

# Guidance Note on The Companies (Auditor's Report) Order, 2020



**The Institute of Chartered Accountants of India**  
*(Set up by an Act of Parliament)*  
**New Delhi**

Guidance Note on the  
Companies (Auditor's Report)  
Order, 2020



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## Foreword

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The Ministry of Corporate Affairs (MCA) has issued the Companies (Auditor's Report) Order, 2020 (CARO 2020) on 25<sup>th</sup> February 2020, which was initially applicable for statutory audits of financial statements for periods beginning on or after April 1, 2019. Subsequently, vide notification dated 24<sup>th</sup> March 2020, applicability of CARO 2020 was deferred by one year. Accordingly, CARO 2020 would be applicable for statutory audits of financial statements for periods beginning on or after April 1, 2020. CARO 2020 contains several changes including many additional reporting requirements *vis-à-vis* CARO 2016 to further enhance overall quality of reporting by the auditors. These changes necessitated the revision of the Guidance Note on CARO 2016 earlier issued by ICAI.

I am happy to note that the Auditing and Assurance Standards Board (AASB) of ICAI has brought out this Guidance Note on the Companies (Auditor's Report) Order, 2020 for providing appropriate guidance to the members so that the requirements of the Order can be fulfilled in letter and spirit by them. The Guidance Note is developed to provide detailed guidance on various clauses of CARO 2020 and various issues involved therein in an easy to understand language. This Guidance Note is quite comprehensive and self-contained reference document to assist the members in discharging their duties efficiently.

I compliment CA. G. Sekar, Chairman, CA. (Dr.) Debashis Mitra, Vice-Chairman and all members of the Auditing and Assurance Standards Board of ICAI for their efforts in bringing out this Guidance Note for the benefit of the members and other stakeholders at large.

I am confident that the members would find this Guidance Note highly useful in their professional assignments.

June 13, 2020  
New Delhi

**CA. Atul Kumar Gupta**  
President, ICAI



## Preface

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The Ministry of Corporate Affairs issued the Companies (Auditor's Report) Order, 2020 (CARO 2020) on 25<sup>th</sup> February 2020. The Order was initially applicable for audits of financial year 2019-20 and onwards but subsequently its applicability was deferred by one year vide notification dated 24<sup>th</sup> March 2020. Now, the Order would be applicable for audits of financial year 2020-21 and onwards. The Order contains several significant changes and several new reporting requirements *vis-à-vis* earlier Order i.e. CARO 2016. The Auditing and Assurance Standards Board of ICAI undertook the revision of the Guidance Note on CARO 2016 to provide appropriate guidance to the members on CARO 2020.

We feel immense pleasure in placing in hands of the members this Guidance Note on the Companies (Auditor's Report) Order, 2020 issued by the Board under the authority of the Council of ICAI. The Guidance Note was initially developed by six study groups constituted by the Board for this purpose and thereafter it was finalised with the contribution of the Board members and the Central Council members. The Guidance Note has been written in easy to understand language and contains detailed guidance on all clauses of CARO 2020. The Guidance Note will supersede the Guidance Note on CARO 2016 for audits of financial statements for periods beginning on or after April 1, 2020.

At this juncture, we wish to place on record our sincere gratitude to convenors of all study groups and their team for revising the Guidance Note *viz.* CA. M. P. Vijay Kumar (Central Council Member and Convenor of Chennai study group), CA. Shrinivas Y. Joshi (Central Council Member and Convenor of Mumbai study group), CA. Chandrashekhar V Chitale, (Central Council Member and Convenor of Pune study group), CA. Sanjeev Kumar Singhal, (Central Council Member and Convenor of Delhi 1 study group), CA. Pramod Jain (Central Council Member and Convenor of Delhi 2 study group).

We express our sincere thanks to CA. Atul Kumar Gupta, Honourable President, ICAI and CA. Nihar Niranjan Jambusaria, Honourable Vice-President, ICAI for their guidance and support to the activities of the Board.

We also express our sincere thanks to all the Board members and all the Central Council members for their suggestions, support and guidance in finalising this Guidance Note. We appreciate the efforts made by CA. Megha Saxena, Secretary, AASB, CA. Rajnish Aggarwal, Assistant Director and other staff of AASB in finalizing this Guidance Note.

We are confident that the members would find this Guidance Note immensely useful.

**CA. (Dr.) Debashis Mitra**  
Vice Chairman, AASB

**CA. G. Sekar**  
Chairman, AASB

# Acknowledgement

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The Board acknowledges the contribution made by the following members of the study groups constituted for the purpose of developing the Guidance Note on the Companies (Auditor's Report) Order, 2020 and we place on record our gratitude for their contribution in enrichment of knowledge of the members:

## **Kolkata Study Group**

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## Introduction

1. The Central Government, in exercise of the powers conferred, under sub-section (11) of section 143 of the Companies Act, 2013 (hereinafter referred to as “the Act”), issued the Companies (Auditor’s Report) Order, 2020, (CARO 2020/ “the Order”) *vide* Order number S.O. 849(E) dated 25<sup>th</sup> February 2020. CARO 2020 was initially applicable for audits of financial year 2019-20 and onwards. Subsequently, *vide* notification dated 24<sup>th</sup> March 2020, its applicability has been deferred by one year. Accordingly, CARO 2020 is applicable for audits of financial year 2020-21 and onwards. CARO 2020 contains certain matters on which the auditors of companies (except auditors of those categories of companies which are specifically exempted under the Order) have to make a statement in their audit reports. The text of the CARO 2020 is given in **Appendix I** to this Guidance Note.

2. This Order is in supersession of the earlier Order issued in 2016, *viz.*, the Companies (Auditor’s Report) Order, 2016 (CARO 2016). **Appendix II** to this Guidance Note contains a clause-by-clause comparison of the reporting requirements of the Order and the CARO 2016.

3. The purpose of this Guidance Note is to enable the auditors to comply with the reporting requirements of the Order. It should, however, be noted that the guidance contained in this Guidance Note is not intended to be exhaustive and the auditors should exercise their professional judgement and experience on various matters on which they are required to report under the Order.

**Appendix III** to this Guidance Note contains the definitions of important terms used in this Guidance Note. **Appendix IV** to this Guidance Note contains list of important sections/ rules/ regulations/ statutes referred to in this Guidance Note.

**General Provisions Regarding Auditor's Report**

4. The requirements of the Order are supplemental to the existing provisions of section 143 of the Act regarding the auditor's report. In this regard, the following points may be noted:

- (i) the provisions of sub-sections (1), (2), & (3) of section 143 are applicable to all companies (other than clause (i) of sub-section (3)) while the Order exempts certain categories of companies from its application; and
- (ii) the provisions of sub-section (1) of section 143 require the auditor to make certain specific inquiries during the course of his audit. The auditor is, however, not required to report on any of the matters specified in that sub-section unless he has any special comments to make on the said matters. In other words, if the auditor is satisfied with the results of his inquiries, he has no further duty to report that he is so satisfied. The Order, on the other hand, requires a statement on each of the matters specified therein, as applicable to the company.

5. Another question that arises is about the status of the Order *vis-a-vis* the directions given by the Comptroller and Auditor General of India under section 143(5) of the Act. In this regard, it may be noted that the Order is supplemental to the directions given by the Comptroller and Auditor General of India under section 143(5) of the Act in respect of government companies. These directions continue to be in force. Therefore, in respect of government companies, the matters specified in the Order will form part of the auditor's report submitted to the members and the replies to the aforesaid questionnaire issued by the Comptroller and Auditor General of India will be governed by the requirements of section 143(5) of the Act.

6. The Order is not intended to limit the duties and responsibilities of auditors but only requires a statement to be included in the audit report in respect of the matters specified therein.

## **Applicability of the Order**

### **Companies Covered by the Order**

7. The Order applies to all companies except certain categories of companies specifically exempted from the application of the Order.

8. The Order also applies to foreign companies as defined in clause (42) of section 2 of the Act. According to the aforesaid section, a “foreign company” means:

“Any company or body corporate incorporated outside India which -

- (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- (b) conducts any business activity in India in any other manner.”

9. In the case of a foreign company, wherever under any of the provisions of the Act, an audit of financial statements under Chapter X of the Act is required to be carried out, the Order would be applicable.

10. The Order is also applicable to the audits of branch(es) of a company since sub-section 8 of section 143 of the Act read with Rule 12 of the Companies (Audit and Auditors) Rules, 2014 clearly specifies that a branch auditor has the same duties in respect of audit as the company’s auditor. It is, therefore, necessary that the report submitted by the branch auditor (including auditor of a foreign branch) contains a statement on all the matters specified in the Order, as applicable to the company, except where the company is exempt from the applicability of the Order, to enable the company’s auditor to consider the same while complying with the provisions of the Order.

The Order is also applicable to the audits of project office / liaison office established by a company outside India, to whom the Order applies. In case the company has appointed separate auditors for the project office / liaison office, the auditor of the company should

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seek a report from the said auditors which contains a statement on all the matters specified in the Order, as applicable to the company, except where the company is exempt from the applicability of the Order.

### **Companies Not Covered by the Order**

11. The Order provides that it shall not apply to:
  - (i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
  - (ii) an insurance company as defined under the Insurance Act, 1938;
  - (iii) a company licensed to operate under section 8 of the Act;
  - (iv) a one person company as defined under clause (62) of section 2 of the Act and a small company as defined under clause (85) of section 2 of the Act; and
  - (v) a private limited company, not being a subsidiary or holding company of a public company, having a paid-up capital and reserves and surplus not more than one crore rupees as on the balance sheet date and which does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Schedule III to the Act, (including revenue from discontinuing operations) exceeding ten crores rupees during the financial year as per the financial statements.
12. The Order specifically exempts banking companies, insurance companies and companies which have been licensed to operate under section 8 of the Act. The Order also exempts one person company and a small company from its application. The applicability of the Order would be based on the status of the company as at the balance sheet date. It may also be noted that in case a company is covered under the definition of small company, it will remain exempted from the applicability of the Order even if it falls under any of the criteria specified for private company.

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13. The specific exemption under the Order is given to companies licensed to operate under section 8 of the Act. However, it would appear that in view of the provisions of section 465 of the Act, the exemption would also extend to companies licensed to operate under section 25 of the Companies Act, 1956.

14. A private limited company, in order to be exempt from the applicability of the Order, must satisfy all the conditions mentioned above collectively. In other words, even if one of the conditions is not satisfied, the Order would be applicable to the company.

15. In case a company converts into limited liability partnership or partnership or to any other constitution (which is not governed by the Act) or converts to any constitution which is exempted from application of the Order, in that situation, the Order would not be applicable.

16. The Order will not be applicable to Infrastructure Investment Trusts and Real Estate Investment Trusts since they are trusts which are governed by Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 and Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014, respectively. However, the Order will be applicable to the companies in which these trusts have investment if such companies satisfy the applicability criteria prescribed in the Order. Accordingly, the Order is not applicable to the consolidated trust financial statements even though there are companies forming part of the consolidated trust financial statements which individually may have the Order applicable to them.

### ***Private Limited Company***

17. The term “private limited company”, as used in the Order, should be construed to mean a company registered as a “private company” [as defined in clause (68) of section 2 of the Act].

### ***Paid-up Capital and Reserves and Surplus***

18. Clause (64) of section 2 of the Act defines the term “paid-up share capital” as such aggregate amount of money credited as

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paid-up as is equivalent to the amount received as paid up in respect of shares issued and also includes any amount credited as paid up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called.

While calculating the paid-up capital, amount of calls unpaid should be deducted from and the amount originally paid-up on forfeited shares should be added to the figure of paid-up capital. In order to maintain consistency with the Schedule III (Division II) of the Act classification, share application money received should not be considered as part of the paid-up capital. Convertible instruments whether optionally or fully convertible should be considered in paid up share capital only once the actual shares are issued by the company.

The “Glossary of Terms Used in Financial Statements” issued by the Research Committee of ICAI defines the term “reserve” as, “the portion of earnings, receipts or other surplus of an enterprise (whether capital or revenue) appropriated by the management for a general or a specific purpose other than a provision for depreciation or diminution in the value of assets or for a known liability”.

19. As per Schedule III (Division I) to the Act (Financial statements for a company whose financial statements are required to comply with the Companies (Accounting Standards) Rules, 2006), “Reserves & Surplus” consists of:-

- Capital Reserves;
- Capital Redemption Reserve;
- Securities Premium;
- Debenture Redemption Reserve;
- Revaluation Reserve;
- Share Options Outstanding Account;
- Other Reserves—(specify the nature and purpose of each reserve and the amount in respect thereof);
- Surplus i.e., balance in statement of profit and loss.

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(Debit balance of statement of profit and loss shall be shown as a negative figure under the head “Surplus”.)

Reserves are primarily of two types—capital reserves and revenue reserves. According to the said Glossary of Terms, the term “capital reserve” means “a reserve of a corporate enterprise which is not available for distribution as dividend”. The said Glossary of Terms defines the term “revenue reserve” as “any reserve other than capital reserve”. For determining the applicability of the Order to a private limited company, both capital as well as revenue reserves should be taken into consideration while computing the limit of one crore rupees prescribed for paid-up capital and reserves & surplus. Revaluation reserve, if any, should also be taken into consideration while determining the figure of reserves for the limited purpose of determining the applicability of the Order. In case of debit balance of profit and loss, the same shall be netted for computing reserves & surplus.

20. In case of Schedule III (Division II) to the Act (Financial statements for a company whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015, the term “Reserve & Surplus” will consist of:-

- Capital Reserve;
- Securities Premium;
- Other Reserve—(specify the nature and purpose of each reserve and the amount in respect thereof);
- Retained earning i.e., balance in statement of profit and loss.

Further, it is important to note that as per Division II of Schedule III to the Act, equity component of compound financial instrument, revaluation surplus, debt/equity instrument through other comprehensive income (OCI), effective portion of cash flow hedges, exchange difference on translating the financial statement and other items of OCI are not considered to be part of reserve & surplus.

21. In case of Schedule III (Division III) to the Act (Financial statements for a non-banking financial company (NBFC) whose financial statements are drawn up in compliance of the

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Companies (Indian Accounting Standards) Rules, 2015, the term “Reserve & Surplus” will consist of:-

- Share application money pending allotment;
- Equity component of compound financial instruments;
- Statutory Reserves;
- Capital Reserve;
- Securities Premium;
- Other Reserves (specify nature);
- Retained Earnings;
- Debt instruments through Other Comprehensive Income;
- Equity Instruments through Other Comprehensive Income;
- Effective portion of Cash Flow Hedges;
- Revaluation Surplus;
- Exchange differences on translating the financial statements of a foreign operation;
- Other items of Other Comprehensive Income (specify nature);
- Money received against share warrants.

### ***Borrowings***

22. Borrowings from banks or financial institutions can be long term or short term and are normally in the form of term loans, demand loans, export credits, cash credits, overdraft facilities, bills purchased or discounted. Outstanding balances of such borrowings should be considered as borrowing outstanding for the purpose of computing the limit of one crore rupees. Non-fund based credit facilities, to the extent such facilities have devolved and have been converted into fund-based credit facilities, should also be considered as outstanding borrowings. The figures of outstanding borrowing would also include the amount of bank guarantees issued by the company where such guarantee(s) has been invoked and encashed or where, say, a letter of credit has been devolved on the company. In case of term loans, interest accrued and due is considered as a borrowing whereas interest accrued but not due is not considered as a borrowing. Further, in case the

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company enjoys a facility, say, a cash credit facility, whose balance is fluctuating in nature, the Order would apply to the company in case on any day during the financial year concerned, the amount outstanding in the cash credit facility along with other borrowings as per books of the company exceeds one crore rupees. The condition laid down in the Order is that the private company does not have total borrowing exceeding one crore rupees from any bank or financial institution at any point of time during the financial year. There is no stipulation in the Order that the borrowing should be a long-term borrowing or a short-term borrowing or that it should be a secured borrowing or an unsecured borrowing. Further, the condition would also apply notwithstanding the fact that the company has been granted an overdraft facility against, say, fixed deposits, of the company with the concerned bank. Current maturity of long term borrowings will also form part of borrowings. Moreover, outstanding dues in respect of credit cards would also be considered while calculating the limit of one crore rupees; in respect of borrowings outstanding from a bank or financial institution. It is clarified that since the words used by the Order are 'any bank or financial institution', the limit of "exceeding one crore rupees" would apply in aggregate to all borrowings and not with reference to each bank or financial institution. The aggregate borrowings disclosed in the financial statements would need to be considered based on applicable generally accepted accounting principles in India (Ind AS/AS).

### ***Financial Institution***

23. Clause (39) of section 2 of the Act defines the term "financial institution" to include a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934". The term financial institution has been defined under clause (c) of Section 45I of the Reserve Bank of India (RBI) Act, 1934, as under:-

"Section 45I(c): "financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:–

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- (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;
- (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;
- (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972;
- (iv) the carrying on of any class of insurance business;
- (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;
- (vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person, but does not include any institution, which carries on as its principal business,—
  - (a) agricultural operations; or
  - (aa) industrial activity; or
  - (b) the purchase or sale of any goods (other than securities) or the providing of any services; or
  - (c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;

Explanation – For the purposes of this clause, “industrial activity” means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964;

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Further “non-banking institution” has been defined under clause (e) of Section 45I of RBI Act 1934 as under:-

Section 45I(e): “non-banking institution” means a company, corporation or cooperative society.

Further, the term “financial institution” is also referred to in the context of the definition of a non-banking financial company as defined by the RBI Act, 1934. The term “non-banking financial company” has been defined under clause (f) of Section 45I of RBI Act 1934 as under:-

“Section 45I(f) “non-banking financial company” means–

- (i) a financial institution which is a company;
- (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;
- (iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify;”

Accordingly, the term “financial institution” shall also cover a non-banking financial company (NBFC). Further, private banks or foreign banks are banking institutions under the Banking Regulation Act, 1949. Therefore, loans taken from a private bank or a foreign bank would also be taken into consideration while examining the applicability of the Order.

### **Revenue**

24. The term, “revenue”, for the purpose of this Order shall be total revenue disclosed in Schedule III to the Act for companies required to comply with AS and total income for companies required to comply with Ind AS. Accordingly, the total revenue/total income would include other income as per Schedule III. Revenue will also include revenue from discontinuing operations as specified in the Order.

### **Auditor's Report to Contain Matters Specified in Paragraphs 3 and 4 of the Order**

25. Every report made by the auditor under section 143 of the Act on the accounts of every company audited by him to which this Order applies for the financial year commencing on or after the 1<sup>st</sup> April 2020, shall in addition, contain the matters specified in paragraphs 3 and 4 of the Order, **as may be applicable**. Accordingly, the reporting under the Order shall be applicable for the audits of financial year 2020-21 and onwards. In case the auditor has to report on the financial statements for the financial year commencing prior to 1<sup>st</sup> April 2020, then the relevant earlier Order shall be applicable.

Here it is pertinent to mention that the Order specifies the applicability of the matters by the words “as may be applicable”, hence reporting on the matters specified in paragraphs 3 and 4 of the Order are to be made only on those matters which are applicable to the company.

#### **Applicability to the Consolidated Financial Statements**

26. The Order specifically provides that it shall not apply to the auditor's report on consolidated financial statements except for clause (xxi) of paragraph 3.

27. This means that the auditor will need to give a CARO report on the consolidated financial statements with respect to clause (xxi) of the Order only. Thus, the auditor is not required to report on rest of the clauses of paragraph 3.

#### **Period of Compliance**

28. A question might arise as to the period in relation to which the auditor should comment or report upon the matters specified in the Order. For example, several of the questions relate to the maintenance of proper records. What should be the position of the auditor when records were improperly maintained for some part of the financial year but have been properly maintained at the balance sheet date. One view of the matter would be that no adverse report is necessary since the deficiencies existing during the year have been rectified before the auditor makes his report. However, this view does not recognise the fact that maintenance of records is not an end by itself but is a necessary condition for

the auditor to satisfy himself regarding the authenticity of the transactions on which he is reporting. The better view, therefore, is to consider that the auditor is reporting on the state of affairs as they existed during the accounting year and compliance with the requirements of the Order should be judged with reference to the whole accounting year and not merely with reference to the position existing at the balance sheet date or the date at which he makes his report.

### **General Approach**

29. The Order does not replace an audit by an investigation in respect of the matters specified therein. Many of these matters, in any case, are covered by an auditor in the normal course of his audit and the emphasis of the Order is not, therefore, on requiring the auditor to carry out an investigation but on requiring him to give specific information on certain aspects of his work.

30. The reporting under the Order is supplemental to the audit of financial statements of the company. The procedures required to be performed by the auditor would generally be within the framework of the principles enunciated in Standards on Auditing (SAs) prescribed under section 143(10) of the Act. However, reporting on various clauses of the Order may require specific audit procedures to be performed which could be in addition to audit procedures required to express an opinion on the financial statements.

31. It is possible that for the purposes of the Order, the auditor needs greater information from the management. The auditor and the management should ensure that there is sufficient advance planning regarding the manner in which the examination necessary for reporting on matters specified in the Order would be carried out by the auditor and the form in which the company should maintain its records so that they provide the necessary information and evidence to the auditor. An example of this would be the documents and records to be maintained by the company to provide the requisite evidence to the auditor regarding verification of property, plant and equipment or inventories. It is, therefore, suggested that the auditor should intimate to the management, in writing, his requirements before the

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commencement of each audit. The auditor should also consider intimating additional requirements, if any, during the course of the audit. The auditor should also consider obtaining management representations on matters on which the Order requires the auditor to make a statement on certain aspects.

32. For a number of reasons, the necessity for preserving working papers by the auditor assumes greater importance in the context of the requirements of the Order. Firstly, there should be evidence that the opinion expressed by the auditor is based on an examination made by him. Secondly, there should be evidence to show that in arriving at his opinion, the auditor has given due cognisance to the information and explanations given by the company. Thirdly, there should be evidence to show that the information and explanations obtained were full and complete, that is, the auditor has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary to be considered before arriving at his opinion. Finally, there should be evidence to show that the auditor did not merely rely upon the information or explanations given by the company but that he subjected such information and explanations to reasonable tests to verify their accuracy and completeness.

