CSR policy related
 - Specified Listed company- Annual evaluation of performance of Board, Committees
 - Other matters as prescribed
- If some disclosures covered in FS, sufficient if reference given
- If CSR policy uploaded on website it is sufficient compliance if salient features mentioned with reference to website

Right of member to copies of audited financial statements

Sec. 136

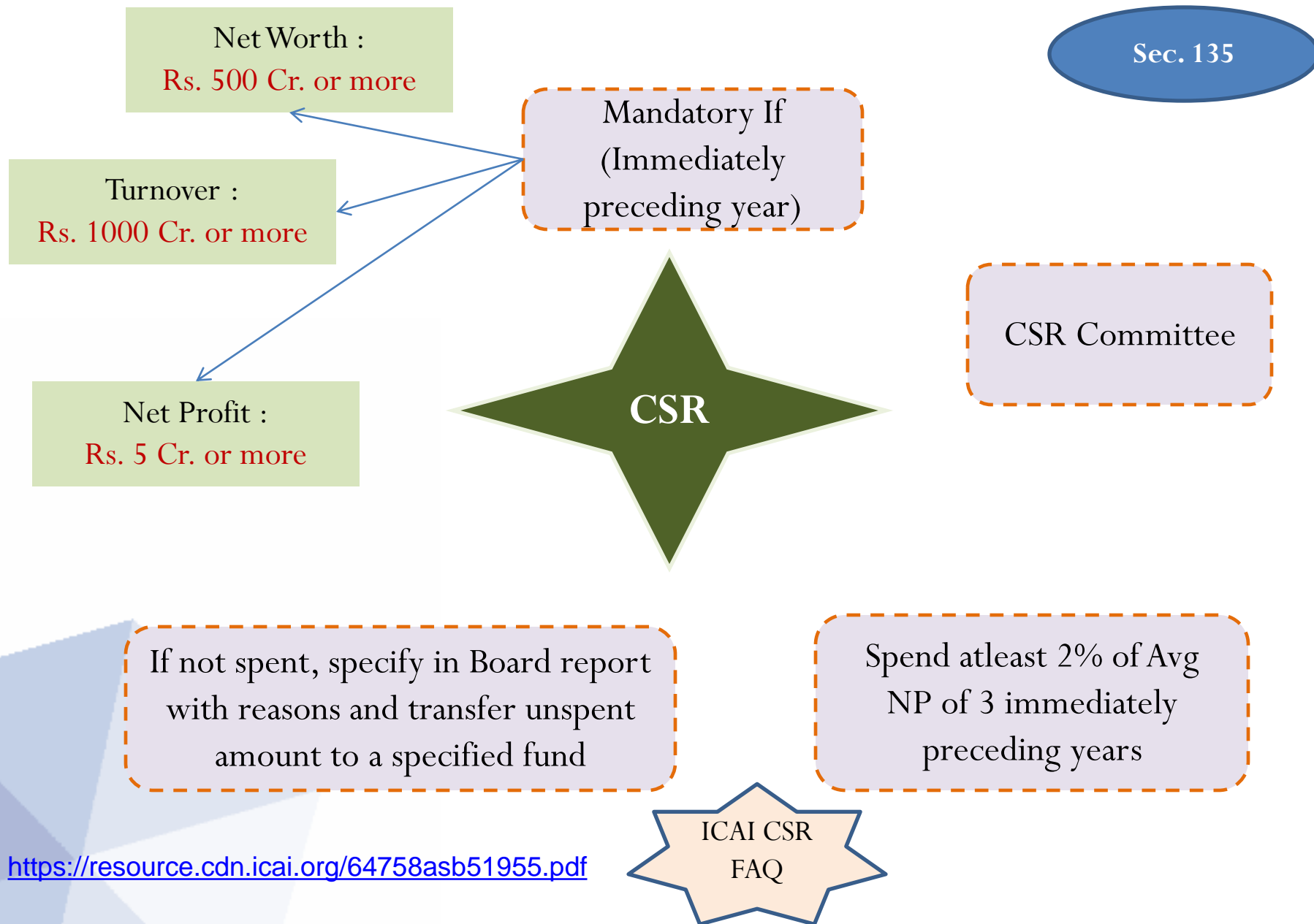
- Financial statements (including auditor report, CFS) to be circulated not less than 21 days before date of meeting
 - **Shorter Notice**
 - Company having share capital – agreed by not less than 95% of paid share capital
 - Company not having share capital - agreed by not less than 95% of total voting powers
 - **Listed company** – sent statement of salient features, available for inspection, place on website
- **Every company with subsidiary** needs to:
 - Place on website: Audited accounts of its subsidiary, foreign subsidiary – if not required to be audited, than unaudited FS