33. As the auditor needs to comply with the requirements of SA 230, "Audit Documentation", the auditor may take the following steps to ensure that he has adequate working papers to support the conclusions drawn in his report:

- (a) submit to the company, a questionnaire on all important matters covered by the Order.
- (b) make specific inquiries in writing on all important matters not covered by the questionnaire.
- (c) insist that replies of the company are furnished in writing and are signed by a responsible officer of the company.
- (d) where the explanations are not already separately recorded, maintain a record of the discussions with the management.
- (e) prepare his own "checklist" in respect of the requirements of the Order and record the names of the members of his staff

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who made the examination and the name of the company's staff who provided the information. An illustrative checklist in respect of the requirements of the Order is given in **Appendix V** to this Guidance Note.

34. Where a requirement of the Order is not complied with but the auditor decides not to make an unfavourable comment, in view of the materiality of the item, he should record rationale for the same in his working papers.

35. The mere fact that the Order is confined to certain specific matters should not be interpreted to imply that the auditor's duties in respect of other matters normally covered in the course of an audit of the financial statements are, in any way, limited by the Order. At the same time, it should be recognised that the reporting obligations under the Order are confined to the specific matters stated in the Order.

36. Many of the matters covered by the Order require exercise of judgement by the auditor rather than the application of a purely objective test. For example, clause 3(i)(b), *inter alia*, requires the auditor to comment on - whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account. This requires exercise of judgement - firstly, in determining whether the discrepancies are material, and secondly, in deciding whether the accounting treatment is proper.

37. It may be noted that while reporting on matters specified in the Order, the auditor should consider the **materiality**, in accordance with the principles enunciated in SA 320, "Materiality in Planning and Performing an Audit". The auditor obtains reasonable assurance by obtaining audit evidence to reduce audit risk to an acceptable low level. Materiality and audit risk are considered throughout the audit, in particular, when determining the nature, timing and extent of further audit procedures to be performed. For example, in case of clause 3(iii) of the Order, while reporting, on the repayment schedule of various loans granted by

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the company, the auditor examines the loan documentation of all large loans and conducts a test check examination of the rest, having regard to the materiality.

An auditor may also need to exercise judgement on application of materiality principle while reporting under clause 3(xxi) of the Order in respect of qualifications or adverse remarks by the respective auditors in CARO reports of companies included in the consolidated financial statements. However, if a qualification/adverse remark is given by any individual component, there is a presumption that the item is material to the component. Hence when reporting under clause 3(xxi), the auditor is not required to reevaluate the materiality from a consolidation perspective. Hence every qualification/adverse remark made by every individual component including the parent should be included while reporting under clause 3(xxi).

38. It is necessary to remember that the exercise of judgement is bound to be subjective. This is, in fact, recognised by the provisions of the Act which require the expression of an opinion by the auditor. When a professional expresses an opinion, he does not guarantee that his opinion is infallible nor does he hold out that his opinion will invariably agree with the opinion of another professional on the same facts. The test of an auditor's liability in a matter which involves the exercise of judgement is not whether his opinion coincides with that of another person or authority, but whether he has expressed his opinion in good faith and after the exercise of reasonable care and skill. No liability can be attached to an auditor in a matter involving the expression of an opinion based on the exercise of judgement, merely because there is a difference of opinion between him and some other person or authority or merely because some other person or authority comes to the conclusion that in expressing the opinion the auditor committed an error of judgement. The auditor may be liable, however, if it is found that he has expressed his opinion without exercising reasonable care and skill, or without applying his mind to the facts, or if he has expressed his opinion recklessly, in complete disregard of the facts.

## Matters to be Included in the Auditor's Report

39. The matters to be included in the auditor's report are specified in paragraph 3 of the Order. Paragraph 3 has twenty one clauses in all. The clause-wise guidance is given below.

**40. Whether the company is maintaining proper records showing full particulars, including quantitative details and situation of Property, Plant and Equipment; [Paragraph 3(i)(a)(A)]**

### Relevant Provisions

- (a) This clause requires the auditor to comment as to whether the company is maintaining proper records showing full particulars, including quantitative details and situation of property, plant and equipment. The accounting aspects of property, plant and equipment are dealt with in AS 10 (Revised), "Property, Plant and Equipment" and Ind AS 16, "Property, Plant and Equipment".

AS 10(Revised) defines Property, Plant and Equipment as follows;

"Property, plant and equipment are tangible items that:

- (a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes; and
- (b) are expected to be used during more than a period of twelve months."

Ind AS 16 defines Property, Plant and Equipment as follows:

"Property, Plant and Equipment are tangible items that:

- (a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes; and
- (b) are expected to be used during more than one period."

It may be noted that in case of right of use (ROU) assets

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covered under Ind AS 116, 'Leases' where the auditee, under a lease agreement, obtains the right to use an asset, the same should be considered for reporting under this clause.

It may also be noted that investment property (as defined under Ind AS 40, Investment Property) and non-current assets held for sale (as defined under Ind AS 105, Non-current Assets Held for Sale and Discontinued Operations) will be considered by the auditor for reporting under this clause.

- (b) The Order does not define as to what constitutes 'proper records'. In general, however, the records relating to property, plant and equipment (PPE) should contain, *inter alia*, the following details:
- (i) sufficient description of the PPE to make identification possible;
  - (ii) classification, that is, the head under which it is shown in the accounts, e.g., plant and machinery, office equipment, etc;
  - (iii) situation;
  - (iv) quantity, i.e., number of units;
  - (v) original cost;
  - (vi) year of purchase;
  - (vii) date of put to use;
  - (viii) useful life;
  - (ix) residual value;
  - (x) component-wise breakup; (wherever applicable)
  - (xi) adjustment for revaluation or for any increase or decrease in cost;
  - (xii) date of revaluation, if any;
  - (xiii) rate(s)/basis of depreciation;
  - (xiv) depreciation for the current year;
  - (xv) accumulated depreciation;

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- (xvi) particulars regarding impairment;
- (xvii) particulars regarding sale, discarding, demolition, destruction, etc.

- (c) The records should contain the abovementioned particulars in respect of all items of PPE, self-financed or right to use assets (under Ind AS 116) acquired through finance lease. These records should also contain particulars in respect of those items of PPE that have been fully depreciated or have been retired from active use and held for disposal. The records should also contain necessary particulars in respect of items of PPE that have been fully impaired during the period covered by the audit report.

Thus, what constitutes proper records is a matter of professional judgement made by the auditor after considering the facts and circumstances of each case.

- (d) It is necessary that the aggregate original cost, depreciation to date, and impairment loss, if any, as per these records under individual heads should reconcile with the figures shown in the books of account.
- (e) It is not possible to specify any single form in which the records should be maintained. This would depend upon the mode of account keeping (manual or computerised), the number of operating locations, the systems of control, etc. It may be noted that with the widespread use of the information technology, many companies maintain electronic records. In fact, section 2(12) of the Act, defines the terms “book and paper” and “book or paper” as including “books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form”. Rule 3 of the Companies (Accounts) Rules, 2014 dealing with the “manner of books of account to be kept in electronic mode” states as under:

- “(1) The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference.

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- (2) The books of account and other relevant books and papers referred to in sub-rule (1) shall be retained completely in the format in which they were originally generated, sent or received, or in a format which shall present accurately the information generated, sent or received and the information contained in the electronic records shall remain complete and unaltered.
- (3) The information received from branch offices shall not be altered and shall be kept in a manner where it shall depict what was originally received from the branches.
- (4) The information in the electronic record of the document shall be capable of being displayed in a legible form.
- (5) There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate and such records shall not be disposed of or rendered unusable, unless permitted by law.”

The Rule further explains that the term “electronic mode” includes “electronic form” as defined in section 2(1)(r) of the Information Technology Act, 2000 and also includes an electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000 (as amended by the Amendment Act of 2008). Accordingly, where any law requires that any information or matter should be in the typewritten or printed form, then such requirement shall be deemed to be satisfied if it is in an electronic form. However, it will have to be ensured that the information contained in the electronic records remains accessible and unaltered and its origin, destination, date, etc. can be identified.

### **Audit Procedures and Reporting**

- (f) The auditor may accept PPE register in electronic form if the following two conditions are satisfied:
  - (i) The controls and security measures in the company

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are such that once finalised, the PPE register cannot be altered without proper authorisation and audit trail.<sup>1</sup>

- (ii) The PPE register is in such a form that it can be retrieved in a legible form. In other words, the emphasis is on whether it can be read on the screen or a hard copy can be taken. If this is so, one can contend that it is capable of being retrieved in a legible form.

In case the above two conditions or either of the two conditions are not satisfied, the auditor should obtain a duly authenticated printout of the PPE register. In case the auditor decides to rely on electronically maintained PPE register, he should maintain adequate documentation evidencing the evaluation of controls that seek to ensure the completeness, accuracy and security of the PPE register.

- (g) The purpose of showing the situation of PPE is to make verification possible. There may, however, be certain classes of PPE whose situation keeps changing, for example, construction equipment which has to be moved to sites. In such circumstances, it should be sufficient if record of movement/custody of the equipment is maintained.
- (h) Where assets like furniture, etc. are located in the residential premises of members of the staff, the PPE register should indicate the name & designation of the person who has custody of the asset for the time being.
- (i) While, generally, the quantity, value and situation have to be recorded item-wise, assets of small individual value, e.g., chairs, tables, etc. may be conveniently grouped for purposes of entry in the PPE register. Similarly, for assets having same useful life, it may not be necessary to indicate the accumulated depreciation for each item; instead, depreciation for the group as a whole may be shown.

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<sup>1</sup> In this context, attention of the members is also drawn to SA 315, "Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and Its Environment" as also the "Guidance Note on Audit of Internal Financial Controls Over Financial Reporting", issued by ICAI.

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- (j) Quantitative details in respect of PPE may be maintained on the following lines:
  - (i) Land can be identified by survey numbers and by deeds of conveyance.
  - (ii) Leaseholds can be identified by individual leases.
  - (iii) Buildings may, initially, be classified into factory buildings, office buildings, township buildings, service buildings (like water works), etc. These may then be further sub-divided. Factory buildings may be further classified into individual buildings which house a manufacturing unit or a plant or sub-plant. Service buildings may be similarly classified according to nature of service and location. Township buildings can be further classified into individual units or into groups of units taking into consideration the type of construction, the location and the year of construction. For example, if a company's township has four categories of quarters, e.g., A, B, C and D, the PPE register may not record each individual quarter but may have a single entry for all 'A' type quarters constructed in a particular year and located in a particular area and show only the number of quarters covered by the entry.
  - (iv) Railway sidings can be identified by length and location.
  - (v) Plant and machinery may be sub-divided into immovable and movable. For movable machinery, a separate record may be kept for each individual item. Movable machinery would include, for this purpose, items of plant which are for the moment fixed to the shop-floor but which can be moved, e.g., machine tools. In respect of immovable plant and machinery, a sub-division can be made according to the process, a plant for each separate process being considered as a separate identifiable unit. A further sub-division may be useful when within a process, there are plants

which are capable of working independently of each other. The degree to which a sub-division of immovable plant and machinery should be made depends upon the circumstances of each case bearing in mind the objectives of sub-division, namely, the determination of individual cost and the facility for physical verification and componentisation<sup>2</sup>.

- (vi) Furniture and fittings and assets like office appliances, air-conditioners, water coolers, etc., consist of individual items which can be easily identified. Some difficulty may, however, be faced with regard to the large number of items and their relative mobility. In such cases, a distinction by value may be necessary, individual identification being made for high-value items and by groups for other items.
- (vii) Development of property is an asset head which can be easily sub-divided according to the buildings or plant for which the development work is undertaken.
- (viii) Vehicles can be identified by reference to the registration books.
- (k) In cases where the details regarding allocation of cost over identified units of assets are not available, it would have to be made by an analysis of the purchases and the disposals of the preceding years. Among the difficulties which may be faced could be: (i) records for some of the years may not be available; (ii) the description in the records may not be complete; (iii) details of disposals may not have been properly recorded; (iv) subsequent additions to an existing asset may have been shown as a separate asset; (v) a single figure of cost may be assigned to a number of assets which have to be separately identified; (vi) assets purchased for one department may have been moved to other departments, and so on. The management, in consultation with the auditor, should make the best effort possible under

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<sup>2</sup> Attention of the readers is invited to the requirements of Schedule II to the Companies Act, 2013 in respect of componentisation.

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the circumstances to identify the cost of each asset. In doing so, reasonable assumptions or approximations may be made, where necessary. For example, when details of disposals are not available, it may be assumed that the asset sold is the asset which was acquired earliest in point of time. Similarly, when the individual cost of a large number of small items is not available, one can estimate the cost of each item and pro-rate the total cost in the proportion of the estimated cost of the item to the aggregate estimated cost.

- (l) It may be useful if initial identification of assets is done by persons who are familiar with them, e.g., the maintenance staff. At the point of identification, a code number may be affixed on the asset which would give sufficient details for future identification.
- (m) The initial identification of assets will often reveal a number of discrepancies between the assets as verified and the details compiled from the records. This may be on account of the features already considered in paragraph (k) above. This may also be due to the fact that assets might have been scrapped in earlier years but proper documentation may not have been made or that assets may have been broken up into smaller units or amalgamated into larger units or otherwise modified without changing the asset records. The degree of further inquiry necessary to reconcile these discrepancies would depend upon the nature of the asset, its cost, the age of the asset, the extent of accounting or other records available and other relevant factors. However, the concept of materiality should be borne in mind in making these further inquiries, greater attention being devoted to assets which are of large value or of relatively recent purchase. Any adjustments that finally have to be made should be properly documented. The auditor should request the appropriate level of management to carry out necessary adjustments.
- (n) Where PPE register is not maintained by the company, it is a serious documentation and control lacuna. This should be mentioned by the auditor while reporting under this clause.

**41. Whether the company is maintaining proper records showing full particulars of intangible assets; [Paragraph 3(i)(a)(B)]**

**Relevant Provisions**

- (a) This clause requires the auditor to comment as to whether the company is maintaining proper records showing full particulars of intangible assets. The accounting aspects of intangible assets are dealt with in AS 26, "Intangible Assets" and Ind AS 38, "Intangible Assets".

AS 26 defines the term "Intangible Asset" as an identifiable non-monetary asset, without physical substance, held for use in the production or supply of goods or services, for rental to others, or for administrative purposes.

Ind AS 38 defines the term "Intangible Asset" as an identifiable non-monetary asset, without physical substance.

**Audit Procedures and Reporting**

- (b) While reporting under this clause, the auditor should consider the principles, accounting aspects and disclosure requirements of intangible assets as laid down in AS 26 and Ind AS 38. Intangible assets, *inter alia*, can be of the following types:
- a) Customer-based intangible assets;
  - b) Marketing-based intangible assets;
  - c) Contract-based intangible assets;
  - d) Technology-based intangible assets; or
  - e) Artistic-based intangible assets.
- (c) In course of statutory audit, the auditor may have to consider the following types of illustrative intangible assets:
- Customer lists / customer loyalty;
  - Trademark, formula;
  - Broadcasting license;
  - Music copyright / literary works/musical works;

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- Patents including patent on digital device;
- Air route authority / permit;
- Recipe, trade secrets, processes, designs;
- Publishing title;
- Algorithms;
- Motion picture films;
- Fishing license;
- Franchisee;
- Formulations;
- Non-competition agreements;
- Internet domain names, distribution network;
- Royalty agreements, employment contracts;
- Operating rights/marketing rights/servicing rights; and
- Website development.

(d) The Order does not define as to what constitutes 'proper records'. In general, however, the records relating to intangible assets should contain, *inter alia*, the following details:

- sufficient description of the intangible asset and controls around capitalisation;
- situation;
- original cost;
- year of purchase;
- date of put to use;
- useful life;
- residual value;
- adjustment for revaluation or for any increase or decrease in cost;
- date of revaluation, if any;
- rate(s)/basis of amortisation;

- amortisation for the current year;
- accumulated amortisation;
- particulars regarding impairment;
- particulars regarding sale, discard etc.

**Special Considerations**

- (e) The auditor may have to consider the applicable documentation requirements of intangible assets as laid down in, *inter alia*, Copyright Act, 1957, Patents Act, 1970, Trade Marks Act, 1999, Designs Act, 2000, Information Technology Act, 2000 and so on.
- (f) Illustrative list of information, documents/records showing particulars of intangible assets. Documents, registers, records may be in the form of hard copies / printed materials or available in digital medium. The same may be in the form of:
- a) Narratives;
  - b) Standard Operating Procedure (SOP) – e.g., with respect to capitalisation process of research and development expenses in specific industries such as pharmaceuticals, automobiles, information technology, etc.;
  - c) Specific transaction reports or ledgers in enterprise resource planning platforms;
  - d) Any other structured form of management information system.
- (g) The auditor while reporting under this clause should consider:
- (i) Self-generated intangible assets to the extent permitted by relevant accounting standards and their classification.
  - (ii) Acquired intangible assets and their classification.
- (h) Approach for Reporting under this Clause**
- (i) Reasonable and sufficient description of the asset to facilitate identification should be available for

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inspection. For example, patents, trademarks and designs may be identifiable by purchase agreements / letters granting patent and by registration references. Similarly, computer software, which is considered as intangible asset may be identified by its title version and serial number, e.g., 'Microsoft Office 2010' and licence number.

- (ii) Location, i.e., the name of division, branch or department where the asset is located. (e.g., computer software in operation at different locations).
- (iii) Agreement books/registers: detailed commercial agreements with respect to intangible assets, e.g., license agreements.
- (iv) Quantity of the intangible assets per category / classification, i.e., number of units. This would be relevant for items like standard computer software where more than one unit may have been acquired.
- (v) Original cost details. (for self generated assets, cost of development).
- (vi) Date on which the asset becomes available for use by the company with documentary evidence.
- (vii) Subsequent expenditure on the asset that is included in its carrying amount, along with the date of incurrence of the expenditure.
- (viii) Register of amortization: containing, *inter alia*, amortisation period (or rate of amortisation), amount of amortisation for the period, amount of accumulated amortisation as at the beginning and end of the period.
- (ix) Impairment Register/Record: particulars of impairment loss (if any) and any reversal of such impairment loss—date, amount for the period and accumulated amount as at beginning and end of period. Impairment indicators may also be documented.
- (x) Retirement & Disposal Book: particulars of retirement, sale, transfer, disposal of intangible assets, if any.

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- (xi) Record of registration: name of registration authority and date of registration, period of validity of registration and date of expiry of registration.
- (xii) License Register: particulars of any license or other similar right in the asset granted to third parties, e.g., use rights in a trade mark. Such particulars would include:
- name and address of the counterparty;
  - nature and period of rights granted;
  - other key terms and conditions;
  - consideration received/receivable;
  - details of registration with authority concerned, etc.;
  - safeguarding intangible assets;
  - information security policy; and
  - legal protection and contracts.
- (xiii) Records/registers of litigations involving intangible assets which may assist in tracing an intangible asset belonging to the entity which is subject of any unauthorised access, use or disposal by another party.
- (i) For detailed guidance on maintenance of records, refer paragraph 40(e) above.

**42. Whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account; [Paragraph 3(i)(b)]**

### Relevant Provisions

- (a) This clause requires the auditor to comment whether the property, plant and equipment (PPE) of the company have been physically verified by the management at reasonable

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intervals. This clause further requires the auditor to comment whether any material discrepancies were noticed on such verification and if so, whether those discrepancies have been properly dealt with in the books of account. It may be noted that in case of right of use (ROU) assets covered under Ind AS 116, where the auditee, under a lease agreement, obtains the right to use an asset, the same should be considered for reporting under this clause.

It may also be noted that investment property (as defined under Ind AS 40) and non-current assets held for sale (as defined under Ind AS 105) will be considered by the auditor for reporting under this clause.

- (b) Physical verification of the assets is the responsibility of the management and, therefore, has to be carried out by the management itself and not by the auditor. It is, however, necessary that the auditor satisfies himself that such verification was done and that there is adequate evidence on the basis of which he can arrive at such a conclusion. The auditor may prefer to observe the verification, particularly when verification of all assets can be made by the management on a single day or within a relatively short period of time. If, however, verification is a continuous process or if the auditor is not present when verification is made, then he should examine the instructions issued to the staff (which should, therefore, be in writing) by the management and should examine the working papers of the staff to substantiate the fact that verification was done and to determine the name and competence of the person who did the verification. In making this examination, it is necessary to ensure that the person making the verification had the necessary technical knowledge where such knowledge is required. It is not necessary that only the company's staff should make verification. It is also possible that verification is made by outside expert agencies engaged by the management for the purpose.

### **Audit Procedures and Reporting**

- (c) The auditor should examine whether the method of verification was reasonable in the circumstances relating to

each asset. For example, in the case of certain process industries, verification by direct physical check may not be possible in the case of assets which are in continuous use or which are concealed within larger units. It would not be realistic to expect the management to suspend manufacturing operations merely to conduct a physical verification of the assets, unless there are compelling reasons which would justify such an extreme procedure. In such cases, indirect evidence of the existence of the assets may suffice. For example, the very fact that an oil refinery is producing at normal levels of efficiency may be sufficient to indicate the existence of the various process units even where each such unit cannot be verified by physical or visual inspection. It may not be necessary to verify assets like building by measurement except where there is evidence of alteration/demolition. At the same time, in view of the possibility of encroachment, adverse possession, etc., it may be necessary that a survey is made periodically of open land.

- (d) It is advisable that the assets are marked with “distinctive numbers” especially where assets are movable in nature and where verification of all assets is not being conducted at the same time.
- (e) This clause requires the auditor to report whether the management has verified the property, plant and equipment at reasonable intervals. What constitutes “reasonable intervals” depends upon the circumstances of each case. The factors to be taken into consideration in this regard include the number of assets, the nature of assets, the relative value of assets, difficulty in verification, situation and geographical spread of the location of the assets, etc. The management may decide about the periodicity of physical verification of property, plant and equipment considering the above factors. While an annual verification may be reasonable, it may be impracticable to carry out the same in some cases. Even in such cases, the verification programme should be such that all assets are verified at least once in every three years. Where verification of all assets is not made during the year, it

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will be necessary for the auditor to report that fact, but if he is satisfied regarding the frequency of verification he should also make a suitable comment to that effect.

- (f) The auditor is required to state whether any material discrepancies were noticed on verification and, if so, whether the same have been properly dealt with in the books of account. The latter part of the statement is required to be made only if the discrepancies are material. The auditor has, therefore, to use his professional judgement to determine whether a discrepancy is material or not. In making this judgement, the auditor should consider not only the cost of the asset and its relationship to the total cost of all assets but also the nature of the asset, its situation and other relevant factors. If a material discrepancy has been properly dealt with in the books of account (which may or may not imply a separate disclosure in the accounts depending on the circumstances of the case), it is not necessary for the auditor to give details of the discrepancy or of its treatment in the accounts but he is required to make a statement that a material discrepancy was noticed on the verification of property, plant and equipment and that the same has been properly dealt with in the books of account.
- (g) As mentioned above, for the purpose of reporting under this clause, the auditor has to use his professional judgement to determine whether a discrepancy is material or not. Factors which may be considered for this purpose may be as follows:
- the cost of the asset / asset class and its relationship to the total cost of all assets by percentage value or numerical count.
  - the nature of the significance of the asset, its value, in the overall production/processing/manufacturing process (for example, mission-critical assets), operational criticality of the asset, its current situation / location.

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- materiality threshold may be different for different industries and may also depend on the size, nature and complexity of the business of the entity.
- material discrepancy is such that, if it is omitted to be reported or considered, may fail to give a true and fair view of the property, plant and equipment of the company.

**43. Whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below:-**

Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held – indicate range, where appropriate	Reason for not being held in name of company*
-	-	-	-	-	*also indicate if in dispute

**[Paragraph 3(i)(c)]**

**Relevant Provisions**

- (a) This clause requires the auditor to comment whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format prescribed. The Act does not define the term “Immovable Property”.

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However, as per General Clauses Act, 1897, “Immovable Property shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth”.

It may be noted that investment property (as defined under Ind AS 40) and non-current assets held for sale (as defined under Ind AS 105) will be considered by the auditor for reporting under this clause.

The auditor need not report in respect of other immovable properties not classified as property, plant and equipment, as they are outside the scope covered under this clause. Such items may relate to inventories of immovable property for a real estate company.

### **Audit Procedures and Reporting**

- (b) Based on review of the PPE register, the auditor is required to identify immovable properties and verify the title deeds of such immovable properties. Transfer Development Rights (TDRs), plant and machinery embedded in land, etc., are not considered as an immovable property.
- (c) The Order is silent as to what constitutes ‘title deeds’. In general, title deeds mean a legal deed or document constituting evidence of a right, especially to the legal ownership of the immovable property. In case of leased assets, title deeds would imply the lease agreements and related documents.
- (d) Following documents mainly constitute title deeds of the immovable property:  

Registered sale deed / transfer deed / conveyance deed, etc. of land, land & building together (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee), etc. purchased, allotted, transferred by any person including any Government, government authority / body/ agency / corporation, etc. to the company.

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- (e) The auditor should carry out detailed examination in the cases where immovable property is transferred as a result of conversion of partnership firm or limited liability partnership into company or amalgamation of companies, as in such cases title deeds may be in the name of the erstwhile entity.
- (f) Where the title deeds of the immovable property have been mortgaged with the banks/financial institutions, etc., for securing the borrowings and loan raised by the company, a confirmation about the same should be sought from the respective institution to this effect. The auditor may also consider verifying this information from the online records, if available, of the relevant State.
- (g) There may be instances where the title deeds were lost accidentally or otherwise. In such cases, the certified copies of the documents, as available with the company, and details about the FIR filed about loss of such documents needs to be obtained and documented. The auditor should also seek written representation from the management in this regard.
- (h) The management is responsible for legal determination of the validity of title deeds. The auditor may refer SA 250, "Consideration of Laws and Regulations in an Audit of Financial Statements" to the extent considered relevant and obtain sufficient and appropriate audit evidence. Further any discrepancy, including any pending/disputed court cases relating to ownership, needs detailed discussion with the management and should be properly documented. In this context, the auditor may also consider communicating with the legal counsel, whether in-house or external, in accordance with the principles enunciated in SA 501, "Audit Evidence – Specific Considerations for Selected Items". The auditor may also consider disclosing the dispute while reporting under this clause.
- (i) The auditor should verify the title deeds available and reconcile the same with the PPE register. The scrutiny of the title deeds of the immovable property may reveal a number of discrepancies between the details in the PPE register and the details available in the title deeds. This may be due to various reasons which need to be examined.

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- (j) Situations may arise wherein lessor has also obtained the land and land & building under long term lease and has given on sub-lease to other party. However, in such case, to meet the objectives of reporting under this clause, the auditor need not verify executed lease deed in favour of lessor to ascertain whether the title of those long-term leasehold immovable properties relates to lessor. The fact that such a sub-lease transaction has been entered, may be disclosed.
- (k) It may be noted that no direct responsibility is cast on the auditor for reporting in case of properties where company is lessee and lease agreements are duly executed in favour of lessee. However with respect to cases where there are discrepancies in lease agreements or it is not duly executed, it shall be prudent to include in the report, facts of any case where the company has taken immovable properties on lease but lease contract is not formal or is not executed in favour of lessee or not duly executed in any other manner.
- (l) In case the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are not held in the name of the company, the auditor should ascertain the following information for the purpose of reporting under this clause:
  - (i) Description of the property, including location, identification number from land records, municipal records, etc.;
  - (ii) Gross carrying amount as per balance sheet of the company;
  - (iii) Name of the individual (s) who are holding the title of the immovable property;
  - (iv) The auditor to report specifically if the immovable property is held in the name of the promoter, director or their relative or employee;
  - (v) The auditor to indicate the period of such holding; and

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- (vi) The auditor to state the reason for the immovable property not being held in the name of the company (for example, the registration process of transfer of name may be continuing as on the date of the audit report).
- (m) The auditor may obtain the support of any legal expert in case there is any dispute or litigation as to the title of the immovable property or where the auditor seeks clarity in matters related to this clause.

**44. Whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets; [Paragraph 3(i)(d)]**

### Relevant Provisions

- (a) Revaluation of assets is the process by which the carrying value of such assets is adjusted upwards or downwards in response to major changes in its fair market value. The process of revaluation may be carried out at sufficient regularity such that the carrying amount does not differ materially from the fair value. Hence, revaluation need not be performed every year or in every reporting period.
- (b) AS 10(Revised), "Property, Plant and Equipment" and Ind AS 16, "Property, Plant and Equipment" require property, plant and equipment (PPE) to be initially recorded at cost but they allow two models for subsequent accounting for PPE, namely the cost model and the revaluation model. The difference between the cost model and the revaluation model is that the revaluation model allows both downward and upward adjustment in value of an asset while cost model allows only downward adjustment due to impairment loss. Hence, for the purpose of reporting under this clause, there may be cases of:

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- Upward revaluation; or
  - Downward revaluation.
- (c) It may be noted that reporting under this clause would be limited to revaluation model since under cost model revaluation is not permitted. Further, reporting under this clause will cover both upward and downward revaluation under revaluation model. It may be noted that for the purpose of reporting under this clause, revaluation shall not include:
- Fair valuation of PPE upon first time adoption of Ind AS.
  - Remeasurements (i.e., changes in value due to interest or foreign exchange rates).
  - Changes to ROU assets due to lease modification as per Ind AS 116.

### Audit Procedures and Reporting

- (d) As per the requirements of this clause, the auditor has to report on whether the company during the year has revalued its PPE (including right of use assets) or intangible assets or both and whether the revaluation is based on the valuation by a registered valuer. The auditor while reporting under this clause has to consider the requirements of section 247 of the Act - "Valuation by Registered Valuers".
- (e) The auditor has to consider in line with the principles laid down in AS 10(Revised) and Ind AS 16, that if a single item of PPE is revalued, then the entire class of PPE to which that item belongs should be revalued.
- (f) The Act and the Companies (Registered Valuers and Valuation) Rules, 2017, *inter alia*, set out the nature and duties of registered valuer under the Act. The auditor has to consider the provisions of Rule 2(1)(c) of the above mentioned Rules, which defines 'asset class' as to mean a distinct group of assets, such as land and building, machinery and equipment, displaying similar characteristics,

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that can be classified and requires separate set of valuers for valuation. Aspects to be considered by the auditor in this regard are:

- Date of revaluation carried out by the company.
- Name of the registered valuer or firm who carried out the valuation exercise, place and date of valuation report.
- Membership/license number of the registered valuer (registered valuer are to be registered with the Insolvency and Bankruptcy Board of India).
- Review of valuation report issued under Rule 8 of the aforesaid Rules, by such registered valuer.
- Methods and significant assumptions applied in estimating fair values.
- Extent to which fair values were determined directly or estimated.
- Accounting treatment of revaluation surplus.

- (g) The auditor while reporting under this clause should review the disclosure requirements for revalued assets as per the applicable financial reporting framework.

As part of audit documentation under SA 230, "Audit Documentation", the auditor may also retain a copy of the valuation report carried out by such registered valuer.

- (h) The auditor also needs to specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of PPE or intangible assets.
- (i) It shall be noted by the auditor that using the work of registered valuer does not tantamount to using the work of an auditor's expert as laid out in SA 620, "Using the Work of an Auditor's Expert". However, the auditor shall consider the principles enunciated in SA 500, "Audit Evidence", with regard to using the work done by a management's expert.

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**45. Whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements; [Paragraph 3(i)(e)]**

### Relevant Provisions

- (a) It may be noted that this clause refers to Benami Transactions (Prohibition) Act, 1988. The name of the aforesaid Act has been changed to Prohibition of Benami Property Transactions Act, 1988 in the year 2016. Therefore, for the purpose of reporting under this clause reference should be made to Prohibition of Benami Property Transactions Act, 1988 (as amended in 2016).
- (b) The duty of the auditor under this clause is to report:
  - (i) Whether any proceedings have been initiated or are pending against the company for holding any benami property under the Prohibition of Benami Property Transactions Act, 1988 and rules made thereunder;
  - (ii) If so, whether the company has appropriately disclosed the details in its financial statements.
- (c) For the meaning of the relevant terms, reference has to be made to Prohibition of Benami Property Transactions Act, 1988 and the rules made thereunder. Relevant definitions applicable for reporting under this clause are reproduced in **Annexure A** below.
- (d) The Initiating Officer (IO), as the name indicates is an authority who initiates the proceedings under the aforesaid Act. As per section 2(19) of aforesaid Act, the IO is the Assistant/ Deputy Commissioner of Income Tax. Chapter IV of the aforesaid Act deals with the provisions relating to attachment, adjudication, and confiscation of property involved in benami transaction.

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- (e) The IO collects the material during the investigation of suspicious benami transaction, and based on such material in his possession, if he has reason to believe that any person is benamidar in respect of the property, then he has to record the reasons in writing and then issue a show cause notice to such benamidar asking why the property should not be treated as benami property. The IO issues the show cause notice under section 24(1) of Prohibition of Benami Property Transactions Act, 1988. A copy of the show cause notice shall be sent to the beneficial owner also if his identity is known.

### **Audit Procedures and Reporting**

- (f) For reporting under this clause, the auditor is required to examine whether proceedings have been initiated under Section 24(1) of the Prohibition of Benami Property Transactions Act 1988 by the Initiating Officer during the year and/ or any proceedings are pending against the company before the Initiating Officer/ Adjudicating Authority/ Appellate Tribunal/ High Court/ Supreme Court during any of the preceding financial years.
- (g) In case any proceedings are initiated or pending, the auditor is required to examine whether appropriate disclosures are made in the financial statements. Appropriate disclosures shall include nature of property, carrying value of the property in the books of account, status of proceedings before the relevant authority, consequential impact on the financial statements and/ or the liability that may arise in case the proceedings are decided against the company. Depending on the merits of the case, the auditor is also required to evaluate whether the liability is required to be disclosed as “contingent liabilities” or whether provisions are required to be made.
- (h) Where the proceedings are initiated post balance sheet date but before the signing of the auditor’s report, the auditor

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should consider the requirements of SA 560, "Subsequent Events" for the purpose of reporting under this clause.

- (i) For the purpose of ascertaining whether any proceedings are initiated or are pending, the auditor should make necessary inquiries from the management including obtaining a management representation letter. The auditor may also review the legal expenses account to ascertain whether any expenses have been incurred by the company in respect of a proceeding under the aforesaid Act. The auditor should also review the minutes of meetings of the Board of Directors, Audit Committee, Risk Management Committee and other secretarial records to verify whether any reference to proceedings against the company under the aforesaid Act has been made.
- (j) The auditor shall ensure compliance with the requirements of SA 250, "Consideration of Laws and Regulations in an Audit of Financial Statements" and the requirements relating to litigation and claims given in SA 501, "Audit Evidence-Specific Considerations for Selected Items".
- (k) It may be noted that reporting under this clause is limited to the adequacy of disclosure in the financial statements and to cases where proceedings are initiated with the company being treated as a benamidar. The reporting is not applicable where the notice is received by the company as a beneficial owner.

### **Annexure A: References from Prohibition of Benami Property Transactions Act, 1988**

Section 2(8) – "benami property" means any property which is the subject matter of a benami transaction and also includes the proceeds from such property;

Section 2(9) – "benami transaction" means,—

- (A) a transaction or an arrangement—

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- (a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and
  - (b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration,  
except when the property is held by—
    - (i) a Karta, or a member of a Hindu undivided family, as the case may be, and the property is held for his benefit or benefit of other members in the family and the consideration for such property has been provided or paid out of the known sources of the Hindu undivided family;
    - (ii) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 (22 of 1996) and any other person as may be notified by the Central Government for this purpose;
    - (iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such property has been provided or paid out of the known sources of the individual;
    - (iv) any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendent and the individual appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual; or
- (B) a transaction or an arrangement in respect of a property carried out or made in a fictitious name;

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- (C) a transaction or an arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership; or
- (D) a transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious.

*Explanation.—For the removal of doubts, it is hereby declared that benami transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), if, under any law for the time being in force,—*

- (i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;*
- (ii) stamp duty on such transaction or arrangement has been paid; and*
- (iii) the contract has been registered;*

Section 2(10) - “benamidar” means a person or a fictitious person, as the case may be, in whose name the benami property is transferred or held and includes a person who lends his name;

Section 2(19) - “Initiating Officer” means an Assistant Commissioner or a Deputy Commissioner as defined in clauses (9A) and (19A) respectively of section 2 of the Income-tax Act, 1961;

Section 2(26) - "property" means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal and includes any right or interest or legal documents or instruments evidencing title to or interest in the property and where the property is capable of conversion into some other form, then the property in the converted form and also includes the proceeds from the property;

**46. Whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account; [Paragraph 3(ii)(a)]**

**Relevant Provisions**

- (a) This clause requires the auditor to comment whether the management has conducted physical verification of inventory at reasonable intervals, and whether the coverage and procedure of such verification by the management is appropriate. This clause also requires the auditor to comment on whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account.
- (b) AS 2, “Valuation of Inventories” and Ind AS 2, “Inventories” define “Inventories” as follows:
  - “Inventories are assets:
    - (i) held for sale in the ordinary course of business;
    - (ii) in the process of production for such sale; or
    - (iii) in the form of materials or supplies to be consumed in the production process or in the rendering of services.”
- (c) Inventories encompass goods purchased and held for resale, for example, merchandise purchased by a retailer and held for resale, computer software held for resale, or land and other property held for resale. Inventories also encompass finished goods produced, or work in progress being produced, by the enterprise and include materials, maintenance supplies, consumables and loose tools awaiting use in the production process. Inventories do not include spare parts, servicing equipment and standby equipment which meet the definition of property, plant and equipment as per AS 10(Revised) or Ind AS 16. Such items are accounted for in accordance with AS 10(Revised) or Ind AS 16.

**Audit Procedures and Reporting**

- (d) The auditor should obtain reasonable assurance about existence and condition of inventories. Observation of physical verification/ examination of records of physical verification of inventory is the primary source of evidence for the purpose of reporting under this clause. Physical verification of inventory is the responsibility of the management of the company which should verify all material items at least once in a year and more often in appropriate cases. It is, however, necessary that the auditor satisfies himself that the physical verification of inventories has been conducted at reasonable intervals by the management and that there is adequate evidence on the basis of which the auditor can arrive at such a conclusion. For example, the auditor may examine the documents relating to physical verification conducted by the management during the year and also at the end of the financial year covered by the auditor's report.
- (e) There are two principal methods of physical verification of inventories: periodic and continuous. Under the periodic physical verification method, physical verification of inventories is carried out at a single point of time, usually at the year-end or at a selected date just prior to or shortly after the year-end. Under the continuous physical verification method, physical verification of inventory is carried out throughout the year, with different items of inventory being physically verified at different points of time. However, the verification programme is normally so designed that each material item is physically verified at least once in a year and more often in appropriate cases. The continuous physical verification method is effective when a perpetual inventory system of record-keeping is also in existence. Some entities use continuous physical verification methods for certain stocks and carry out a full count of other stocks at a selected date.
- (f) What constitutes "reasonable intervals" depends on circumstances of each case. The periodicity of the physical

verification of inventories depends upon the nature of inventories, their location and the feasibility of conducting a physical verification. The management of a company normally determines the periodicity of the physical verification of inventories considering these factors. Normally, wherever practicable, all the material items of inventories should be verified by the management of the company at least once in a year. It may be useful for the company to determine the frequency of verification by 'A-B-C' classification of inventories, 'A' category items being verified more frequently than 'B' category and the 'B' category items being verified more frequently than 'C' category items.

- (g) This clause also requires the auditor to comment on whether in his opinion, the coverage and procedure of such verification by the management is appropriate. What constitutes "appropriate" is a matter of professional judgement. The coverage and procedure of such verification will normally not be appropriate if it is not reasonable and adequate in relation to the size of the company and nature of its business. While the physical verification of inventories is primarily the duty of the management, the auditor is expected to examine the methods, procedures and the coverage of such verification. The auditor may, if considered appropriate by him, be also present at the time of stock-taking. Where the auditor is present at the time of stock-taking, he should observe the procedure and coverage of physical verification adopted by the stock-taking personnel to ensure that the instructions issued in this behalf are being actually followed. The auditor should also perform test-counts to satisfy himself about the effectiveness of the count procedures.
- (h) The auditor may compare the final inventories with stock records and other corroborative evidence, e.g., inventory statements submitted to banks, etc., for verification purposes. The auditor should determine the reasonableness and adequacy of procedures adopted for physical

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verification of inventories and its coverage having regard to the nature of inventories, their locations, quantities, value and feasibility of conducting the physical verification. This would require the auditor to exercise his professional judgement.

- (i) The auditor should ascertain whether the management has instituted adequate cut-off procedures. In this regard, the auditor may examine a sample of documents evidencing the movement of inventories into and out of stores, including documents pertaining to periods shortly before and shortly after the cut-off date, and check whether the inventories represented by those documents were included or excluded, as appropriate, during the stock-taking.
- (j) The auditor may determine the appropriateness and the adequacy of the procedures and coverage of physical verification of inventories by examining the related records and documents. These records and documents would also include the policy of the company regarding physical verification. The following are the documents which can be examined by the auditor in this regard:
  - (i) written instructions given by the management to the concerned staff engaged in the physical verification process;
  - (ii) physical verification inventory sheets duly authenticated by the field staff and responsible officials of the company;
  - (iii) summary sheets/consolidation sheets duly authenticated by the responsible officials;
  - (iv) internal memos etc., with respect to the issues arising out of physical verification of inventory;
  - (v) extent of coverage of inventory having regard to their value; and
  - (vi) any other relevant documents evidencing physical verification of inventory.

While commenting on this clause, the auditor should point out the specific areas where he believes the procedure of

physical verification of inventory is not reasonable or adequate.

- (k) The auditor should also pay attention to ascertain whether the management has established adequate procedures for physical verification of inventories, so that in the normal circumstances, the programme of physical verification will cover all material items of inventory at least once during the year. The auditor should also determine whether the procedures for identifying damaged and obsolete items of inventory are well designed and operate properly. For items of stock which are held by third parties, the auditor should obtain confirmations for stock held by them. In case, in the opinion of the auditor, the procedures and coverage of physical verification of inventories is not appropriate, the auditor has to report the same.
  
- (l) This clause further requires the auditor to examine whether any discrepancies of 10% or more in the aggregate for each class of inventory have been noticed on physical verification of inventories when compared with books of account. As per paragraph 27 of AS 2, common classifications of inventories are raw materials and components, work in progress, finished goods, stores and spares, and loose tools. As per paragraph 37 of Ind AS 2, common classifications of inventories are merchandise, production supplies, materials, work in progress and finished goods. Goods-in-transit will form part of the relevant class of inventory to which the goods belong. Only in cases where discrepancy of 10% or more arises in value, for any class of inventory, the auditor has to report the fact and also report whether they have been properly dealt with in the books of account. It may be noted that for the purpose of reporting under this clause, materiality threshold as may be applicable for the auditee is not relevant. What is of relevance is discrepancy of 10% or more in value, for any class of inventory, which may or may not be material, but reporting is required in such cases. The 10% threshold for reporting must be applied on a net basis after adjusting excesses and shortages within the class of an inventory and must be based on value for each class of Inventory. Even where such discrepancy results in a net excess of 10% for any class of inventory, reporting would

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still be required. The calculation of the discrepancy should be made at the time when physical verification of inventory was made and in case of perpetual inventory system it will require aggregation of book stock, physical stock and discrepancies for computing the threshold of 10%. In case where the same has not been appropriately dealt with in the books of account, the extent of the discrepancies and its impact on the financial statements need to be reported. Such an examination is possible when quantitative records are maintained for inventories but in many cases circumstances may warrant that records of individual issues (particularly for stores items) are not separately maintained and the closing inventory is established only on the basis of year-end physical verification. Where such day-to-day records are not maintained, the auditor will not be able to arrive at book value of inventories except on the basis of an annual reconciliation of opening inventory, purchases and consumption. This reconciliation is possible when consumption in units can be co-related to the production, or can be established with reasonable accuracy. Where such reconciliation is not possible, the auditor would be unable to determine the discrepancies. In such cases where the discrepancy cannot be determined, the auditor will have to report that he is unable to determine the discrepancy, if any, on physical verification for the item or class of items.

**47. Whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details; [Paragraph 3(ii)(b)]**

### Relevant Provisions

- (a) This clause requires the auditor to comment on whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore

rupees, in aggregate, from banks or financial institutions on the basis of security of current assets and whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the company. This clause does not require reporting where such limits are unsecured or sanctioned on the basis of assets other than current assets.