National Financial Reporting Authority



❑ Powers of NFRA

- To investigate (Either suo moto or on reference by CG) into the matters of professional or other misconduct; Where NFRA has initiated an investigation, no other institute can continue or initiate any proceeding
- Same power as of civil court
- Where professional or other misconduct prove
 - Imposing Penalty : Ind. –Rs. 1 lac to 5 times fees ; Firm – Rs. 5 lacs to 10 times fees
 - Debarring the member or firm from being appointed as auditor / internal auditor of any company/body corporate or performing valuation : period 6 months to 10 years



Internal Audit Compulsory

All Listed Companies

Public Company

Private Company

OR

OR

OR

OR

OR

OR

Paid up Share Capital :
Rs. 50 Cr or more

Outstanding Deposits :
Rs. 25 Cr or more

Outstanding ***Loan or borrowing*** from Bank or PFI:
more than Rs. 100 Cr

Turnover :
Rs. 200 Cr or more

AUDIT AND AUDITORS

Chapter X



Chapter X : Auditors

**Appointment/
Eligibility etc.**

Sec. 139 : Appointment of Auditors
Sec. 141 : Eligibility, Qualifications, Disqualifications
Sec. 144 : Auditors not to render certain services

**Removal/
Resignation**

Sec. 140 : Removal or Resignation of Auditor

**Penal
Provisions**

Sec. 147 : Punishment for contravention

Others

Sec. 142 : Remuneration
Sec. 143 : Powers & Duties and Auditing standards
Sec. 145 : Auditor to sign audit reports
Sec. 146 : Auditors to attend general meeting
Sec. 148 : Cost Audit

Appointment of Auditors

At First AGM : To Appoint auditor to hold office upto conclusion of Sixth AGM

To Ratify the appointment at every AGM

Pre-conditions for Appointment

Company to File a notice of appointment with the Registrar within 15 days of the meeting

1. Written Consent of the Auditor and

2. Certificate :

- Eligible for Appointment and not disqualified (sec. 141)
- Within the term allowed
- Within the Limit allowed
- Disciplinary proceedings if any disclosed

Audit Committee

Board

Members at Annual General Meeting

Rotation of Auditors

Limit on Term of Appointment or Re-appointment

Restriction Applicable To :

Following class of Companies excluding OPC and Small Companies:

- All Listed Companies
- Unlisted Public Co. with PC of 10 Cr or more
- Private Co. with PC of 50 Cr or more
- All Co. having borrowing from bank/FI/Public of 50 Cr. or more