- (b) The “Glossary of Terms used in Financial Statements” issued by the Research Committee of ICAI defines “working capital” to mean the funds available for conducting day-to-day operations of an enterprise, also represented by the excess of current assets over current liabilities including short-term loans.

The working capital of a company generally indicates the liquidity levels of the company for managing day-to-day expenses and covers inventory, cash, accounts payable, accounts receivable and short-term debt that is due. It is derived from several company operations such as debtor and inventory management, supplier payments and collection of revenues.

Working capital limits could be in the form of credit facilities which are fund based, wherein immediate flow of funds is available to the borrowers, which includes cash credit, bank overdraft, trade credit, working capital loans, purchase/discount of bills, factoring, etc. Working capital limits could also be non-fund based where there is no immediate outflow of funds from the lender which includes letter of credit, bank guarantees, etc.

- (c) Schedule III to the Act defines a current asset as under –

“An asset shall be classified as current when it satisfies any of the following criteria:—

- a) it is expected to be realised in, or is intended for sale or consumption in, the company’s normal operating cycle;

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- b) it is held primarily for the purpose of being traded;
- c) it is expected to be realised within twelve months after the reporting date; or
- d) it is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.”

### **Audit Procedures and Reporting**

- (d) It may be noted that for the purpose of reporting under this clause, the auditor is required to check the working capital sanctioned limit and not its utilisation. The auditor should determine the sanctioned limit with reference to the sanction letter issued by banks or financial institutions and relevant agreements executed with them. The utilisation may be less than the sanctioned limit of five crore rupees but such cases will also be covered for the purpose of reporting. Alternatively, the sanctioned limit may be less than five crore rupees but due to excess withdrawals/ levy of interest/ temporary overdrawings, the balance may exceed five crore rupees. Such cases are beyond the scope of reporting under this clause. The term "sanction" here should include fresh sanction during the year as well as limits renewed or due for renewal during the year. Moreover, both fund based and non-fund based credit facilities availed by the company should be considered for the purpose of checking the limit. It is also pertinent to note that the aforesaid threshold of five crore rupees should be examined for any day during the year for which the reporting is to be made, and not as at the end of the financial year. This would mean that even if the limit exceeds five crore rupees on a day during the year, the auditor is required to report the same. The limit would cover the working capital limits from all the banks and financial institutions in aggregate. However, this would exclude any working capital limits which are sanctioned without the security of the company's current assets.

- (e) The auditor should examine the important terms in the sanction letters and other correspondence with the lender and the documents, if any, evidencing charge in respect of such facilities availed and the register of charges. This clause further requires the auditor to examine whether the book balances agree with the quarterly returns or statements submitted to the lenders (banks or financial institutions). The responsibility of the submission of such quarterly returns/ statements to banks/ financial institutions is that of the management. It is, however, necessary that the auditor satisfies himself that such quarterly returns/ statements agree with the books of account and that there is adequate evidence on the basis of which the auditor can arrive at such a conclusion. The auditor should obtain a list of the statements or returns which are submitted to the banks/ financial institutions and compare the same with the books of account as to its accuracy or otherwise. Only those statements/ returns which have relevance with books of account of the company are subject matter of reporting under this clause. The auditor is not required to audit such quarterly returns/ statements, but only required to compare the same with the books of account and report disagreement, if any. The auditor is also not required to audit the books of account on the basis of which such statements/ quarterly returns have been prepared and submitted to the banks/ financial institutions. Moreover, although company may be submitting monthly returns/ statements to the lenders, reporting under this clause is confined to the quarterly returns/ statements only. Therefore, in such scenarios, the auditor is required to only verify returns/ statements as at the end of each quarter and not for other months of the same quarter. For instance, if the company submits returns/ statements on a monthly basis say for the months of April, May and June, the auditor in this case would be required to verify the returns/ statements solely for the month of June, being the relevant return as at the end of a quarter.

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- (f) Such returns/statements would include stock statements, book debt statements, credit monitoring arrangement reports, statements on ageing analysis of the debtors/other receivables, and other financial information to be submitted in stipulated format on a quarterly basis to lenders. Any other information which is submitted to the lenders should also be examined by the auditor in this regard. The auditor should also examine the reconciliation statements, if any, prepared by the company.
- (g) If any discrepancy arises when such returns/statements are compared with the books of account, the auditor is required to report the same. Instances of such differences may be relating to difference in value of stock, amount of debtors/creditors, ageing analysis of debtors, etc., between the books of account and the returns/statements submitted to banks/financial institutions. The auditor needs to exercise his professional judgement to determine the materiality and the relevance of the discrepancy to the users of financial statements while reporting under this clause.

**48. Whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, If so,**

- a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate -
  - (A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;

- (B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;**
- b) whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company's interest;**
  - c) in respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;**
  - d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;**
  - e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];**
  - f) whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;**

**[Paragraph 3(iii)]**

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### Relevant Provisions

- (a) There are six clauses under paragraph 3(iii) of the Order. It is clarified that the auditor's comments on all the six clauses are to be made with reference to all the loans/advances in nature of loans granted, guarantee or security provided to companies, firms, limited liability partnerships or any other parties. Clause (iii)(a) and (iii)(e) are not applicable to companies whose principal business is to give loans (for example financial institutions, NBFCs etc.)
- (b) Clause (iii)(a) is applicable to all companies except companies whose principal business is to give loans for example NBFC registered as core investment company. This clause requires determination of gross amount (i.e. without adjusting any subsequent settlements) of all loans, advances in nature of loans, guarantees, security provided **during the year** (emphasis added) to subsidiaries, joint ventures, associates and to any other parties. The expression subsidiaries, joint ventures, associates would be interpreted in accordance with provisions of the Companies Act, 2013.
- (c) Whether an advance is in the nature of a loan would depend upon the circumstances of each case. For example, a normal advance against an order, in accordance with the normal trade practice would not be an advance in nature of a loan. But if an advance is given for an amount which is far in excess of the value of an order or for a period which is far in excess of the period for which such advances are usually extended as per the normal trade practice, then such an advance may be in nature of a loan to the extent of such excess. When a trade practice does not exist, a useful guide would be to consider the period of time required by the supplier for the execution of the order, that is, the time between the purchase of the raw material and the delivery of the finished product. An advance which exceeds this period would normally be an advance in nature of loan unless there is evidence to the contrary. Similarly, a stipulation regarding interest may normally be an indication that the advance is in

nature of a loan but this by itself is not conclusive and there may also be advances which are not in the nature of loan and which carry interest.

**Audit Procedures and Reporting**

- (d) The duty of the auditor, under this clause, is to determine whether the company **during the year** has made investments in, provided any guarantee or security or granted any loans/advances in nature of loans, secured or unsecured to companies, firms, limited liability partnerships or any other parties. If the company has done so, the auditor should report on the matters specified in clauses 3(iii)(a) to 3(iii)(f). The auditor is required to disclose the requisite information in his report in respect of all the parties. Further, there is no stipulation regarding the loan being given in cash or in kind. In the absence of such stipulation, the auditor is required to disclose the requisite information as specified in clauses 3(iii)(a) to 3(iii)(f), in his report in respect of all kind of loans whether long term or short term, whether given in cash or in kind to any party(s).
- (e) As a starting point, the auditor should obtain an understanding around the controls and procedures established by the company with regard to making of investments, provision of guarantees, security, grant of loans and advances in nature of loans and check the operating effectiveness of the same. For example, important consideration while evaluating the controls around loans and investments could be purpose for which loans were given, permissibility as per the applicable law, terms for which loans were made, person authorized etc.
- (f) In relation to this clause it is suggested that the auditor should ensure compliance with all the requirements of sections 179, 180, 185, 186, 187 of the Act and rules thereunder. Further, depending upon the nature of the operations of the company, the auditor would be required to

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consider the sectoral laws for instance guidelines prescribed by Reserve Bank of India in respect of NBFCs.

- (g) ICAI has issued Guidance Notes on Audit of Investments, Audit of Loans and Advances and Audit of Liabilities. These Guidance Notes should be considered for planning and performing the audit procedures.
- (h) The auditor should obtain details of all investments made, guarantee or security provided or loans/advances in nature of loans granted during the year from the management. The details should include, name of the parties, relationship of the company with the parties (i.e. whether subsidiary, joint venture or associate, promoter, any other party etc.), gross amount of investments made, guarantees/security provided, loans/advances in nature of loans granted during the year, date and amount of settlement of guarantee/loans / advances in nature of loan as per the terms of contracts etc. Further, in respect of guarantees, security, loans and advances in nature of loans, the details of amounts outstanding as at March 31<sup>st</sup> of the year under audit should also be obtained from the management.
- (i) It may be noted that several types of guarantees are in vogue. The type of guarantee within the scope of this clause is the one which the company has provided to a bank or financial institution in respect of loans taken by a third party. Consequently, the auditor's response in this clause would be limited to financial guarantees only.
- (j) Guarantee given by a company is a contingent liability. In respect of contingent liabilities, the auditor is normally concerned with seeking reasonable assurance that all contingent liabilities are identified and properly valued and disclosed as an off-balance sheet item. The auditor should obtain a written representation from the management that:
  - (i) there are no guarantees issued up to the year-end which are yet to be recorded; and
  - (ii) all obligations in respect of

guarantees have been duly recorded in the register of guarantees and disclosed.

- (k) The auditor should also examine the register of guarantees, if any, maintained by the company. The auditor should also obtain a list of the guarantees issued by the company during the year from the management of the company which should be checked with the register of guarantees. The auditor should perform appropriate procedures and examine records like the minutes book of the board meetings, and general meetings to determine that all the guarantees given by the company have been included in the list. The auditor should also ascertain whether the guarantees have been issued by or under sanction of the competent authority. In case of listed companies, pursuant to requirements of regulation 34(3) and 53(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI LODR Regulations), holding company is required to disclose loans and advances in the nature of loans to subsidiaries, associate and to the firms/companies in which directors are interested by name and amount in Schedule V to SEBI LODR Regulations. As part of his examination, the auditor should check such disclosures.
- (l) It may so happen that a party might have taken a loan/advance in nature of loan from a company and repaid it during the same financial year. Therefore, while examining the loans, the auditor should also take into consideration the loans/advances in nature of loan transactions that have been squared-up during the year and report such transactions under this clause. For example, the company has, during the financial year, granted a loan of Rs. 1,00,000/- to a firm and the firm repays the loan during the financial year concerned. The auditor is also required to consider such transactions while reporting under this clause.

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- (m) The auditor may report under this clause in the following format:

	Guarantees	Security	Loans	Advances in nature of loans
Aggregate amount granted/ provided during the year				
- Subsidiaries - Joint Ventures - Associates - Others				
Balance outstanding as at balance sheet date in respect of above cases - Subsidiaries - Joint Ventures - Associates - Others				

**49. Whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in nature of loans and guarantees provided are not prejudicial to the company's interest; [Paragraph 3(iii)(b)]**

### Relevant Provisions

- (a) This clause covers determination of terms and conditions at the time of the grant of the loans and advances in nature of loans. It also requires determination of terms and conditions on which the company has made an investment, provided a guarantee or given a security.

**Audit Procedures and Reporting**

- (b) Under this clause the auditor's duty is to determine whether, in his opinion, the terms and conditions of the investments, guarantee, security, loans/advances in nature of loans granted during the year are prejudicial to the interest of the company. Since this clause is applicable to all companies i.e. including companies like NBFCs whose principal business is to grant loan, it would be imperative for auditors of such companies to consider the additional guidance issued by the Auditing and Assurance Standard Board of ICAI in this regard (for example Technical Guide on Audit of NBFCs).
- (c) In case of loans/advances in nature of loans, the "terms and conditions" would primarily include rate of interest, security, terms and period of repayment and restrictive covenants, nature of entity i.e. whether given to a start-up or an entity having established track record etc. In determining whether the terms of the loans are prejudicial to the company's interest, the auditor would have to give due consideration to the other factors connected with the loan, including its ability to lend, terms of lending, borrower's financial standing, credit rating, if available, the nature of the security, rate of interest, and so on. In respect of advances in nature of loans, the auditor might find it difficult to ascertain the "terms and conditions" since such loans are camouflaged as advances. Accordingly, as part of audit procedures, the auditor should obtain the listing of all advances and compare them with the underlying contractual agreements (for example purchase order) to ascertain the excess of an amount granted/excess of credit period extended.
- (d) Similarly, in respect of investments made, to assess whether same are prejudicial to the company's interest, the auditor would have to give due consideration to the factors connected with such an investment, including company's ability to make such investment, financial standing of the investee company, sources of fund, valuation of the proposed investment, covenant's attached and so on. To explain with an example, it is not uncommon for a holding

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company to support the financial position of its loss-making subsidiary by infusing equity and in such a situation it would not be construed as prejudicial to the interest of the holding company.

- (e) With regard to guarantees/security, the auditor should review the process for issuance of guarantee(s) to establish the reasonableness thereof in the light of previous experience and knowledge of the current year's activities. In determining whether the guarantee is prejudicial to the interest of the company, the auditor would have to give due consideration to a number of factors connected with the guarantee, including the financial standing of the party on whose behalf the company has given the guarantee, party's ability to borrow, the nature of the security offered by the party, the availability of alternative sources of finance and the urgency of the borrowing, if available, for which the company has given guarantee and so on. The auditor should obtain this information from the management.
- (f) Checking compliance with applicable law would also assist the auditor to identify whether terms and conditions are prejudicial to the interest of the company. For example, section 186 of the Act states that no investment shall be made, or loan or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all directors present at the meeting. Similarly, in respect of loans, compliance conditions as per this section include obtaining prior approval of financial institutions, ensuring rate of interest is not lower than the prevailing yield of one year, three year, five year or ten year government security closest to the tenor of the loan etc. Reporting under this clause may warrant a cross referencing with reporting under clause 3(iv).
- (g) Further, the auditor may also come across a situation where the company has a policy of providing loans at concessional rates of interest to its employees and such a loan has been given to a relative of the director who is also an employee of the company. In such a case also, the auditor would be

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required to examine and comment whether loan is prejudicial to the interests of the company. It may, however, be noted that normally such terms as per the policy followed by the company cannot be said to be prejudicial to the interest of the company if other employees of the company also receive the loan on the same terms.

- (h) It should be noted that reporting requirement under this clause is applicable to all companies including those which are engaged in the financing business and thus sector specific legal requirements would need to be considered by the auditor. For example in case of NBFC's, guidelines issued by the Reserve Bank of India would need to be considered by the auditor.
- (i) It may be mentioned that clause (a) of sub-section (1) of section 143 of the Act also requires the auditor to inquire whether loans and advances made by the company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the company or its members.
- (j) While addressing the requirement of this clause, the auditor may reach a conclusion to express an unfavourable comment. Following is an example of an unfavourable comment by the auditor under this clause:

“According to the information and explanations given to us and based on the audit procedures performed by us, we are of the opinion that the guarantee provided and the terms and conditions of loans granted by the company to its associate, (guarantee provided during the year aggregating to Rs. \_\_\_total loan amount granted Rs. \_\_\_ and balance outstanding as at balance sheet date Rs. \_\_\_) are prejudicial to the company's interest on account of the fact that the guarantee provided without obtaining requisite approvals as required under section 186 of the Companies Act 2013 and the loans have been granted at an interest rate of X% per annum which is significantly lower than the cost of funds to the company and also lower than the prevailing yield of government security closest to the tenor of the loan”.

**50. In respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular; [Paragraph 3(iii)(c)]**

**Relevant Provisions**

- (a) This clause requires the auditor to report upon the stipulation of schedule of repayment of principal and payment of interest and on regularity of repayments of principal amount of loans/advances in nature of loans and receipts of interest thereon. As mentioned in paragraph 48, advances in nature of loans may not necessarily carry interest. It is important to note that clauses (iii)(c), (iii)(d) and (iii)(e) cover the loans and advances in nature of loans granted during the year and also all loans and advances in nature of loans having opening balances.

**Audit Procedures and Reporting**

- (b) The auditor has to examine from the loan agreements / mutually agreed letter of arrangement, as the case may be, whether the schedule of repayment of principal and payment of interest has been stipulated at the time of sanction of loan.
- (c) The auditor has to examine whether the repayment of principal and receipt of interest are regular. The word 'regular' should be taken to mean that the principal and interest should normally be received whenever they fall due, respectively.
- (d) In case where the auditee company is NBFC, the auditor, for reporting under this clause, would also need to refer various directions for NBFC issued by Reserve Bank of India.
- (e) If there is no such agreement / arrangement or the agreement / arrangement does not contain the schedule of repayment of principal and payment of interest, the auditor shall report that there is no stipulation of schedule of repayment of principal and payment of interest and may report that he is unable to make specific comment on the regularity of repayment of principal & payment of interest, in

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such cases. Advances in nature of loans which do not contain the schedule of repayment and payment of interest are required to be reported under this clause.

- (f) In case where the schedule of repayment of principal and payment of interest is stipulated but repayment of principal or payment of interest is not regular then the auditor may report the fact and may give number of cases and remarks, if any.
- (g) Suggested format for reporting under this clause:

Name of the Entity	Amount	Due date	Extent of delay	Remarks, if any

**51. If the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest; [Paragraph 3(iii)(d)]**

### Relevant Provisions

- (a) This clause requires the auditor to state the total amount overdue for more than ninety days and whether reasonable steps have been taken by the company for recovery of the principal and interest. An amount is considered to be overdue when the payment has not been received on the due date as per the lending arrangement. In such cases, the auditor has to examine the steps, if any, taken for recovery of this amount. It may be noted that the scope of the auditor's inquiry under this clause covers all loans/advances in nature of loans given by the company to any party.

### Audit Procedures and Reporting

- (b) Under this clause, the auditor is required to disclose total amount overdue for more than ninety days. The auditor should examine the agreement or other documents containing the schedule of repayment of the loans/advances in nature of loans granted to all parties. The auditor should

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then verify whether the repayments as per the books of account are in accordance with the schedule of repayment of the loans/advances in nature of loans as per agreement or arrangement. This examination would enable the auditor to determine the total amount overdue (principal and interest) for more than ninety days from all parties as at balance sheet date. The auditor should disclose the aggregate of the total amount of overdue for more than ninety days in respect of loans/advances in nature of loans granted to all parties.

- (c) While examining whether reasonable steps have been taken by the company for recovery of principal and interest, the auditor would have to consider the facts and circumstances of each case, including the amounts involved. It is not necessary that steps to be taken must necessarily be legal steps. Depending upon the circumstances, the degree of delay in recovery and other similar factors, issue of reminders or sending of an advocate's or solicitor's notice, obtaining enhanced security, may amount to "reasonable steps" even though no legal action is taken. The auditor is not, therefore, required to comment on the mere absence of legal steps if he is otherwise satisfied that reasonable steps have been taken by the company. The auditor should obtain sufficient appropriate audit evidence to support the fact that reasonable steps have been taken for recovery of the principal and interest of loans/advances in nature of loans granted by the company. In addition to procedures like making correspondence with defaulting parties, the auditor should ask the management to give in writing, the steps which have been taken by the management. The auditor should arrive at his opinion only after consideration of the management's representations and other relevant evidence.
- (d) Suggested format for reporting under this clause:

No. of cases	Principal Amount Overdue	Interest Overdue	Total Overdue	Remarks (if any)

**52. Whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans]; [Paragraph 3(iii)(e)]**

**Relevant Provisions**

- (a) This clause is a new reporting requirement. This clause requires reporting in respect of loan or advance in the nature of loan granted which has fallen due during the year and has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties. This clause is inserted to identify instances of 'evergreening' of loans/advances in nature of loans. [Note: The term 'evergreening' is not defined in the Act. However, in general parlance it implies an attempt to mask loan default by giving new loans to help delinquent borrowers to repay/adjust principal or pay interest on old loans.]

**Audit Procedures and Reporting**

- (b) The auditor has to obtain the list of parties to whom loan or advance in the nature of loan granted has fallen due during the year and has been renewed or extended or fresh loans granted to settle the overdues of existing loans.
- (c) The auditor has to examine the loan agreements / mutually agreed letter of arrangement with such parties, as the case may be, to ascertain the terms of renewal/extension of loan or advance in nature of loan.
- (d) In respect of loans falling due as on the balance sheet date and which were renewed/extended/settled post balance sheet date and before the date of audit report, the same should also be considered for reporting under this clause. Further, same matter would also get reported next year.
- (e) Suggested format for reporting under this clause:

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Name of the parties	Aggregate amount of overdues of existing loans renewed or extended or settled by fresh loans	Percentage* of the aggregate to the total loans or advances in the nature of loans granted during the year

\* Example – Company A has an opening loan of Rs. 100 and granted 3 more loans of Rs. 200, 300 and 400 during the year. Company extended tenure in respect of two loans (Rs. 100 and Rs. 200) when fell due for payment. Percentage of the aggregate to the total loans or advances in the nature of loans granted during the year in the instant case would be 33%.

**53. Whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013; [Paragraph (iii)(f)]**

### Relevant Provisions

- (a) This clause is a new reporting requirement. This clause requires reporting of the gross amount in respect of loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment. If response is 'yes', the auditor is required to report the aggregate amount of loans granted to promoters as defined in clause (69) of section 2 of the Act, related parties as defined in clause (76) of section 2 of the Act.

### Audit Procedures and Reporting

- (b) The auditor has to obtain the list of promoters and related parties as per section 2(69) and section 2(76) respectively of

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the Act. Such relationship may exist at any point during the year.

- (c) The auditor should consider the requirements of SA 550, Related Parties.
- (d) The auditor has to examine from the loan agreements / mutually agreed letter of arrangement with such parties, as the case may be to ascertain whether the agreement / arrangement does not contain the schedule of repayment of principal and payment of interest or as per the agreement/arrangement loans are repayable on demand.
- (e) In case the auditor identifies that loans/advances in nature of loans are granted to promoters or related parties which are repayable on demand or without specifying any terms or period of repayment, the auditor should state the fact and report the gross amount of such loans/advances in nature of loan granted during the year.
- (f) Suggested format for reporting under this clause:

	All Parties	Promoters	Related Parties
Aggregate amount of loans/ advances in nature of loans			
- Repayable on demand (A)			
- Agreement does not specify any terms or period of repayment (B)			
Total (A+B)			
Percentage of loans/ advances in nature of loans to the total loans			

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**54. In respect of loans, investments, guarantees, and security, whether provisions of section 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof; [Paragraph 3(iv)]**

### **A. Compliance of Section 185 of the Companies Act 2013: Loan to directors, etc.**

#### **Relevant Provisions**

- (a) Under this clause, the auditor is required to report on the compliance of section 185 of the Act. Reference may be made to section 185 of the Act.

#### **Audit Procedures and Reporting**

- (b) For this purpose, the auditor should carry out the following procedures:
- (i) Obtain from the management the details of the directors or any person in whom any of the director of the company is interested. The auditor may also check the details of the persons covered under this clause from the Form MBP-1 and from the register maintained under section 189 of the Act.
  - (ii) Obtain and check the details of the transactions carried out with such persons, including of any guarantee given and security provided.
  - (iii) Further examine the details to find out whether any of the transaction is attracting the provisions of section 185 of the Act.
  - (iv) In case of transactions that are covered under the exceptions as provided under section 185 of the Act, the auditor should obtain the necessary evidence in support of such exception.
- (c) Section 185 of the Act prohibits advance of any loan to directors, etc., directly or indirectly. What is an indirect loan is not defined in section 185 or elsewhere in the Act. Indirect

loan is interpreted in case of Dr. Freddie Ardeshir Mehta v. Union of India [1991] 70 Comp. Cas. 210 (Bom.) to mean a loan to a director through the agency of one or more intermediaries. For example, if company A borrows from company B and lends the same to company C and loan from B to C is covered by section 185 of the Act. In this case, section 185 of the Act shall also be applicable in case of lending from company A to C because it would be construed as an indirect loan from company B to C.

- (d) The auditor should report the nature of non-compliance, the maximum amount outstanding during the year and the amount outstanding as at the balance sheet date in respect of:
  - (i) the directors; and
  - (ii) any person in whom any of the director of the company is interested (specify the relationship with the director concerned).
- (e) It may be noted that the provisions of section 185 of the Act shall not apply to a government company in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security under the section. [vide Notification No. GSR 463(E) dated 5<sup>th</sup> June 2015]

**B. Compliance of Section 186 of the Companies Act 2013:  
Loan and Investment by Company**

**Relevant Provisions**

- (a) Under this clause, the auditor is also required to report on the compliance of section 186 of the Act. Section 186 of the Act governs giving of loans, and guarantee or providing any security in connection with a loan, by a company to any person or other body corporate and acquiring securities of any other body corporate by a company. The section also prohibits a company from making investments through more

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than two layers of investment companies. Reference may be made to section 186 and relevant extract of Rules 11, 12 & 13 of the Companies (Meeting of Board and its Powers) Rules, 2014.

### **Audit Procedures and Reporting**

- (b) The duty of the auditor under this clause is to determine whether the loans and investments made by the company comply with the requirements of the provisions of section 186 of the Act.

For this purpose, the auditor should carry out the following procedures:

- (i) Obtain the details of, loans given to any person or other body corporate, guarantee given or security provided in connection with a loan to any other body corporate or person and securities acquired of any other body corporate by way of subscription, purchase or otherwise, made during the year as well as the outstanding balances as at the beginning of the year.
- (ii) Check whether, at any point of time during the year in case of aforesaid transactions, the company has exceeded the limit of sixty per cent of its paid-up share capital, free reserves and securities premium account or one hundred per cent of its free reserves as defined in section 2(43) of the Act and securities premium account, whichever is more.

If it exceeds the limits specified above, check whether prior approval by means of a special resolution passed at a general meeting has been obtained.

- (iii) Check whether the company has made investments through more than two layers of investment companies.
- (iv) Check whether the company has disclosed the full particulars of the loan given, investment made or guarantee given or security provided in the financial

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statements including the purpose for which the same is proposed to be utilized by the recipient.

- (v) Check whether the company has passed the board resolution as prescribed and obtained the prior approval from the public financial institution concerned where any term loan is subsisting.
  - (vi) Check whether the loan has been given to company registered under section 12 of the Securities and Exchange Board of India Act, 1992, if so, whether the inter-corporate loans or deposits taken by such company are within the limits prescribed, if so, obtain the certificate of statutory auditors of that company from the management to ensure the compliance.
  - (vii) Check whether rate of interest is not lower than the prevailing yield of one year, three year, five year or ten year government security closest to the tenor of the loan granted.
  - (viii) Check if the company is in default in the repayment of any deposits accepted or in payment of interest thereon, then the company is not allowed to give any loan or guarantee or provide any security or make an acquisition till such default is subsisting.
  - (ix) Check whether the company has maintained a register (as per Form MBP-2) in the manner as prescribed and also check the compliances of other provisions and relevant rules.
- (c) It may be noted that the aforesaid section is not applicable in respect of any loan made, any guarantee given or any security provided or any investment made by banking company or an insurance company or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities. However the restriction with regard to the investment through more than two layers of investment companies would be applicable for such

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companies also. The auditor may ensure compliance accordingly.

- (d) It may also be noted that the provisions of section 186 of the Act shall not apply to a government company engaged in defence production and a government company, other than a listed company, in case such company obtains approval of the Ministry or department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government before making any loan or giving any guarantee or providing any security or making any investment under the section. [vide Notification No. GSR 463(E) dated 5<sup>th</sup> June 2015]
- (e) Non-compliance may be reported incorporating the following details:

S. No.	Non-compliance of Section 186			Remarks, if any
	Name of Company/ Party	Amount Involved	Balance as at balance sheet Date	
1.	Investment through more than two layers of investment companies			
2.	Loan given or guarantee given or security provided or acquisition of securities exceeding the limits without prior approval by means of a special resolution			
3.	Loan given at rate of interest lower than prescribed			
4.	Any other default			

**55. In respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not; [Paragraph 3(v)]**

#### **Relevant Provisions**

- (a) This clause requires the auditor to report on compliance with the requirements of sections 73 to 76 of the Act or any other relevant provisions of the Act and the rules made thereunder and the directives of the Reserve Bank of India for acceptance of public deposits. This clause also requires the auditor to report on compliance with the order, if any, passed by the Company Law Board or National Company Law Tribunal or Reserve Bank of India or any Court or any other Tribunal.
- (b) Section 2(31) of the Act has defined 'deposit' to include any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India.
- (c) This clause includes reporting on 'amounts which are deemed to be deposits' in addition to deposits accepted by the company. Rule 2(1)(c) of the Companies (Acceptance of Deposits) Rules, 2014 defines deposit to include any receipt of money by way of deposit or loan or in any other form, by a company, but does not include the amounts specified therein. Explanation to sub-clause (xii) of aforesaid Rule 2(1)(c) explains that the amount shall be deemed to be deposits on the expiry of fifteen days from the date they

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become due for refund. Sub-clause (xii) prescribes the instances, where an amount received in the course of, or for the purposes of, the business of the company would be deemed to be deposit:

- a) *as an advance for the supply of goods or provision of services accounted for in any manner whatsoever provided that such advance is appropriated against supply of goods or provision of services within a period of three hundred and sixty five days from the date of acceptance of such advance:*

*Provided that in case of any advance which is subject matter of any legal proceedings before any court of law, the said time limit of three hundred and sixty five days shall not apply;*

- b) *as advance, accounted for in any manner whatsoever, received in connection with consideration for an immovable property under an agreement or arrangement, provided that such advance is adjusted against such property in accordance with the terms of agreement or arrangement;*
- c) *as security deposit for the performance of the contract for supply of goods or provision of services;*
- d) *as advance received under long term projects for supply of capital goods except those covered under item (b) above;*
- e) *as an advance towards consideration for providing future services in the form of a warranty or maintenance contract as per written agreement or arrangement, if the period for providing such services does not exceed the period prevalent as per common business practice or five years, from the date of acceptance of such service whichever is less;*
- f) *as an advance received and as allowed by any sectoral regulator or in accordance with directions of Central or State Government;*

- g) *as an advance for subscription towards publication, whether in print or in electronic to be adjusted against receipt of such publications;*

*Provided that if the amount received under items (a), (b) and (d) above becomes refundable (with or without interest) due to the reasons that the company accepting the money does not have necessary permission or approval, wherever required, to deal in the goods or properties or services for which the money is taken, **then the amount received shall be deemed to be a deposit** under these rules (emphasis applied):*

Further, Explanation to Clause (vii) of aforesaid Rule 2(1)(c) states that if the securities for which application money or advance for such securities was received cannot be allotted within sixty days from the date of receipt of the application money or advance for such securities by the company and such application money or advance is not refunded to the subscribers within fifteen days from the date of completion of sixty days, such amount shall also be treated as a deemed deposit under aforesaid rules.

- (d) Section 73 of the Act prohibits a company (other than a banking company, non-banking financial company (NBFC) and such other company as may be specified by the central government in consultation with the Reserve Bank of India), to invite, accept or renew deposits from the public except in the manner provided in this section and the Companies (Acceptance of Deposits) Rules, 2014.
- (e) Section 76 of the Act permits the public companies having specified net worth or turnover, to accept deposits from persons other than its members subject to compliance with sub-section (2) of section 73 of the Act and the Companies (Acceptance of Deposits) Rules, 2014.
- (f) The Central Government in consultation with the Reserve Bank of India has notified the Companies (Acceptance of Deposits) Rules, 2014. These Rules are not applicable to a

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banking company, a NBFC, a housing finance company and a company specified by the Central Government under the proviso to sub-section (1) of section 73 of the Act;

- (g) The Companies (Acceptance of Deposits) Rules, 2014, cover the following main items:
- (i) the nature of deposits which may be accepted;
  - (ii) the terms and conditions of acceptance of deposits by companies from its members and persons other than its members;
  - (iii) the limits up to which deposits can be accepted;
  - (iv) the form and particulars of advertisement for deposits;
  - (v) the form of application for deposits;
  - (vi) furnishing of deposit receipts to depositors;
  - (vii) Maintenance of liquid assets, creation of security and appointment of trustee for depositors;
  - (viii) maintenance of register(s) of depositors;
  - (ix) general provisions regarding the repayment of deposits and payment of interest;
  - (x) the returns to be filed with the registrar of companies.
- (h) The Ministry of Corporate Affairs (MCA) vide notification no. GSR 42(E) dated January 22, 2019 issued the Companies (Acceptance of Deposits) Amendment Rules, 2019 ('Deposit Rules, 2019'), amending the Companies (Acceptance of Deposits) Rules, 2014 ('Deposit Rules, 2014'). The Deposit Rules, 2019 have amended the Form DPT 3 which is required to be filed on annual basis up to June 30 of every year. The amended Form DPT-3 will be required to be filed by every company (other than a government company) for (a) a return of deposit; (b) particulars of transaction not considered as deposit, or (c) both. Further, MCA vide its letter no. File No: P-01/08/2013 - CL-V Vol. VI dated June 24, 2019 has clarified on the matter that the auditor's certificate is mandatory only in case of return of deposits.

Also, in order to provide guidance to the members, the Auditing and Assurance Standards Board of ICAI has issued Illustrative Auditor's Certificate on Return of Deposits as at [state the year end] pursuant to Rule 16 of the Companies (Acceptance of Deposits) Rules, 2014, as amended.

**Audit Procedures and Reporting**

- (i) The auditor should plan to test for compliance with the provisions of sections 73 to 76 of the Act and the rules made thereunder, i.e., the Companies (Acceptance of Deposits) Rules, 2014. For such purpose, the auditor should also obtain an understanding of the requirements of sections 73 to 76 of the Act and the aforesaid rules.
- (j) The auditor should examine compliance by the company with regard to all the matters specified in the aforesaid sections and the aforesaid rules and not merely to the limits of the deposits. Where the number of deposits is very large, it is obviously not feasible for the auditor to satisfy himself that every single deposit complies with the rules. He should, therefore, examine the system by which deposits are accepted and records are maintained and make a reasonable test check to ensure the correctness of the system. The auditor may also make a "checklist" to ensure that all the requirements of the rules regarding the records to be maintained, returns to be filed, etc., are complied with.
- (k) In order to examine instances where an amount could be deemed to be deposits, the auditor should obtain the list of amounts received in the course of, or for the purposes of, the business of the company (for instances advances, security deposits) and assess them against the requirements of sub-clause (xii) of Rule 2(1)(c) of the Companies (Acceptance of Deposits) Rules, 2014, to determine whether such amounts have assumed the nature of deposits. Where available, the auditor should also examine the Form DPT-3 filed by the company.
- (l) The auditor should examine the efficacy of the internal controls instituted by the company so that the deposits

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accepted by the company remain within the limits. It may be difficult for the auditor to ascertain that the deposits accepted by the company are within the limits on each day of the accounting year. He would, therefore, be justified in making a reasonable test check to ensure that the company has not accepted deposits during the year in excess of the limits.

- (m) Apart from the audit procedures mentioned above, the auditor should also enquire from the management about the possible instances of non-compliance with sections 73 to 76 or any other relevant provisions of the Act and the relevant rules. The auditor should also enquire from the management about any order passed by the Company Law Board or National Company Law Tribunal or Reserve Bank of India or any Court or any other Tribunal for contravention of these sections or any other relevant provision(s) of the Act and the relevant rules. The auditor should obtain a management representation to the effect whether:
  - (i) the company has complied with the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 (as the case may be) of the Act and the relevant rules; and
  - (ii) an order has been passed by any of the relevant authorities mentioned in this clause, and if so, the company has complied with the requirements of the order.
- (n) In case where the auditor is of the view that any kind of contravention of sections 73 to 76 or any other relevant provisions of the Act or relevant rules or directives from Reserve Bank of India, if any, has taken place, the auditor should state in his report that the provisions of that section(s) and/or relevant rules or RBI directives, as the case may be, have not been complied with. The auditor should also report the nature of contraventions.
- (o) In respect of non-banking financial companies and housing finance companies (to which the provisions of sections 73 to

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76 of the Act and the rules issued thereunder are not applicable), i.e., where such companies are registered with the Reserve Bank of India (RBI) or National Housing Bank (NHB), as deposit taking companies and have accepted or have been holding public deposits during the year - such companies shall be governed by the acceptance of public deposit norms, issued by the respective regulatory bodies. The auditor should specify that sections 73 to 76 of the Act and rules issued thereunder are not applicable to such company.

- (p) The auditor, under this clause, is required to verify whether the company has complied with the order passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any Court or any other Tribunal. Where any of such authorities has passed an order, the auditor should examine the steps taken by the company to comply with the said order. If the company has not complied with the order, the same is to be reported stating therein the nature of contravention and the fact that the company has not complied with the order passed by the Company Law Board or National Company Law Tribunal or Reserve Bank of India or any Court or any other Tribunal.

**56. Whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act and whether such accounts and records have been so made and maintained; [Paragraph 3(vi)]**

### Relevant Provisions

- (a) Section 148(1) of the Act specifies that the Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilization of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies. Pursuant to this requirement and in exercise of the powers conferred by sub-section (1) of section 469 of

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the Act, the Central Government has made rules in respect of a number of classes of companies. These books of account and records form part of the books of account of the company within the meaning of section 2(13) of the Act.

In exercise of the powers conferred by sub-section (1) and (2) of section 469 and section 148 of the Act, the Central Government has issued the Companies (Cost Records and Audit) Rules, 2014 which has specified the list of class of companies in which maintenance of cost records is prescribed under section 148 of the Act. Reference may be made to the Companies (Cost Records and Audit) Rules, 2014.

- (b) The Companies (Cost Records and Audit) Rules, 2014 has defined “cost records” as books of account relating to utilization of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act, and these rules. These rules also prescribed the items of cost to be included in the books of account. As per these rules, the cost records are required to be maintained as per the Form CRA-1.
- (c) Sub-section (2) of Section 148 of the Act, also provides that where, in the opinion of the Central Government, it is necessary to do so it may by order, direct that the audit of cost records of class of companies, which are covered under sub-section (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.
- (d) Rule 4 of these rules lays down the conditions subject to which the companies covered by these rules need to get their cost records audited.

### **Audit Procedures and Reporting**

- (e) This clause requires the auditor to report whether cost accounts and records have been made and maintained. The word “made” applies in respect of cost accounts (or cost statements) and the word “maintained” applies in respect of

cost records relating to materials, labour, overheads, etc. The auditor has to report under this clause irrespective of whether a cost audit has been ordered by the central government. The auditor should obtain a written representation from the management stating (a) whether cost records are required to be maintained for any product(s) or services of the company under section 148 of the Act, and the Companies (Cost Records and Audit) Rules, 2014; and (b) whether cost accounts and records are being made and maintained regularly. The auditor should ascertain whether maintenance of cost records has been specified for the company by the Central Government or not. It is possible that maintenance of cost records has been specified for only some of the products/ activities of the company. In such a case, the auditor should limit his procedures to only such products/ activities. If maintenance of cost records has been specified, the auditor should obtain a list of books/records made and maintained in this regard. The Order does not require a detailed examination of the cost records. The auditor should, therefore, conduct a general review of the cost records to ensure that the records as prescribed are made and maintained. He should, of course, make such reference to the cost records as is necessary for the purposes of his audit of the financial statements.

- (f) Where cost audit is applicable to the company, the auditor may obtain copy of cost audit report of immediately preceding year and note any qualifications or comments in the cost audit report. In case, there are any such observations, the auditor should enquire from the management, whether such observations have been properly addressed in the current year. The auditor should include this in the management representation letter.
- (g) It is necessary that the extent of the examination made by the auditor is clearly brought out in his report. The following wording is, therefore, suggested:

“We have broadly reviewed the books of account maintained

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by the company pursuant to the Rules made by the Central Government for the maintenance of cost records under section 148 of the Act, and are of the opinion that *prima facie*, the prescribed accounts and records have been made and maintained.”

- (h) Where the auditor finds that the cost records have not been maintained or are not *prima facie* complete, it will be necessary for the auditor to make a suitable comment in his report.
- (i) Where maintenance of cost records has not been specified for the company, this clause will not be applicable and the auditor may report accordingly.

**57. Whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated; [Paragraph 3(vii)(a)]**

### Relevant Provisions

- (a) This clause requires the auditor to report upon the regularity of the company in depositing undisputed statutory dues including Goods and Services tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess and any other statutory dues to appropriate authorities. If the company is not regular in depositing the above mentioned undisputed statutory dues, the auditor is required to state the extent of arrears of statutory dues which have remained outstanding as at the last day of the financial year concerned for a period of more than six months from the date they became payable.

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- (b) It may be noted that the use of the words “any other statutory dues” indicates that this clause covers all types of dues under various statutes which may be applicable to a company having regard to its nature of business. Apart from the statutory dues listed, the auditor is required to report on the regularity of the company in depositing “any other statutory dues” payable by the company to appropriate authorities under the statutes applicable to the company. As far as identification of “Any other statute and dues thereunder” is concerned, the auditor can draw further guidance from SA 250, “Consideration of Laws and Regulations in an Audit of Financial Statements”.
- (c) The intention of the Government, in this clause is to ascertain how regular the company is in depositing statutory dues with the appropriate authorities. Since the emphasis of this clause is on the regularity, the scope of auditor’s inquiry is restricted to only those statutory dues, which the company is required to deposit regularly to an authority. The auditor is not required to ascertain whether the company is regular in depositing amounts, which may be levied by an appropriate authority from time to time upon occurrence or non-occurrence of certain events and therefore are not required to be paid regularly. Any sum, which is to be regularly paid to an appropriate authority under a statute (whether Central, State or Local or Foreign) applicable to the company, should be considered as a “statutory due” for the purpose of this clause. In other words, obligation to pay a statutory due is created or arises out of a statute, rather than being based on an independent contractual or legal relationship. Thus, examples of “statutory dues” would include municipal taxes, taxes deducted at source, fees payable to the licensing authority in respect of business being carried on under license granted by an authority, say a cinema hall. Accordingly, any sum payable to an electricity company as electricity bill would not constitute a statutory due despite the fact that such electricity company has been established under a statute. This is so because the due has arisen on account of contract of supply of goods or services between

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the parties. Similarly, where any sum is payable to public sector undertakings, namely, State PSUs or Central PSUs, as the case may be, the same shall not be considered as 'statutory due' despite the fact that such undertakings are incorporated, owned and operated by the State/Central Government. However, care shall have to be taken that in case any dues are recoverable as arrears of land revenue by the concerned authority, the same shall be treated as a statutory due. The similar view is possible for payment of bonus to an employee though the same is under Payment of Bonus Act, 1965 it will not be considered as a statutory due. This is because the due has arisen on account of contract existing between employer and employee. However, care should be taken for unclaimed bonus which the company has not paid for more than a particular number of years and due has arisen to be transferred to a specified fund account as prescribed. Even dividend payment to shareholders under the Companies Act 2013 will not be considered as statutory due as the same is on account of contractual obligation with the shareholders. However, dividend declared and not paid to the shareholders within specified time limit and which is required to be transferred to specified fund will be considered as a statutory due.

- (d) With reference to regularity, it is also important to distinguish amongst the various items stated in this clause. The auditor should clearly understand the nature of each statutory due payable by the company while examining the aspect of regularity before commenting on the same. For instance, the regularity is a normal feature in case of certain statutory dues such as Goods and Services tax, provident fund, employees' state insurance, etc., because the companies are required to deposit the money with appropriate authorities on a monthly or quarterly basis. But this is not the case in respect of, say, duty of custom on import of goods or demands arising on account of assessment orders etc., which a company is required to pay as and when an event giving rise to the liability of the company occurs. Such dues should be construed to have been paid regularly if the

company deposits them as and when they become due. However, the auditor would be required to comment upon the regularity of the company in depositing the installments, if any, granted by an authority in respect of a demand against the company.