An Individual as Auditor

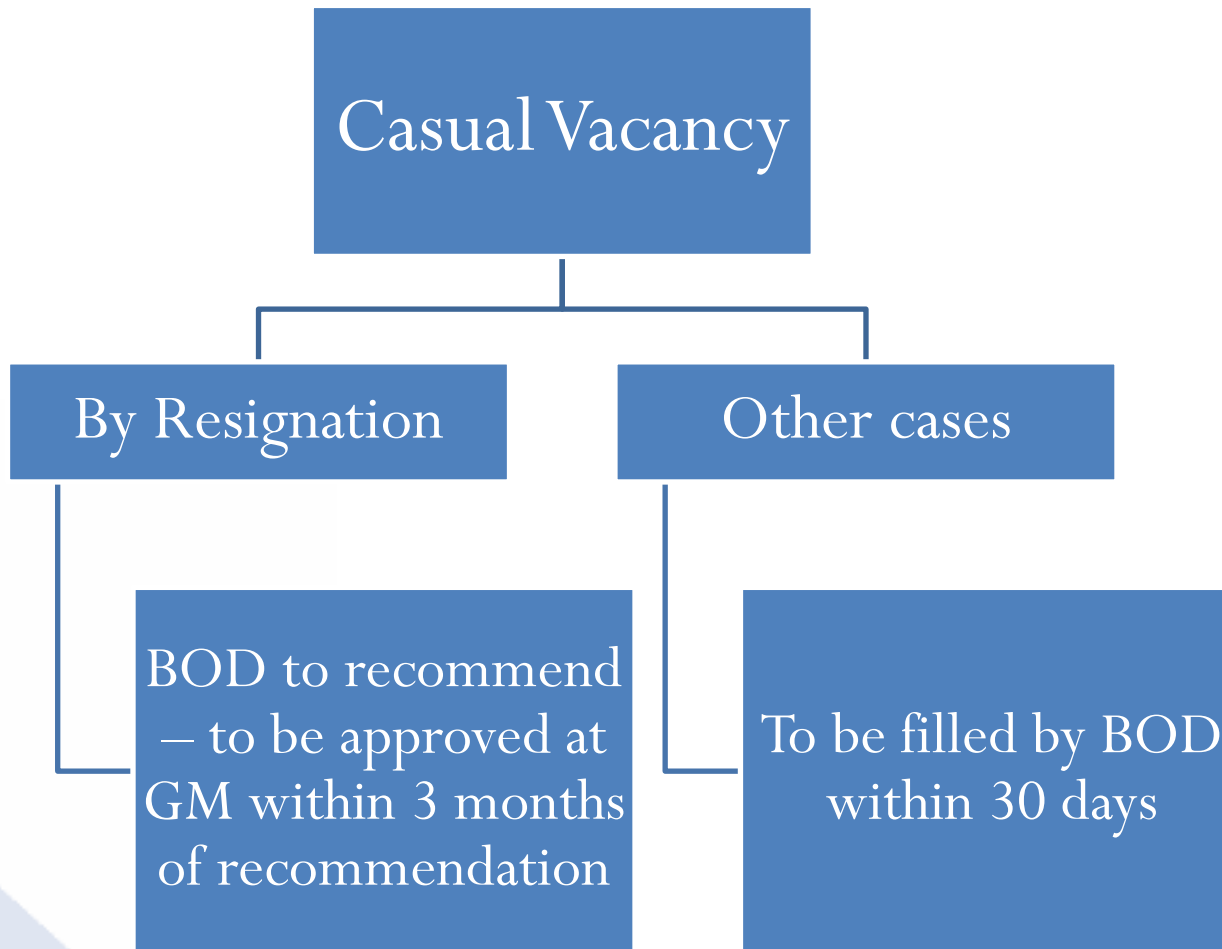
Not More than 1 Term of 5 consecutive years

An Audit Firm as Auditor

Not More than 2 Terms of 5 consecutive years

Cooling off Period

After completion of Term/s, not eligible for appointment/ re-appointment for 5 years from the completion of such term.



ICAI Clarification – Individual v Proprietor

<https://resource.cdn.icaai.org/64473clcg51714.pdf>

Eligibility as Auditor

Sr. No.	Eligible to be appointed as auditor	Particulars
1.	Individual	Only if the person is a chartered accountant
2.	Firm	Majority partners practicing in India qualified for appointment
3.	LLP	Only the partners who are CA, can act and sign

In-eligibility

Body Corporate (other than LLP)

Officer or employee of a company

Partner or employee of officer or employee of the company

Person or Relative or Partner - Holding any security or interest in company or its S/H/A/S of H Co.