- (e) An important issue to consider is the question of regularity of payment of import duty where the goods had been imported, say, six months back and were placed in the bonded warehouse and even till the end of the financial year under audit, the goods have not been removed from such warehouse. It may be noted that when the imported goods are lodged in a bonded warehouse, the payment of import duty is to be made when the goods are removed from the bonded warehouse. Till the time limits prescribed under section 61 of the Customs Act, 1962, the importer opts to remove the goods from the warehouse, the importer is required to incur the rent and interest expenditure on the amount of customs duty payable. Since the payment of the custom duty is not due in the current case, the question of regularity does not arise in respect of custom duty. However, it may be noted that the interest and rent that are required to be incurred under section 61 of the Customs Act, 1962 would come under category of other statutory dues and the auditor would have to examine and comment upon the regularity of the company in depositing such interest and rent.
- (f) Non-payment of advance income tax would constitute default in payment of statutory dues. It may, however, happen that the company might not have any taxable income on the due dates on which advance tax is required to be paid. If such company has an income after the last date on which the advance tax was required to be paid and consequently the company incurs interest under the relevant provisions of the Income Tax Act, 1961, it should not be construed that the company is not regular in depositing advance tax. However, if the company does not comply with the requirements of advance tax on account of erroneous application of tax laws, then the same shall be considered

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as default in payment of statutory dues. For example, the company, *prima facie*, does not satisfy the conditions of tax holiday provisions, but availed the same while estimating the income for advance tax purposes, such underestimation shall be construed that the company is not regular in depositing statutory dues.

- (g) It may be noted that the auditor has to report on the regularity of deposit of statutory dues irrespective of the fact whether or not there are any arrears on the balance sheet date. This is because there may be situations where a company has deposited the relevant dues before the end of the year while it has been in default in the matter for a significant part of the year. In cases where there are no arrears on the balance sheet date but the company has been irregular during the year in depositing the statutory dues, the auditor should state this fact while reporting under this clause. There may be situation where the company receives invoice from the vendor on a yearly basis for services availed throughout the year and the expense has been accrued in the books of account on a monthly basis. However, with regard to its obligation on withholding taxes, the company is deducting tax at source only at the year-end, in which case the auditor should consider the same as default in payment of statutory dues. Non-deduction of tax deducted at source will be considered as default in payment of statutory dues. The auditor should evaluate the same on case to case basis based on the materiality of the amount involved. The auditor may rely upon the work of internal auditor/ expert opinion with respect to any intricate issues to frame an opinion whether the company has duly discharged its responsibilities. The auditor should also review the past history of the statutory compliances by the company and accordingly, design the audit procedures to mitigate risks.
- (h) It may also be noted that the auditor has to report on the regularity of deposit of statutory dues after applying appropriate judgement wherever necessary. There may be situations in case of Goods and Services tax, where the vendor has not shown the amount of Goods and services tax paid to him in his statement/return but the company has appropriate justifications for considering those payments

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made as input tax credit in the books of account and consequently adjusted the same in the books of account against its Goods and services tax liability, same shall be considered as statutory dues paid on due date. However erroneous adjustments of one category of Goods and services tax credit with other category without appropriately applying the prevailing laws in the state/country will be considered as default in payment of statutory dues. The auditor may also review the Goods and services tax returns/audit reports and shall trace non-compliances, if any, disclosed thereunder for the purposes of reporting under this clause.

- (i) For the purpose of this clause, the auditor should consider a matter as “disputed” where there is a positive evidence or action on the part of the company to show that it has not accepted the demand for payment of tax or duty, e.g., where the company has gone into appeal. For this purpose, where a petition has been made by the company seeking rectification of mistake under section 154 or revision of orders under section 264 of the Income Tax Act, 1961, the amount should be regarded as disputed. Where the demand notice/intimation for the payment of a statutory due is for a certain amount and the dispute relates only to a part and not the whole of such amount, only such part of amount should be treated as disputed and the balance amount should be regarded as undisputed. It is not necessary for the auditor to examine the sustainability or otherwise of the claim of the company regarding disputed amounts. It is sufficient for this purpose if the evidence available shows that the amount is disputed by the company. It may also be noted that this clause has clarified that mere representation to the concerned Department shall not be treated as a dispute.
- (j) A question may arise that when do the statutory dues become payable. There can be two views with regard to the question. On the one hand, it can be argued that the statutory dues referred to in this clause become payable on the last date by which payment can be made without attracting penalty and/or interest under the relevant law. On the other hand, it can also be argued that the amounts referred to in this clause become so payable as at the date

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of the expiry of the stay granted by the authorities or, where installments have been granted for the payment of statutory dues referred to in this clause, the date on which the default occurs and the amount becomes payable to the authorities. As the purpose of this clause is to indicate the amounts which have become actually payable and are outstanding as at the last day of the financial year concerned for a period of more than six months from the date they became payable, the latter view seems to conform more closely to the requirements of this clause.

- (k) It may be noted that penalty and/or interest levied under the respective laws would be covered within the term “amounts payable”.
- (l) The reporting should be restricted to the actual arrears and should not include the amounts which have not fallen due for payment to appropriate authority and have been recognised as outstanding dues at the balance sheet date.
- (m) It is possible that in a large company where there are a number of departments with separate payrolls and where payments are spread over a number of days, the collection of data regarding the provident fund/employees’ state insurance collections and the company’s contribution thereto may take some time. In order to ensure that deposit of the dues is made in time, the company may make lump-sum deposits of estimated amounts and adjust the excess or deficit against the following month’s deposit. If this method is consistently followed and the difference between the total dues and the lump-sum deposit is not significant, it need not be considered that dues have not been regularly deposited and no unfavorable comment is necessary.<sup>3</sup>

### Audit Procedures and Reporting

- (n) The auditor should make plans to test whether the company is regular in depositing undisputed statutory dues. The auditor, in order to be able to comment on this clause, should have a general understanding of the various statutes

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<sup>3</sup> The concept of materiality – which is fundamental to the entire auditing process – should be borne in mind while reporting on this clause as in case of other clauses of the Order.

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governing the company and the dues payable by the company under those statutes. The auditor should also enquire of the management of the company about the statutes under which the company is required to pay any statutory dues. The auditor should also discuss with the management, the policies or procedures adopted for identification and payment of statutory dues. The auditor may also obtain from the management or himself prepare a calendar of dates for submission of various statutory dues by the company for his reference.

- (o) The information necessary to comply with the requirement of this clause may be obtained from the company in the form of a statement. The statement should contain a list of various statutes under which the company is required to make payments regularly to appropriate authorities, the kind of payments under each statute, the due date for making the payment to the appropriate authority, the date on which the payment is made by the company, the arrears not due and the arrears overdue for more than six months. The auditor should verify the statement provided by the management with the underlying documents and records. The auditor's general understanding of the various statutes governing the company and the dues payable by the company under those statutes would help the auditor in assessing the completeness of the statement. The auditor should recognise that there could be a situation that a statutory due might have become payable but has not been captured by the accounting and internal control systems established by the company and, therefore, the auditor should perform procedures to mitigate risk arising from such a situation.
- (p) The auditor should obtain a written representation with reference to the date of the balance sheet from the management:
  - (i) specifying the cases and the amounts considered disputed;
  - (ii) containing a list of the cases and the amounts in respect of the statutory dues which are undisputed and have remained outstanding for a period of more

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than six months from the date they became payable;  
and

- (iii) containing a statement as to the completeness of the information provided by the management.
- (q) While the auditor has to report upon the regularity of the deposit, he is not required to specify in detail each instance where there has been a delay or the extent of the delay. It should be sufficient if he indicates whether generally the deposits have been regular or otherwise. The following are examples of the wordings, which may be used in relevant situations:
- (i) “undisputed statutory dues including Goods and Services tax, provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess have been regularly deposited by the company with the appropriate authorities in all cases during the year”.
  - (ii) “undisputed statutory dues including Goods and Services tax, provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess have generally been regularly deposited by the company with the appropriate authorities though there has been a slight delay in a few cases”.
  - (iii) “undisputed statutory dues including Goods and Services tax, provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess have not generally been regularly deposited by the company with the appropriate authorities though the delays in deposit have not been serious”.
  - (iv) “undisputed statutory dues including Goods and Services tax, provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess have not been regularly deposited by the company with the

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appropriate authorities and there have been serious delays in a large number of cases”.

- (v) “undisputed statutory dues including provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess have been regularly deposited by the company with the appropriate authorities in all cases during the year, except Goods and Services tax. In respect of Goods and Services tax, during the year, the company is irregular in depositing the sum due for 10 months and the amount involved is Rs. XXX lakhs”.
- (r) If the auditor is of the opinion that the company is not regular in depositing undisputed statutory dues including Goods and Services tax, provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess and any other statutory dues with the appropriate authorities, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, are required to be mentioned by the auditor in his audit report. In indicating the arrears, the period to which the arrears relate should also preferably be given and further, wherever possible, the fact of subsequent clearance or otherwise may also be indicated. The auditor may report in the following format:-

*Statement of Arrears of Statutory Dues Outstanding for More than Six Months*

Name of the Statute	Nature of the Dues	Amount (Rs.)	Period to which the amount relates	Due Date	Date of Payment	Remarks, if any

**58. Where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute); [Paragraph 3(vii)(b)]**

**Relevant Provisions**

- (a) The reporting under this clause is wide enough to cover all the disputed statutory dues including but not limited to income tax, Goods and Services Tax etc. This clause requires that in case of disputed statutory dues, the amounts involved should be stated along with the forum where the dispute is pending. Therefore, even minor amounts would be required to be reported under this clause. The auditor should report in a manner so that the reader is able to understand the dispute and the amount involved therein.

**Audit Procedures and Reporting**

- (b) The audit procedures applied by the auditor for commenting on the previous clause, including obtaining a statement from the management in regard to the matters specified in the clause, would help the auditor in determining the dues of Goods and Services tax/ sales tax/income tax/ duty of customs/ service tax/duty of excise/provident fund/ employees' state insurance and any other statutory dues to the appropriate authorities that have not been deposited on account of any dispute, the amounts involved and the forum where dispute is pending. The auditor should also obtain a management representation about the disputed dues, the amounts involved and the forum where the dispute is pending. The auditor should carry out necessary audit procedures to verify the information provided by the management.
- (c) A show-cause or similar notice generally contains the requirements/queries of the assessing officer. Normally, issuance of a show cause notice by the concerned department should not be construed to be a demand payable by the company. However, in some cases, a show cause notice and demand may be combined in one document.

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Normally, in such cases, the demand would not be construed to have arisen till the time the assessee has disposed off the requirements of the show cause notice. Hence, it would be necessary to evaluate each situation individually.

- (d) Tax demands that have been set aside are clearly not 'dues'. Similarly, if a demand has been referred for reassessment and the effect of such referral is the cancellation of the earlier demand, this too would not constitute an amount due. The wording of the order would be of significance; if the demand is not cancelled, it will remain disputed dues. As far as demands that have been stayed are concerned, these should be regarded as disputed dues. These should be disclosed along with a disclosure of the fact of stay. The fact that a stay has been granted does not mean that the authority granting the stay has held that the amount in question is not a valid demand against the company. The stay normally is a concession that the amount may not be deposited immediately or that it may be deposited in installments. Sometimes a stay is granted if the assessee provides a bank guarantee. It may also be noted that there may be a situation that the appellate authority has decided a case in favour of the company but the Department may prefer to make an appeal to a higher authority. In such a case, there is considered to be no dispute until the time the Department makes an appeal to the relevant appellate authority. Further, in case where the amount under the dispute is pending for an appeal to be filed and the time limit for filing the appeal has lapsed, the disputed amount would become a statutory due and the reporting responsibilities of the auditor as are applicable to any other undisputed statutory due under clause 3(vii)(a) of the Order would become applicable. Further, in case where the amount under dispute has not been paid before filing the appeal and no appeal is filed within the time allowed and the time limit for filing the appeal has expired, the disputed amount would become a statutory due. There may also be a situation where the company would have opted for certain tax settlement schemes offered under a Statute, namely, Direct Tax 'Vivad se Vishwas, Act 2020' or 'Sabka Vishwas – (Legacy Dispute Resolution) Scheme, 2019' etc. Those dues once declared under the scheme by the company and approved by the appropriate authorities shall be considered

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as undisputed statutory dues and accordingly be reported by the auditor under respective clause. The auditor shall examine and ensure that all the conditions stipulated under the scheme have been complied by the company, before eliminating particular statutory due from reporting under this clause.

- (e) There could be an instance where an appeal preferred by the Department against the company could have been rendered infructuous for any reason. However, the Department has not withdrawn such appeals resulting in continuity of status of the demand against the company. For example, the CBDT vide circular no. 17/2019 dated 08.08.2019 stipulated limits of tax effect based on which appeals could be filed by the Department against an assessee. Such circular is binding on the Department and applies retrospectively to all the appeals. In respect of such appeals, the tax demands against the company stands neutralized and thus, the auditor may consider and drop reporting under this clause as there is no 'dispute'. This view shall remain unaltered even in the eventuality of Department not withdrawing the cases on its own. On the other hand, where there is a valid and subsisting appeal, the auditor may report the fact that it is an appeal preferred by the Department in the 'remarks column' and accordingly, state the disputed dues.
- (f) There may be situations where the status of the litigations outstanding as at the year-end may change on account of decision given under any other law e.g. the Insolvency and Bankruptcy Code, 2016. The auditor may review and consider those developments and ensure that appropriate treatment has been given to the disputed dues.
- (g) It is possible that in respect of same nature of statutory dues, there may be more than one dispute pertaining to different periods for which, appeals might have been filed separately. For example, different years' income tax liabilities might have been disputed at different levels of appellate authorities. Hence, in such cases, the information required by this clause should be given separately in respect of each period. In the case of a large company having a number of manufacturing and marketing divisions, it would be quite normal that many cases relating to sales tax,

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income tax, excise, customs, value added tax, etc., are disputed and are pending at various stages. It cannot be the intention of this clause that each case is listed separately. It is, therefore, proper to summarise the cases stage-wise under each broad head, e.g., sales tax, income-tax, duty of customs, duty of excise, and give the particulars as indicated in paragraph (h) below.

- (h) The information required by this clause may be reported in the following format:

### *Statement of Disputed Dues*

Name of the Statute	Nature of the Dues	Amount (Rs.)	Period to which the amount relates	Forum where dispute is pending	Remarks, if any
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- (i) Further, a plain reading of this clause suggests that the amounts to be reported under this clause are those which have not been deposited on account of any dispute, irrespective of the treatment of such disputed amounts in accounts. It is quite possible that an amount is disputed and has not been deposited but on consideration of the likely outcome of the dispute, a provision has been made in the accounts. Such an amount will need to be reported, notwithstanding that it has been provided for in accounts. Similarly, even if it had not been provided for in accounts, it would have to be reported as long as it is not deposited. It is also possible that an amount is disputed, has been deposited and on consideration of the likely outcome of the dispute, has been shown as a recoverable. Though such an amount is not contemplated for reporting under this clause, since it has been deposited, the fact of such deposit having been made under protest should be brought out by the auditor in his report under this clause.

Whether a disputed amount should be provided for in the accounts or not will need to be judged in the context of AS 4, "Contingencies and Events Occurring After the Balance Sheet Date/Ind AS 10, "Events after the Reporting Period" and AS 29, "Provisions, Contingent Liabilities and Contingent Assets"/Ind AS 37, "Provisions, Contingent Liabilities and Contingent Assets".

**59. Whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year; [Paragraph 3(viii)]**

**Relevant Provisions**

- (a) This clause is a new reporting requirement. Reporting under this clause shall be applicable only when the transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the income tax assessments. If yes, then the auditor shall also report on proper recording of the same in the books of account during the year.

**Audit Procedures and Reporting**

- (b) In this context, it is relevant to understand the meaning of “undisclosed income”. As per Section 158B of the Income Tax Act, 1961, "undisclosed income" includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, deduction or allowance claimed under this Act which is found to be false.
- (c) The emphasis under this clause is limited to examination of those transactions, which were hitherto unrecorded in the books of account and which were surrendered or disclosed as income in the tax assessments under the Income Tax Act, 1961. The emphasis is on the words surrendered or disclosed which implies that the company must have voluntarily admitted to the addition of such income, which can be demonstrated on the basis of the returns filed by the company.

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- (d) The auditor should also obtain a copy of the statements made in the course of search and survey to verify the nature of income so surrendered or disclosed. Where, however, such statement has been retracted on the ground that such disclosure was obtained under force, coercion, etc. the income cannot be treated as surrendered or disclosed by the company.

Accordingly, where the addition is made by the income tax authorities and the company has disputed such additions, reporting under this clause is not applicable. Even where the company chooses not to file an appeal, it cannot be presumed that the company has surrendered or disclosed the income. The auditor needs to review the submissions and the statements filed by the assessee in the course of assessments to ascertain whether such additions were as a consequence of admissions made by the company that there are certain transactions not recorded in the books of account and such transactions have resulted in income which are being surrendered or disclosed.

- (e) For the purpose of examination, the auditor is required to review all the tax assessments completed during the year under audit. The auditor is also required to review the tax assessments completed subsequent to the balance sheet date but prior to signing of the auditor's report if the surrendered or disclosed income relates to the year under audit or prior years. The auditor should obtain a representation letter from the management that all the assessments completed during the year have been duly informed to the auditor. The surrender or disclosure of unrecorded income might relate to any assessment year under the Income Tax Act, 1961.
- (f) Where, in the course of such review, the auditor identifies unrecorded transactions which are surrendered or disclosed as income, the auditor needs to examine the submissions and representations made by the company to the income tax authorities. Based on such examination, the auditor should identify the nature of income surrendered or

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disclosed and ascertain whether proper recording of such transactions has been duly made in the books of account.

- (g) Proper recording, by implication, includes proper disclosure thereof in the financial statements of the company. The disclosure in the financial statements should be sufficient to enable the users understand the impact of such transactions.
- (h) Under the Accounting Standards, the auditor needs to evaluate whether the surrendered or disclosed income is required to be classified as extraordinary items keeping in view the requirements of AS 5, "Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies". Under the Ind AS, the auditor needs to evaluate whether the requirements laid down in Ind AS 8, "Accounting Policies, Changes in Accounting Estimates and Errors" have been complied with, particularly paragraphs 41-49 in respect of correction of prior period errors. Reference may also be made to paragraph 9.6 of the Guidance Note on Division II – Ind AS Schedule III to the Companies Act 2013 regarding disclosure of exceptional items in the statement of profit and loss.
- (i) The nature of disclosure shall depend on the nature of undisclosed income and the treatment thereof if the same was duly disclosed and reported in the books of account in the year to which the undisclosed income relates to. Further, considering the materiality of the amount of income surrendered or disclosed, the auditor should also evaluate whether the internal financial controls are operating effectively, particularly with respect to recognition of revenue/ income. Such surrender or disclosure of income also results in a change in level of risk assessed by the auditor in accordance with requirements of SA 315, "Identifying and Assessing the Risks of Material Misstatement through Understanding of the Entity and Its Environment". The auditor should appropriately modify the audit procedures based on increased risk assessment in accordance with the requirements of SA 315.

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**60. Whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below:**

Nature of borrowing including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
	* lender wise details to be provided in case of defaults to banks, financial institutions and Government.				

**[Paragraph 3(ix)(a)]**

**Relevant Provisions**

- (a) Under this clause, the auditor is required to report whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender. If the answer is in the affirmative, the auditor is also required to report on such defaults in the format prescribed. It is clarified that the borrowings do not include public deposits as the reporting on public deposits is covered by clause 3(v) of the Order. It is clarified that for the purpose of reporting under this clause, preference share capital should not be considered as borrowings.
- (b) A question that arises is whether the scope of the auditor's inquiry would cover defaults made by the company during the year only or whether the defaults committed in previous years and continuing until the year-end would also be covered. It is to be noted that column (3) of the format

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prescribed requires the auditor to report the amounts not paid on due date. Further, column (5) of the format requires the auditor to report the number of days of delay or unpaid. Accordingly, the auditor should report the amount of all defaults committed during the year and the number of days of default. Further, since the auditor is also required to report amounts remaining unpaid, it is clarified that the auditor should also report the period and amount of all defaults existing at the balance sheet date irrespective of when those defaults have occurred. The auditor should consider the period up to the date of the audit report for reporting of the delay in number of days or the amount that remains unpaid and may provide appropriate remarks for the same.

- (c) Though the word “default” has not been defined, in this regard, the word “default” would mean non-payment of dues to lenders on the last dates specified in loan documents or debentures trust deed, as the case may be.

For example, in the case of term loans, fixed dates are prescribed for repayment in the agreement or terms and conditions of the loans. The dates prescribed for repayments would operate as the last date of payments and any delay after this fixed date would amount to default and reporting would be required in case of default on account of repayment of loan or interest.

- (d) The format prescribed by this clause also requires reporting on default in repayment of loans or other borrowings taken from the financial institutions and/or interest thereon. Section 2(39) of the Act defines “financial institution” to include a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934. Reference may be made to Section 45-I(c) of RBI Act, 1934 which defines the term financial institution.

In view of the said definition, financial institution includes all banks, public financial institutions, as well as non-banking institutions and also includes non-banking financial companies.

- (e) The format prescribed by this clause also requires reporting on default in repayment of loans or other borrowings taken from the Government and / or interest thereon. The term “Government” means the departments of the Central Government, a State Government and its departments and a Union Territory and its departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the constitution or the rules made thereunder. (As defined under section 65B(26A) of the Finance Act 1994). Accordingly, the term “Government” does not include Government Company/ Public Sector Undertaking/ Boards/Authority/Corporation and Foreign Government.

**Audit Procedures and Reporting**

- (f) The auditor should obtain the schedule of repayments to all lenders from the management of the company. The schedule should indicate the amount and the due dates of the payments (including interest) that the company is required to make to such lenders.
- (g) The auditor should examine the agreement or other documents (for example debenture trust deed) containing the terms and conditions of the loans and borrowings of the company taken from all lenders. This examination would enable the auditor in verifying the amount and due dates of the payments mentioned in schedule of repayments provided by the management of the company. The auditor should then verify whether the repayments as per the books of account are in accordance with the terms and conditions of the relevant agreement.
- (h) The auditor should verify the amounts and dates of payment with the underlying bank statements and/ or any advice received from the lenders. Such verification may be done on test check basis considering the materiality in accordance with the Standards on Auditing.
- (i) The auditor should obtain the confirmation of the concerned lender as to the status of the loan account including the overdue position as at the balance sheet date.

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- (j) It may happen that the company might have submitted application for reschedulement/restructuring proposals to the lenders, which may be in different stages of processing. Submission of application for reschedulement/ restructuring does not mean that no default has occurred. Accordingly, in such situations also the auditor should report the period of default and the amount of default. However, if the application for reschedulement of loan has been approved by the concerned bank or financial institution during the year covered by the auditor's report, the auditor should state in his audit report the fact of reschedulement of loan. It is clarified, that where reschedulement of loan has been approved subsequent to the balance sheet date, the auditor should report the defaults during the year. However, he may mention this fact in the remarks column.
- (k) The auditor may come across a situation where the company has adequate balance in its current account on the due date of repayment of loan or payment of interest, but such date is either a public holiday or a bank holiday. In such cases, the payment is normally debited by banks/ financial institutions/ lenders on the next working day. It is clarified that in such cases, the auditor should not consider the same as default.
- (l) The auditor may come across a situation where there may be disputes between the company and the lender on certain issues relating to repayments. In such situations, the auditor should consider the prevailing terms and conditions only. However, he may give a brief nature of the dispute while reporting under this clause.
- (m) There may be a situation, where loans/borrowings and/ or interest are repayable on demand and no repayment terms have been specified in the agreement. In such situations, the auditor should obtain a management representation letter confirming that such loans/ borrowings and/ or interest have not been demanded for repayment. The auditor should mention the same in the audit report. A suggested reporting is:

Loans amounting to Rs. X are repayable on demand and terms and conditions for payment of interest thereon have

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not been stipulated. According to the information and explanations given to us, such loans and interest thereon have not been demanded for repayment during the relevant financial year.

- (n) Under this clause, the auditor is required to give lender wise details in case of banks, financial institutions and Government only and not in respect of other lenders. In respect of other lenders, the auditor should report under this clause in the format prescribed.

Nature of borrowing including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
	* lender wise details to be provided in case of defaults to banks, financial institutions and Government.				
	Other lenders Aggregate for each type of lender may be given, for example- debenture holders				

**61. Whether the company is a declared wilful defaulter by any bank or financial institution or other lender; [Paragraph 3(ix)(b)]**

**Relevant Provisions**

- (a) Under this clause, the auditor is required to report whether the company has been declared as a wilful defaulter by any bank or financial institution or any other lender. It is clarified that such declaration should be restricted to the relevant financial year under audit till the date of audit report.
- (b) Reserve Bank of India vide its master circular RBI/2014-15/73DBR.No.CID.BC.57/20.16.003/2014-15 dated July 1, 2014 on Wilful Defaulters ("RBI Circular") as updated from time to time has defined that a "wilful default" would be deemed to have occurred if any of the following events is noted:-
- (i) The unit has defaulted in meeting its payment / repayment obligations to the lender even when it has the capacity to honour the said obligations.
  - (ii) The unit has defaulted in meeting its payment / repayment obligations to the lender and has not utilised the finance from the lender for the specific purposes for which finance was availed of but has diverted the funds for other purposes.
  - (iii) The unit has defaulted in meeting its payment / repayment obligations to the lender and has siphoned off the funds so that the funds have not been utilised for the specific purpose for which finance was availed of, nor are the funds available with the unit in the form of other assets.
  - (iv) The unit has defaulted in meeting its payment / repayment obligations to the lender and has also disposed off or removed the movable or immovable

property given by him or it for the purpose of securing a term loan without the knowledge of the bank/lender.

The term 'lender' appearing in the RBI Circular covers all banks/financial institutions to which any amount is due, provided it is arising on account of any banking transaction, including off balance sheet transactions such as derivatives, guarantee and letter of credit.

**Audit Procedures and Reporting**

- (c) Reporting under this clause would normally be required when there has been a default by the company in repayments of loans and/or interest to lenders. The auditor should on the basis of the procedures performed under clause 3(ix)(a) of the Order, identify whether the company has defaulted in repayments of loans and/ or interest to lenders.
- (d) Reserve Bank of India has prescribed a transparent mechanism for identification of wilful defaulters. RBI Circular as referred above defines the term 'lender' to cover all banks/financial institutions to which any amount is due, provided it is arising on account of any banking transaction, including off balance sheet transactions such as derivatives, guarantee and letter of credit. The RBI circular, therefore, is not applicable on government and other lenders, for example, individuals or a company. Declaration of borrower as a wilful defaulter by other lenders not covered by the RBI circular may not have been done in a transparent manner in the absence of guidelines. However, government or government authorities by virtue of their powers, may be in a position to declare any borrower as a wilful defaulter. It is, therefore, clarified that the auditor should restrict the reporting under this clause to declaration of wilful defaulter by banks, financial institutions, and in respect of other lenders should restrict the reporting to declaration of wilful defaulter by government/ government authorities.
- (e) This clause does not mention whether the banks, financial institutions or other lenders refer to those who have lent to

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the company. Considering the objective of this clause, it may be construed to mean any bank or financial institution even if such bank or financial institution has not lent to the company. However, as stated above, in respect of other lenders, reporting should be restricted to cases where either government or any government authority has declared the company as wilful defaulter.

- (f) The auditor when obtaining confirmations of outstanding loans and interest from banks/ financial institutions may include a question whether the company has been declared a wilful defaulter.
- (g) The auditor should enquire from the management whether the company has been declared a wilful defaulter or has been issued a show-cause notice by any bank, financial institution or government/government authority as per the procedure described under the RBI Circular. The auditor should obtain a signed declaration in this regard from the management.
- (h) Banks and financial institutions are required to submit the list of suit-filed accounts of wilful defaulters of Rs. 25 lakhs and above every month to the four credit information companies including Credit Information Bureau (India) Limited (CIBIL). The auditor may also obtain latest CIBIL report of the company and verify whether the company has been categorised as wilful defaulter.
- (i) Credit information companies - CIBIL, CRIF, Equifax and Experian are required by the RBI Circular to disseminate the information on willful defaults. The auditor should seek the information including information available on websites of these credit information companies. The auditor may also seek information through the websites of Reserve Bank of India and of lender banks/ financial institutions and information available in public domain. The auditor may also verify the database of Central Repository of Information on Large Credits (CRILC), set up by RBI to collect, store, and disseminate credit data to lenders.

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- (j) It is possible that the company may not have been declared as wilful defaulter as at the date of the balance sheet but has been so declared before the audit report has been issued. A question, therefore, arises whether the reporting under this clause is to be considered as at the balance sheet date or on the date of signing of audit report. As per paragraph 6 of SA 560 “Subsequent Events”, the auditor shall perform audit procedures designed to obtain sufficient appropriate audit evidence that all events occurring between the date of the financial statements and the date of the auditor’s report that require adjustment of, or disclosure in, the financial statements have been identified. It is therefore, clarified that the auditor should also consider whether the company has been declared as wilful defaulter as on the date of the audit report.
- (k) If the company has not been declared a wilful defaulter but has received a show-cause notice in accordance with the RBI Circular, the auditor may consider disclosing this fact in his report under this clause. In case show-cause notice is not received by the company, the auditor should also obtain a representation letter from the management that the company has neither been declared as a wilful defaulter nor has received any show cause notice.
- (l) An example of reporting under this clause is as follows:
- According to the information and explanations given to us and on the basis of our audit procedures, we report that the company has not been declared wilful defaulter by any bank or financial institution or government or any government authority.
- Or
- According to the information and explanations given to us and on the basis of our audit procedures, we report that the company has been declared wilful defaulter by XXX on (date).

**62. Whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported; [Paragraph 3(ix)(c)]**

**Relevant Provisions**

- (a) Under this clause, the auditor is required to examine whether term loans were applied for the purpose for which these loans were obtained. Further where the term loans were not applied for the purpose for which these loans were obtained, the auditor is also required to report the amount of loan so diverted and the purpose for which it is used. First of all, the auditor should ascertain whether the company has taken any “term loans”. Term loans normally have a fixed or pre-determined repayment schedule. In the common parlance of the expression, loans with repayment period beyond 36 months are usually known as term loans. Cash credit, overdraft and call money accounts/deposits are therefore not covered by the expression “Term Loans”.
- (b) Reserve Bank of India vide its master circular RBI/2014-15/73 DBR.No.CID. BC.57/20.16.003/2014-15 dated July 1, 2014 on “Wilful Defaulters” (as updated from time to time) has defined diversion of fund as:

Diversion of funds would be construed to include any one of the undernoted occurrences:

- a) utilisation of short-term working capital funds for long-term purposes not in conformity with the terms of sanction;
- b) deploying borrowed funds for purposes / activities or creation of assets other than those for which the loan was sanctioned;
- c) transferring borrowed funds to the subsidiaries / Group companies or other corporates by whatever modalities;

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- d) routing of funds through any bank other than the lender bank or members of consortium without prior permission of the lender;
- e) investment in other companies by way of acquiring equities / debt instruments without approval of lenders;
- f) shortfall in deployment of funds vis-à-vis the amounts disbursed / drawn and the difference not being accounted for.

### **Audit Procedures and Reporting**

- (c) The Order is silent as to whether this clause also covers term loans obtained from entities/persons other than banks/financial institutions. A strict interpretation of this clause would mean that the term loan obtained from entities/persons other than banks/financial institutions would also have to be examined by the auditor for the purpose of reporting under this clause.
- (d) The auditor should examine the terms and conditions subject to which the company has obtained the term loans. The auditor may also examine the proposal for grant of loan made to the lender. Normally the end use of the funds raised by term loans is mentioned in the sanction letter or documents containing the terms and conditions of the loan. The auditor should ascertain the purpose for which term loans were sanctioned. The auditor should also compare the purpose for which term loans were sanctioned with the actual utilisation of the loans. The auditor should obtain sufficient appropriate audit evidence regarding the utilisation of the amounts raised. If the auditor finds that the funds have not been utilised for the purpose for which they were obtained, the auditor's report should state the fact.
- (e) It is not necessary to establish a one-to-one relationship with the amount of term loan and its utilisation. It is quite often found that the amount of term loan obtained is deposited in the common account of the company from which subsequently the utilisation is made. In such cases, it should not be construed that the amount has not been utilised for the purpose for which it was obtained.

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- (f) The auditor will need to examine whether the company has utilised the term loans for any of the purposes defined as diversion by the RBI circular as mentioned above. Such process may include checking whether the company has granted loans to other parties, including related parties, or made investments in other companies.
- (g) It may happen that the company might have acquired improved version/model of assets as against the assets for which the loan had been sanctioned. For example, if a loan sanctioned for purchase of machinery to be used for manufacture of shoe upper is instead used to purchase a machine, which apart from manufacturing shoe uppers has certain additional manufacturing facilities. In such cases, it should not be construed that the loan has not been applied for the purpose for which it was obtained.
- (h) Normally, the term lenders directly make the payment to the vendor/suppliers. In such cases, it becomes easier for the auditor to comment on the application of term loans.
- (i) During construction phase, companies, generally, temporarily invest the surplus funds to reduce the cost of capital or for other business reasons. However, subsequently the same are utilised for the stated objectives. In such cases, the auditor should mention the fact that pending utilisation of the term loan for the stated purpose, the funds were temporarily used for the purpose other than for which the loan was sanctioned but were ultimately utilised for the stated end-use.
- (j) It may so happen that the term loans taken during the year might not have been applied for the stated purpose during the year, for example, the loan was disbursed at the fag-end of the year. In such a case, the auditor should mention in his audit report that the term loan obtained during the year has not been utilized because moneys were raised at the fag-end of the year. This also implies that the auditor, while making inquiry in respect of this clause, should also consider the term loans which although were taken in the previous accounting period but have been actually utilised during the current accounting period.

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- (k) It may happen that under Ind AS framework, certain term loans (for example, Mezzanine loans) may either be classified as equity or may be compound instruments and, therefore, are split into equity and debt components. However, such instruments will be classified as debt under AS framework. It is clarified that the basic character of such loans is debt and accordingly the auditor should consider utilization of entire amount for the purpose of reporting under this clause irrespective of the accounting treatment.
- (l) It may happen that a company has taken general purpose term loans. In such a case, the auditor should verify whether such loan has been used for any purpose defined as diversion in the RBI circular as mentioned above. Where the company has applied the general purpose loan for any such purpose which can be defined as a diversion, then in such circumstances the auditor shall be required to report accordingly.
- (m) Where the auditor concludes that the term loans were not applied for the purpose for which the loans were obtained, the auditor should ascertain the amount so diverted and the purpose for which such loan was used. The auditor should mention in his report the amount of term loan as well as the fact the term loan was not utilised for the purpose for which it was obtained and report the amounts diverted and purpose for which such loan was used.
- (n) A suggested reporting format under this clause is as follows:  
In our opinion and according to the information and explanations given to us, the company has utilized the money obtained by way of term loans during the year for the purposes for which they were obtained, except for following cases:

Nature of the fund raised	Name of the lender	Amount diverted (Rs.)	Purpose for which amount was sanctioned	Purpose for which amount was utilised	Remarks

**63. Whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated; [Paragraph 3(ix)(d)]**

**Relevant Provisions**

- (a) The principles of financial management suggest that the long-term assets of an entity should be financed from long term funds. The genesis of the principle is that if funds raised from short term sources are used for long-term purposes, the entity can face liquidity problems as soon as the short-term sources fall due for payment. However, an exception to the principle would be the situation where an entity is able to generate sufficient funds from long term sources either through its operations or other means to meet the working capital requirements arising from the event of short-term sources falling due for payment. The application of the principle is considered to be of utmost importance for the financial health of an entity. This clause requires the auditor to comment whether the funds raised on short-term basis have been used for long-term purposes so that the readers can assess whether the company has followed the above-mentioned principle of financial management. Examples of use of funds raised on short term basis and used for long-term purposes would include investing money from overdraft facilities in long-term investments in shares of subsidiaries/associates/joint ventures or investing money raised from public deposits due for repayment in three years in a project whose pay-back period is ten years.
- (b) The auditor uses the data contained in the financial statements to ascertain whether the funds raised on short-term basis have been used for long-term purposes. Short-term sources of funds include temporary credit facilities like cash credits, overdraft. Long-term sources of funds would include share capital, reserves and surplus, long-term debt securities and long-term loans. It is clarified that current maturities of long-term loans which are included as current

liabilities as per Schedule III to the Act, are to be treated as long term sources of funds for the purpose of reporting under this clause. Long term applications of funds include investment in property, plant & equipment, intangible assets, long-term investments in shares, debentures and other securities and other assets of similar nature, repayment of long-term loans and advances or redemption of long-term debt or securities, etc. Application of funds which is not long-term may be categorised as short-term application.

- (c) The auditor should determine the long-term sources and the long-term application of funds by a company using the data contained in the financial statements. If the quantum of long-term funds of a company is not significantly different from the long-term application of funds, it is an indication that the long-term assets of the company are financed from the long-term sources. However, if the quantum of long-term funds is significantly less than the long-term application of funds, it is an indication that short-term funds have been used to finance the long-term assets of the company. The difference between figures of long-term funds and long-term assets of the company indicate the extent to which short term funds have been used to finance long-term assets of the company. Typically, a current ratio of less than 1 will be an indicator that short-term funds have been used to finance long-term assets of the company. For the purpose of calculating current ratio, current maturities of long term borrowings should be considered as non-current liability.

**Audit Procedures and Reporting**

- (d) Certain companies deploy funds based on their respective maturity pattern as a risk management technique. In case a company does so, it would be easier for the auditor to comment upon this clause since a comparison of sources of funds with their deployment based on their respective maturity patterns would be a significantly more sophisticated way of analysing whether short-term funds have been used to finance long-term assets of the company. To take a simple example, if an entity has a long-term debt that is to

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mature within the next 12 months and an equivalent amount in a long-term investment that would mature after 3 years, the maturity pattern analysis would indicate the potential inability to meet the liability on the debt on due date, but the traditional analysis such as reviewing a fund flow statement would not do so.

- (e) This clause also requires the auditor to state the nature of application of funds if the company has financed long-term assets out of short-term funds. The nature of application of funds can be determined only if the funds raised can be directly identified with an asset. The determination of direct relationship between particular funds and an asset from the balance sheet may not be feasible. Further, such movement in funds should be supported by relevant documentation. A more practical approach would be to determine the overall picture of the sources and application of funds of the company unless an evident trail is available that enables the auditor in establishing a direct relationship between sources and application of funds. Also, as money is fungible, the auditor may also review the cash flow statement to determine whether short term funds have been used for long term purposes.

- (f) An example of reporting under this clause is as follows:

According to the information and explanations given to us, and the procedures performed by us, and on an overall examination of the financial statements of the company, we report that no funds raised on short-term basis have been used for long-term purposes by the company.

An example of unfavourable reporting under this clause is as follows:

According to the information and explanations given to us, and the procedures performed by us, and on an overall examination of the financial statements of the company, we report that the company has used funds raised on short-term basis aggregating to Rs. X crores for long-term purposes.

**64. Whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case; [Paragraph 3(ix)(e)]**

**Relevant Provisions**

- (a) For the purpose of this clause, definitions of subsidiary, associate or joint venture will be as per provisions of the Companies Act 2013.
- (b) Though the word entity has not been defined, in this regard, the entity will include banks, financial institutions, company, limited liability partnership, trust, government, or others irrespective of the legal form.
- (c) Funds will include both long term and short-term funds.

**Audit Procedures and Reporting**

- (d) Reporting under this clause would normally be required when the company has taken any funds from any entity or any person and has also granted loans or advances in the nature of loans to its subsidiaries, associate companies or joint ventures or has made further investments in such subsidiaries, joint ventures, or associate companies.

The auditor needs to consider new loans or advances given during the year, meeting the obligations of subsidiaries, joint ventures, or associate companies during the year and new investments (equity or debt investment) made during the year for the purpose of reporting under this clause. Therefore, if there are no such transactions during the year, the auditor may conclude that the company has not taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures.

Reporting under this clause will be required for all funds taken during the year even if these have been repaid before

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the year end. Further, reporting will be required where funds were taken in earlier years and were repaid during the year or are outstanding as at the year end.

- (e) The Act or the Order does not define the word “obligation”. In normal parlance, obligation means a debt security (such as a mortgage or corporate bond) or a commitment to pay a particular sum of money. Therefore, obligation of subsidiary, joint venture or associate would mean the amounts that such subsidiaries, joint venture or associate companies are required to pay themselves either to their vendors, lenders, employees, or statutory authorities. When a company pays these amounts on behalf of its subsidiaries, joint ventures or associate companies, the amount so paid is generally treated as an asset either as loan, advance, or other current/ non-current assets in the financial statements of the company.
- (f) The auditor should obtain list of all subsidiaries, associates and joint ventures from the company. The auditor should also obtain details of all loans, advances including advances in the nature of loans granted to subsidiaries, associates and joint ventures and investments made in such companies. The auditor should also obtain schedule of related party transactions and verify the loans and advances including advances in the nature of loans granted to subsidiaries, associates and joint ventures or expenses incurred or paid on behalf of subsidiaries, joint ventures and associate companies. The auditor should obtain balance confirmations from subsidiaries, joint ventures, and associate companies. The auditor is expected to perform procedures to ensure compliance with AS 18, “Related Party Disclosures” or Ind AS 24, “Related Party Disclosures” (as the case may be) and SA 550, Related Parties.
- (g) It is possible that the financial statements of subsidiaries, joint ventures, and associates are audited by another auditor. In such cases, the principal auditor may consider seeking specific information from the auditors of the components in accordance with the guidance given in SA

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600, "Using the Work of Another Auditor" and Guidance Note on Audit of Consolidated Financial Statements to enable him to report under this clause.

- (h) The auditor should obtain schedule of all borrowings. In case of term loans, the auditor would have performed the procedures described for the purpose of reporting under clause 3(ix)(c) and would have identified diversion of funds for the purpose of granting loans or advances to subsidiaries, joint ventures and associates or to meet the obligations of these entities. However, since the requirement is to report on both long term and short term funds, the auditor will also need to verify the utilisation of borrowed funds other than term loans. For this purpose, the auditor will identify the purpose for which loans other than term loans were taken and check the utilisation of such funds. The audit procedures will be identical to those performed for checking utilisation of term loans and described above in the guidance on clause 3(ix)(c).
- (i) The auditor should review the cash flow statement of the company. Normally, if the company has sufficient positive cash flows from operations, positive cash flows from investing activities and/ or cash inflows from issue of equity instruments and has utilised these cash inflows to make investments in, grant loans or advances or to meet the obligations of its subsidiaries, joint ventures and associates, the auditor may be able to conclude that borrowed funds have not been used to grant loans or advances or to meet the obligations of its subsidiaries, joint ventures and associates.
- (j) Based on the procedures performed in paragraphs (h) and (i) above, the auditor shall determine the amount of funds that the company has borrowed to grant loans or advances or to meet the obligations of its subsidiaries, joint ventures and associates.
- (k) The auditor may also consider obtaining suitable management representation letter in this regard.

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(l) An example of reporting under this clause is as follows:

According to the information and explanations given to us and on an overall examination of the financial statements of the company, we report that the company has not taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures.

(m) An example of reporting under this clause is as follows:

According to the information and explanations given to us and on an overall examination of the financial statements of the company, we report that the company has taken funds from following entities and persons on account of or to meet the obligations of its subsidiaries, associates or joint ventures as per details below:

Nature of fund taken	Name of lender #	Amount involved	Name of the subsidiary, joint venture, associate	Relation	Nature of Transaction for which funds utilized*	Remarks, if any

# May mention Whether Bank/ NBFC/ Corporate, etc.

\* Specify whether fund taken on account of or to meet obligation of subsidiary, joint venture, associate.

**65. Whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised; [Paragraph 3(ix)(f)]**

### Relevant Provisions

(a) Under this clause, the auditor is required to report:

- Whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies;

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- If yes, give details of such loans; and
- Report if the company has defaulted in repayment of such loans raised.

It is clarified that for reporting under this clause, the auditor is not required to give details of default in respect of loans raised by the company as the defaults are in any case required to be reported under clause 3(ix)(a) for all lenders. Under this clause, therefore, the auditor is merely required to state yes or no for defaults.

Further, it is clarified that reporting under this clause would cover all loans taken during the year even if these have been repaid during the year. Further, reporting is required only in case of loans taken during the year, therefore loans taken in earlier years and outstanding as at the balance sheet date need not be reported.

Default will include both repayment of principal and payment of interest. It may happen that the lender has invoked the security for repayment of loan. A security is generally invoked where there has been a default. Accordingly, such cases will need to be reported under this clause.