- Relative may hold security or interest upto Face Value Rs. 1 Lakh
- In case of acquiring in excess – corrective action to be taken by auditor within 60 days

In-eligibility

Person or Relative or Partner - Indebted to the company or its S/H/A/S of H Co.

- In excess of Rs 5 lakhs

Person or Relative or Partner - Given guarantee or provide any **security** with indebtedness of third person to company or its S/H/A/S of H Co.

Person or firm directly/indirectly has business relationship with company or its S/H/A/S of H Co.

- "business relationship" shall be construed as any transaction entered into for a commercial purpose except —
 - professional services
 - In ordinary course of business — sale of product or service to auditors

In-eligibility

Person whose relative is director or in the employment of company as D or KMP

Person holding appointment as auditor of more than 20 companies

- Other than OPC, dormant companies, small companies and Pvt Co. having PC < 100 cr.

Person convicted by a court of an offence involving fraud and period of 10 years not elapsed

Person who directly or indirectly render any service u/s. 144 to the company or H or S

Remuneration to Auditor

Remuneration to be fixed in General meeting

- Board may fix remuneration of the first auditor

Remuneration (include/exclude)

- Fees payable to auditor
- Expenses incurred by auditor in connection with audit and facility extended
- Not cover – remuneration for any other services rendered by him at request of the company

Removal/Resignation of Auditor

Removal of Auditor

- Special Resolution of the Company and
- Previous approval of Central Government

Resignation by Auditor

- Auditor to file a prescribed form with the company and Registrar within 30 days indicating reasons and facts

Appointing as auditor a *person other than a retiring auditor*

- Special notice is required for resolution
- To send a copy of special notice to Auditor
- Retiring auditor right to make representation
- If representation made, to send a copy alongwith notice to the members or if received late read out in the meeting.

Auditor not to render certain services

Not allowed to provide following services either *directly or indirectly* to the company, its holding company or subsidiary company:

(a)	Accounting and book keeping services
(b)	Internal audit
(c)	Design and implementation of any financial information system
(d)	Actuarial services
(e)	Investment advisory services
(f)	Investment banking services
(g)	Rendering of outsourced financial services
(h)	Management services
(i)	Any other kind of services as may be prescribed

Direct/Indirect?

Individual

Either himself or
through his relative or
any other person connected or associated with such
individual or
through any other entity, whatsoever, in which such
individual has significant influence or control, or whose
name or trade mark or brand is used by such individual

Audit Firm

- Audit firm itself or
- Any of its partners or
- Through its parent, Subsidiary or Associate entity or
any other entity in which the firm or any of its
partner has significant influence or control , or
whose name/trade mark/ brand is used by the firm
or any of its partners

Rights of Auditor

- Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, require information and explanation as required and inquire the matters including;
 - Loans and advances made on basis of security properly secured and whether terms prejudicial to interest of members
 - Transactions merely represented by book entries prejudicial
 - Assets of company (shares, deb, securities) sold at a price less than purchase
 - Whether loans and advances made shown as deposits
 - Whether personal expenses charged off to revenue account
 - If shares allotted for cash, whether actually received
- If he is an *auditor of a holding company*, shall also have right to access to the records of all its subsidiaries and associate companies in so far as it relates to the consolidation of its financial statements with that of its subsidiaries

Auditor's Report include

- (a) Sought and obtained all information and explanation
- (b) Proper books of accounts maintained and proper returns adequate for the purpose of audit received from branches not visited by him
- (c) Report of branch office of the company audited by other person received
- (d) BS and PL in agreement with Books of Accounts
- (e) FS comply with AS
- (f) the observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company;
- (g) Any director disqualified
- (h) any qualification, reservation or adverse remark
- (i) Whether the company has adequate IFC system in place and the operating effectiveness of such control

IFC Applicability

Not
Apply to
Private
Limited
company
which is

- One Person Company
- Small Company
- Turnover of less than Rs. 50 Crores as per latest audited FS or
- Aggregate borrowing from bank/FI/body corporate at any point of time during FY exceeds Rs. 25 Crores.

Exemption available only if private company has not committed a default in

- Filing its financial statements under section 137 of the said Act or
- Annual return under section 92 of the said Act with the ROC

Auditor' report include...other matters

(a) Disclosed impact of any pending litigation on FS

(b) Provision made for material foreseeable losses, if any, on long term contracts including derivative contracts

(c) Any delay in transferring amounts to IEPF

(d) Omitted

(e) to (g) Amendments Rules 2021

Auditor' report

143(4) Where any of the matters required to be included in the audit report under this section is *answered in the negative or with a qualification*, the report shall state the reasons therefor

(9) Auditor to comply with Auditing Standards

(10) Standards of Auditing as recommended by ICAI in consultation with NFRA

Reporting of Frauds by Auditor

Sec. 143 (12) *Reason to believe* that an office involving **fraud** is being or has been committed in the company by its officers or employees,

Reporting to Central Government

(If Fraud involves/expected to involve individually \Rightarrow 1 Crore)

Report to Audit Committee / Board and
AC/Board (within 2 days) seeking reply
within 45 days

On receipt of reply, along with
his comments to forward the report
to Central Govt (within 15 days of
receipt of reply)

If No reply received, than at the
end of 45 days forward his report
with a note to Central Govt.

- Report to be **sent to** Secretary MCA Regist AD/Speed post followed by an email
- Report **on letterhead** of auditor with address, email, telephon number, mobile number, and signed by auditor with seal and membership number
- Report in **form** of ADT-4

Reporting of Frauds by Auditor

Sec. 143 (12) *Reason to believe* that an office involving **fraud** is being or has been committed in the company by its officers or employees,

Reporting to Audit Committee or Board

(If Fraud involves/expected to involve individually < 1 Crore)

Report to Audit Committee / Board **within 2 days** specifying

- Nature of fraud with description
- Approximate amount involved
- Parties involved

To be disclosed in the Board's report

- Details of fraud as per above and
- Remedial actions taken

Provision apply to Secretarial Auditor and
Cost Auditor also

Penalties for Contravention

Violation		Penalty	
Section	Descriptions	Section	Contravention By
140(2)	On resignation by auditor, he needs to intimate Company and ROC and may be CAG.	140(3)	Individual Auditor / Firm Rs. 50,000 or remuneration w.e.i. less If continuing failure-Rs. 500 for each day
141(3)	Disqualification of auditors	141(4)	Vacation of office
143(12)	CA/CWA /PCS required to intimate to CG about an offence involving fraud	143(15)	Individual Auditor / Firm Listed company: 5,00,000 Other company: 1,00,000
139 to 146 Both Inclusive	Contraventions of Sec. 139 to 146 (both inclusive) by Company and its officer	147(1)	Company : Min: 25000 Max: 5,00,000 Every officer in default FINE Min: 10,000; Max: 1,00,000 <u>either of above or both</u>

Violation		Penalty		
139, 144, 145	<p>Contraventions by Auditor</p> <ol style="list-style-type: none"> 139: Appointment of auditor 143: Power & duties of Auditor 144 Auditor not to render certain services 145: Auditor to sign audit report 	147 (2) &(3)	<p>WILFULLY / KNOWNIGLY to deceive</p> <p>Imprisonment</p> <ol style="list-style-type: none"> Min: 1day Max: 1 Year <p>AND</p> <p>fine</p> <ol style="list-style-type: none"> Min: 50,000 Max: 25,00,000 <p>OR</p> <p>8 times Remuneration of auditor, w.e.i. less</p> <p>AND</p> <ol style="list-style-type: none"> Refund the remuneration Pay for damages to Co./ Autho/ Members/ Creditors arising out of incorrect or misleading statements. 	<p>WITHOUT KNOWINGLY</p> <p>Min: 25,000</p> <p>Max: 5,00,000</p> <p>OR</p> <p>4 times Remuneration of auditor, w.e.i. less</p> <p>AND</p> <ol style="list-style-type: none"> Refund the remuneration Pay for damages to Co./ Autho/ Members / Creditors arising out of incorrect or misleading statements.

Sec. 147(5) Liability

❑ Audit by an audit firm:

- The liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm *jointly and severally*

❑ In case of criminal liability of an audit firm:

- Liability other than fine- partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable.

❑ Auditor to sign audit reports

Sec. 145

- To sign the auditor's report or sign or certify any other document (u/s.141(2))
- The qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be **read before the company in general meeting** and shall be open to inspection by any member of the company

❑ Auditors to attend general meeting

Sec. 146

- The auditor shall, unless otherwise exempted by the company, **attend either by himself or through his authorised representative**, who shall also be qualified to be an auditor, any general meeting and
- **Right to be heard** at such meeting on any part of the business which concerns him as the auditor

Accounts, Auditor Amendment Rules, 2021

Companies (Accounts) Amendment Rules, 2021...1

Effective from 1.4.2022

Mandatory use of Accounting Software having Audit Trail

3(1) Provided that for the financial year commencing on or after ~~01.04.2021~~ 01.04.2022, every Company which uses accounting software for maintaining its books of accounts, shall use only such Accounting Software which has a feature of

- *recording audit trail of each and every transaction,*
- *creating an edit log of each change made in the books of account along with the date when such changes were made and*
- *ensuring that the audit trail cannot be disabled.*

Companies (Accounts) Amendment Rules, 20212

Matters to be Included in Board's Report

Addition of the following clauses in Rule 8(5)

(xi) the details of application made or any proceeding pending under the **Insolvency and Bankruptcy Code**, 2016 during the year alongwith their status as at the end of the financial year

(xii) the details of difference between amount of the *valuation* done at the time of **one time settlement** and the valuation done while taking loan from the Banks or Financial Institutions alongwith reasons thereof.

Companies (Audit and Auditors) Amendment Rules, 2021.....1

Effective from
1.4.2021

Rule 11 Other Matters to be included in Auditors Report

☐ Clause (d) of SBN reporting omitted

☐ Inserted

- (e) (i) Whether the management has represented that, to the best of it's knowledge and belief, other than as disclosed in the notes to the accounts, ***no funds have been advanced or loaned or invested*** (either from borrowed funds or share premium or any other sources or kind of funds) by the company ***to or in any other person(s) or entity(ies)***, including foreign entities ("Intermediaries"), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;

Companies (Audit and Auditors) Amendment Rules, 2021.....2

(e) (ii) Whether the management has represented, that, to the best of its knowledge and belief, other than as disclosed in the notes to the accounts, *no funds have been received by the company* from any person(s) or entity(ies), including foreign entities (“Funding Parties”), with the understanding, whether recorded in writing or otherwise, that the company shall, whether, *directly or indirectly, lend or invest in other persons or entities* identified in any manner whatsoever by or on behalf of the Funding Party (“Ultimate Beneficiaries”) or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries; and

(iii) Based on such audit procedures that the auditor has considered *reasonable and appropriate* in the circumstances, nothing has come to their notice that has caused them to believe that the representations under sub-clause (i) and (ii) contain any material mis-statement.

Companies (Audit and Auditors) Amendment Rules, 2021.....2

(f) Whether the **dividend** declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013.

(g) ~~Whether the company~~ *Whether the company, in respect of financial years commencing on or after 1st April, 2022* has

- ☐ used such accounting software for maintaining its books of account which has a feature of recording **audit trail** (edit log) facility and
- ☐ the same has been operated throughout the year for all transactions recorded in the software and
- ☐ the audit trail feature has not been tampered with and
- ☐ the audit trail has been preserved by the company as per the statutory requirements for record retention.”.

THANK YOU



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