- (b) As per Indian Contract Act, 1872, pledge is a contract where a person deposits an article or good with a lender of money as security for the repayment of a loan or performance of a promise.
- (c) The term 'Securities' has been defined under section 2(81) of the Act to mean 'securities' as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (SCRA). Under section 2(h) of SCRA, the term 'securities' include the following:
  - Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
  - Derivative;
  - Units or any other instrument issued by any collective investment scheme to the investors in such scheme;

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- Security receipt as defined in section 2(zg) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- Units or any other such instrument issued to the investors under any mutual fund scheme;
- Government securities;
- Such other instruments as may be declared by the Central Government to be securities; and
- Rights or interest in securities.

### **Audit Procedures and Reporting**

- (d) The auditor should obtain schedule of all loans raised during the year. It is clarified that this clause does not specify the lender, and therefore the reporting under this clause will include loans taken during the year from any lender.
- (e) The auditor should verify the loan agreements or other documents such as term sheets to check the nature of security against such loans.
- (f) This clause refers to pledge of securities. Considering the definition as per Companies Act, 2013, such securities are not restricted to equity shares and cover all types of securities as defined above.
- (g) “Securities held in its subsidiaries, joint ventures or associate companies” means the investment of the company (reporting entity) in such subsidiary, joint venture or associate company. Accordingly when a company obtains loans by pledging such investments, it will be required to create a charge under section 77 of the Act. The auditor should obtain and verify the documents related to charges created including any modification thereof. This together with procedures performed in paragraph (e) above will ensure that the auditor is able to identify whether loans have been obtained by way of pledge of securities held in its subsidiaries, joint ventures or associate companies. Further, there may be cases where the company has a negative lien on its investments in subsidiary, joint ventures and associate companies. It may be noted that such negative lien is not a pledge. Sometimes, loan agreements have a general or

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residual charge on all securities without specific pledge of any security. It is clarified that in such situation, reporting under this clause will be applicable only when the securities held in the subsidiaries, etc. are pledged for obtaining such loan by the company.

- (h) The auditor may consider obtaining management representations in this regard.
- (i) Clause 3(ix)(a) of the Order requires the auditor to report whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, and if yes, the period and the amount of default to be reported. Since the requirement of clause 3(ix)(a) is to report on defaults in case of all lenders, the auditor would have already performed necessary procedures even in respect of loans referred to in this clause.
- (j) An example of reporting under this clause is as follows:

According to the information and explanations given to us and procedures performed by us, we report that the company has not raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies.

Or

According to the information and explanations given to us and procedures performed by us, we report that the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies as per details below. Further, the company has not defaulted in repayment of such loans raised.

Nature of loan taken	Name of lender #	Amount of loan	Name of the subsidiary, joint venture, associate	Relation	Details of security pledged	Remarks

# May mention Whether Bank/ NBFC/ Corporate, etc.

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(k) An example of reporting under this clause is as follows:

According to the information and explanations given to us and procedures performed by us, we report that the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies and has defaulted in repayment of such loans as per details below.

Nature of loan taken	Name of lender#	Amount of loan	Name of the subsidiary, joint venture, associate	Relation	Details of security pledged	Whether there is default in repayment of loan? (Yes/ No)	Remarks

# May mention Whether Bank/ NBFC/ Corporate, etc.

The auditor may consider giving reference to reporting under clause 3(ix)(a) above in the remarks column.

**66. Whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported; [Paragraph 3(x)(a)]**

### Relevant Provisions

(a) Under this clause the auditor is required to report whether moneys raised by the company by way of initial public offer or further public offer (including debt instruments) during the year have been applied for the purposes for which those were raised. If not, the auditor is required to report the

details together with delays or default and subsequent rectification, if any, as may be applicable.

- (b) In case the company has made an initial public offer or further public offer (including debt instruments) the auditor is required to report upon the disclosure of end-use of the money by the management in the financial statements. The auditor is also required to state whether he has verified the disclosure made by the management in this regard. 'Securities' has been defined in section 2(81) of the Act which refers to the definition of 'securities' in section 2(h) of the Securities Contracts (Regulation) Act, 1956. Initial public offer or further public offer shall cover issue of equity shares, convertible securities, non-convertible debt securities, non-convertible redeemable preference shares, perpetual debt instruments, perpetual non-cumulative preference shares, Indian depository receipts and securitized debt instruments.
- (c) Part 1 of Chapter III of the Act consisting of sections 23 to 41 deals with public offer. Section 23(1)(a) of the Act provides that "a public company may issue securities to public through prospectus which is also referred to as "public offer". Explanation to section 23 of the Act states that for the purpose of aforesaid Chapter III, the expression, "public offer" includes initial public offer or further public offer of securities to public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of prospectus. In terms of section 24 of the Act, the Securities and Exchange Board of India (SEBI) is empowered to regulate issue of securities by making regulations in that behalf. Therefore, a company raising moneys by way of initial public offer or further public offer shall have to follow the requirements of the applicable provisions of the Act, as well as the relevant SEBI regulations.
- (d) Currently, there is no legal requirement under the Act to disclose the end use of money raised by initial public offer or further public offer (including debt instruments) in the financial statements. The companies, however, make such a

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disclosure in the Board's Report. Schedule III to the Act requires that only unutilized amount of any initial public offer or further public offer (including debt instruments) made by the company should be disclosed in the financial statements of a company. In the absence of any legal requirement of such disclosure, it appears that this clause envisages that companies should disclose the end use of money raised by the initial public offer or further public offer (including debt instruments) in the financial statements by way of notes and the auditor should verify the same.

### **Audit Procedures and Reporting**

- (e) Normally, companies mention the end-use of the money proposed to be raised through the initial public offer or further public offer (including debt instruments) in the offer document. An examination of the offer document would provide the auditor an understanding of the proposed end-use of money raised from public. The auditor should verify that the amount of end-use of money disclosed in the financial statements by the management is not materially different from the proposed and actual end use. The auditor should obtain a representation from the management as to the completeness of the disclosure with regard to the end-use of money raised as well as actual end utilization of money raised by initial public offer or further public offer (including debt instruments). If, for any reason, the auditor is not able to verify the end-use of money raised from initial public offer or further public offer (including debt instruments), he should state that he is not able to comment upon the disclosure of end-use of money by the company since he could not verify the same. The auditor should also mention the reasons which resulted in the auditor's inability to verify the disclosure.
- (f) It may be noted that while reporting under this clause, the auditor should also have regard to the SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 (hereinafter referred as SEBI LODR Regulations), which contain a number of disclosure requirements in the balance

sheet with respect to utilization of proceeds of moneys raised from public, whether by shares or debentures, as also disclosure requirements in respect of unutilized moneys from such proceeds. From a perusal of the SEBI LODR Regulations, it would be apparent that the details have to be given of both 'utilised' and 'unutilised' moneys. Since the purpose is to provide a picture to the reader of 'utilisation of issue proceeds', it is only logical that the sum total of utilised and unutilised portions equal the total issue size. This implies that the figure of 'utilised' money should be cumulative.

- (g) It may also be noted that according to the SEBI LODR Regulations, the issuer company is required to make arrangements for the use of proceeds of the issue to be monitored by financial institutions. The monitoring agency so appointed is required to submit its report to the SEBI, on a half-yearly basis, till the completion of the project. In case, the company has appointed a monitoring agency for the purpose of the issue, reports of such monitoring agency would also be helpful to the auditor while reporting under this clause.
- (h) The expression "debt instrument" is neither defined in the Order not under the Act. However, SEBI (Issue and Listing of Debt Securities), Regulations, 2008 which apply to public issue of debt securities and its listing, define the term "debt securities". In terms of Regulation 2(1)(e) of the said regulations, it means a non-convertible debt securities which create or acknowledge indebtedness, and include debenture, bonds and such other securities of a body corporate or a trust registered with the Board as a Real Estate Investment Trust or an Infrastructure Investment Trust, or any statutory body constituted by virtue of a legislation, whether constituting a charge on the assets of the body corporate or not, but excludes bonds issued by Government or such other bodies as may be specified by the Board, security receipts and securitized debt instruments. Further, in terms of the Explanation to Section

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23 of the Act, “Public Offer” would include American Depository Receipts (ADRs) and Global Depository Receipts (GDRs).

- (i) In view of the aforesaid, the reporting by an auditor under this clause should only relate to moneys raised by the company by way of initial public offer or further public offer of equity shares, convertible securities (defined above) and debt securities (defined above). Since, offer for sale of specified securities (i.e. equity shares and convertible securities) to the public by any existing holder does not result in any moneys raised by the company, the same is outside the purview of the reporting requirement under this clause. It seems that strictly in terms of the definitions of public offer, initial public offer and further public offer cited above, moneys raised from foreign capital markets in any form and by way of issuance of Global Depository Receipts and American Depository Receipts may not fall within the scope of reporting under this clause.
- (j) In certain situations, the company may undertake an offer of initial public offer or further public offer of equity shares, convertible securities (defined above) and debt securities (defined above) together with an offer for sale of specified securities (i.e. equity shares and convertible securities) to the public by any existing holder which does not result in any moneys raised by the company. In such cases, the reporting by an auditor under this clause, would apply only to the extent of moneys raised by the company. In respect of the offer for sale of specified securities (i.e. equity shares and convertible securities) to the public by any existing holder which does not result in any moneys raised by the company, the auditor, may if applicable, verify that the management has disclosed in the financial statements the terms of the offer for sale including the fact that no moneys were raised by the company.
- (k) It is not necessary to establish a one-to-one relationship with the amount of moneys raised by way of initial public offer or further public offer (including debt instruments) and its

utilisation. Section 40(3) of the Act requires that, all monies received on application from the public for subscription to the securities shall be kept in a separate bank account for utilisation for specified purposes. The money from this account may get transferred to a common bank account of the company in order to replenish funds utilised from that bank account for purposes mentioned in the public offer. In such cases, it should not be construed that the amount has not been utilised for the purpose for which it was raised.

- (l) It may happen that the company might have acquired improved version/model of assets as against the assets for which the moneys were raised. For example, if moneys raised for purchase of machinery to be used for manufacture of shoe upper is instead used to purchase a machine, which apart from manufacturing shoe uppers has certain additional manufacturing facilities, in such cases, it should not be construed that the moneys raised has not been applied for the purpose for which it was raised.
- (m) It may so happen that the moneys raised during the year might not have been applied for the stated purpose during the year, for example, the moneys were raised at the fag-end of the year. In such a case, the auditor should mention in his audit report that the moneys raised during the year have not been utilised because moneys were raised at the fag-end of the year. This also implies that the auditor, while making inquiry in respect of this clause, should also consider the moneys raised which although were raised in the previous accounting period but have been actually utilised during the current accounting period and report whether such moneys have been applied for the purposes for which they were raised.
- (n) Companies may temporarily invest the surplus funds to reduce the cost of capital or for other business reasons. However, subsequently the same are utilised for the stated objectives. In such cases, the auditor should mention the fact that pending utilisation of the funds raised through initial public offer or further public offer (including debt

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instruments) for the stated purpose, the funds were temporarily used for the purpose other than for which they were raised but were ultimately utilised for the stated end-use.

- (o) Where the auditor concludes that moneys raised from the initial public offer or the further public offer (including debt instruments) were not applied for the purpose for which the same were raised, the auditor should mention in his report the amount involved as well as the nature of default including delay in utilization. The auditor is also required to report the details of any subsequent rectifications made by the company.
- (p) A suggested reporting format under this clause is as follows:

In our opinion and according to the information and explanations given to us, the company has utilised the money raised by way of initial public offer/ further public offer (including debt instruments) for the purposes for which they were raised, except for the following cases:

Nature of the fund raised	Purpose for which funds were raised	Total Amount Raised /opening unutilized balance	Amount utilized for the other purpose	Unutilized balance as at balance sheet date	Details of default (Reason/ Delay)	Subsequently rectified (Yes/No) and details

Note: The reporting under this clause also seeks to cover the details of non-compliances in respect of moneys which were raised during the previous accounting period but were actually utilized in the current accounting period.

**67. Whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance; [Paragraph 3(x)(b)]**

**Relevant Provisions**

- (a) This clause requires that in case of preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible), during the year, whether the requirements of section 42 and section 62 of the Act and the Rules framed thereunder have been complied with. Further this clause also requires the auditor to report upon the utilization of the said funds for the purposes for which it has been raised, if not, reporting is required giving details of the amount involved and nature of non-compliance.

**Audit Procedures and Reporting**

- (b) (i) The term ‘Private Placement’ has been defined under the Explanation I to section 42(3) of the Act, to mean any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application letter, which satisfies the conditions specified in section 42 of the Act. In addition, the provisions of Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 also need to be complied with while reporting under this clause.

Reference may be made to section 42 of the Act and Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

- (ii) It may be noted that the term “Preferential Allotment” is not defined under the Act. However, section 62 of

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the Act read with Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014 deals with issue of shares on preferential basis. In addition to the provisions of section 62, the auditor should also evaluate compliance with Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014 while reporting under this clause.

Reference may be made to section 62 of the Act and Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014.

- (c) Section 42 of the Act and Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 require, *inter alia*, as under:

- (i) A private placement, i.e., offer or invitation to subscribe or issue of securities should be made to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer-cum-application letter.

The offer or invitation to subscribe or issue of securities shall be made only to a select group of persons who have been identified by the Board, whose number shall not exceed two hundred, [excluding qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62], in a financial year and on such conditions (including the form and manner of private placement) as may be prescribed.

Qualified institutional buyer means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018. Section 42 of the Act provides maximum number of persons 50 or such higher number as may be prescribed by rules. The higher number is prescribed by Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 as 200 persons.

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- (ii) For the purposes of sub-section (2) and sub-section (3) of section 42, a company shall not make an offer or invitation to subscribe to securities through private placement unless the proposal has been previously approved by the shareholders of the company, by a special resolution for each of the offers or invitation.
- (iii) If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of public offer.
- (iv) No fresh offer or invitation of private placement shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.
- (v) Any offer or invitation not in compliance with the provisions of section 42 of the Act shall be treated as a public offer and respective provisions of the Act, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 shall be required to be complied with.
- (vi) A company making an offer or invitation on private placement shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve percent per annum from the expiry of the sixtieth day.

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- (vii) Also monies received on application under private placement shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than (a) for adjustment against allotment of securities; or (b) for the repayment of monies where the company is unable to allot securities.
  - (viii) No company issuing securities under section 42 of the Act shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer.
  - (ix) The company making any allotment of securities under section 42 of the Act shall file with the Registrar a return of allotment in Form PAS-3 within fifteen days from the date of allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.
  - (x) If a company makes an offer or accepts monies in contravention of section 42 of the Act, the company, its promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) of Section 42 to subscribers within a period of thirty days of the order imposing the penalty.
- (d) Section 62 of the Act and Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014 requires, *inter alia*, as under:
- (i) Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) of section 62 or clause (b) of

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section 62, either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed.

- (ii) For the purposes of clause (c) of sub-section (1) of section 62, if authorized by a special resolution passed in a general meeting, shares may be issued by any company in any manner whatsoever including by way of a preferential offer, to any persons whether or not those persons include the persons referred to in clause (a) or clause (b) of sub-section (1) of section 62 and such issue on preferential basis should also comply with conditions laid down in section 42 of the Act, provided that in case of any preferential offer made by a company to one or more existing members only, the provisions of sub-rule (1) and proviso to sub-rule (3) of Rule 14 of Companies (Prospectus and Allotment of Securities) Rules, 2014 shall not apply and provided further that the price of shares to be issued on a preferential basis by a listed company shall not be required to be determined by the valuation report of a registered valuer.
  - (iii) Where the preferential offer of shares or other securities is made by a company whose shares or other securities are listed on a recognized stock exchange, such preferential offer shall be made in accordance with the provisions of the Act and regulations made by the Securities and Exchange Board of India, and if they are not listed, the preferential offer shall be made in accordance with the provisions of the Act and Rules.
- (e) In case the requirements of section 42 and section 62 of the Act and Rules framed in this regard are not complied with, the auditor should report incorporating following details:

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Nature of securities viz. Equity shares/ Preference shares/ Convertible debentures	Type of issue (preferential allotment or private placement)	Amount Involved	Nature of non- compliance

- (f) This clause also requires the auditor to examine whether funds so raised from preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) were applied for the purpose for which these securities were issued. The examination of auditor may cover following aspects:
- (i) Paragraph 2(i) of the Form PAS-4, Private Placement Offer cum application Letter<sup>4</sup>, requires the company to provide particulars in respect of the purposes and objects of the offer. Accordingly, the auditor should compare such information provided by the company in Form PAS-4 with the actual utilization of the monies as per the books of account of the company.
  - (ii) Sub-clause (i) of clause (d) of sub-rule 2 of Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014, requires the company to disclose the objects of the issue in the explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 of the Act. Accordingly, the auditor should compare the objects of the issue noted in the explanatory statement annexed to the notice of the general meeting with the actual utilization of the monies as per the books of account of the company.
  - (iii) It is not necessary to establish a one-to-one relationship with the amount of funds raised and its utilisation. It is quite often found that the amount of fund raised is transferred to a common account of the

<sup>4</sup> Prescribed in the Companies (Prospectus and Allotment of Securities) Rules, 2014.

company from which subsequent utilisation is made. In such cases, it should not be construed that the funds have not been utilised for the purpose for which they were raised.

- (iv) Companies may temporarily invest the surplus funds to reduce the cost of capital or for other business reasons. However, subsequently the same are utilised for the stated objectives. In such cases, the auditor should mention the fact that pending utilisation of the funds raised for the stated purpose, the funds were temporarily used for the purpose other than for which they were raised but were ultimately utilised for the stated end-use.
- (v) It may so happen that the funds raised during the year might not have been applied for the stated purpose during the year, for example, the funds were raised at the fag-end of the year. In such a case, the auditor should mention in his audit report that the funds raised during the year have not been utilised because funds were raised at the fag-end of the year. This also implies that the auditor, while making inquiry in respect of this clause, should also consider the funds raised, which although were raised in the previous accounting period but have been actually utilised during the current accounting period and report whether such funds have been applied for the purposes for which they were raised.
- (vi) In case the specific purpose is not recorded and the general purpose/*bona-fide* business use etc., are stated then in such cases, auditor should verify that the company has invested or utilized the money for general purpose/*bona-fide* business use of the company.
- (g) Where the auditor concludes that the funds raised were not applied for the purpose for which the same were raised, the auditor should mention in his report the amount involved as well as the nature of default including delay in utilization. The auditor is also required to report the details of any subsequent rectifications made by the company.

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(h) A suggested reporting format under this clause is as follows:

In our opinion and according to the information and explanations given to us, the company has utilized funds raised by way of preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) for the purposes for which they were raised, except for the following:

Nature of Securities viz. Equity shares/ Preference shares/ Convertible debentures	Purpose for which funds were raised	Total Amount Raised/ opening un-utilized balance	Amount utilized for the other purpose	Un-utilized balance as at balance sheet date	Remark, if any

Note: The reporting under this clause also seeks to cover the details of non-compliances in respect of funds which were raised during the previous accounting period but were actually utilized in the current accounting period.

**68. Whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated; [Paragraph 3(xi)]**

### Relevant Provisions

(a) Under this clause, the responsibilities of the auditor have been widened by removing the words “officers or employees”. This clause requires the auditor to report whether any fraud has been noticed or reported either on the company or by the company during the year and is not limited to frauds by the officers or employees of the company. If any fraud is noticed / reported, the auditor is

required to state the amount involved and the nature of fraud. This clause does not require the auditor to discover such frauds on the company and by the company. The scope of auditor's inquiry under this clause is restricted to frauds 'noticed or reported' during the year. The use of the words "noticed or reported" indicates that the management of the company should have the knowledge about the frauds on the company or by the company that have occurred during the period covered by the auditor's report. It may be noted that reporting under this clause does not relieve the auditor from his responsibility to consider fraud and error in an audit of financial statements. In other words, irrespective of the auditor's comments under this clause, the auditor is also required to comply with the requirements of SA 240, "The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements". Further, the auditor is required to comply with the requirements of section 143(12) of the Companies Act, 2013. In this context, the auditor should also have regard to the "Guidance Note on Reporting on Fraud under Section 143(12) of the Companies Act, 2013", issued by ICAI.

- (b) The term 'fraud' as defined in explanation to section 447 of the Act 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. The term "fraud" is defined in SA 240 as "An intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage". The definition of fraud as per SA 240 and the explanation of fraud as per section 447 of the Act are similar, except that under section 447 of the Act, fraud includes 'acts with an intent to injure the interests of the company or its shareholders or its creditors or any other

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person, whether or not there is any wrongful gain or wrongful loss.’ However, an auditor may not be able to detect acts that have intent to injure the interests of the company or cause wrongful gain or wrongful loss, unless the financial effects of such acts are reflected in the books of account/financial statements of the company. For example, an auditor may not be able to detect if an employee is receiving pay-offs for favoring a specific vendor, which is a fraudulent act, since such pay-offs would not be reflected / recorded / traced in the books of account of the company. However, the auditor should report all such frauds under this clause noticed or reported to him while conducting the audit. It will also cover frauds which may have an indirect impact on financial statements of the company.

- (c) The auditor is required to report separately on the nature and amount involved for (i) fraud on the company (ii) fraud by the company. Further, the auditor should consider the frauds noticed or reported while performing audit.
- (d) Although fraud is a broad legal concept, the auditor is concerned with fraudulent acts that cause a material misstatement in the financial statements. Misstatement of the financial statements may not be the objective of some frauds. Auditors do not make legal determinations of whether fraud has actually occurred. Fraud involving one or more members of management or those charged with governance is referred to as "management fraud"; fraud involving only employees including officers of the entity is referred to as "employee fraud". In either case, there may be collusion with third parties outside the entity. In fact, generally speaking, the "management fraud" can be construed as "fraud by the company" while fraud committed by the employees or third parties may be termed as "fraud on the company".
- (e) Two types of intentional misstatements are relevant to the auditor's consideration of fraud - misstatements resulting from fraudulent financial reporting and misstatements resulting from misappropriation of assets.

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- (f) Fraudulent financial reporting involves intentional misstatements or omissions of amounts or disclosures in financial statements to deceive financial statement users. Fraudulent financial reporting may involve:
  - (i) Deception such as manipulation, falsification, or alteration of accounting records or supporting documents from which the financial statements are prepared.
  - (ii) Misrepresentation in, or intentional omission from, the financial statements of events, transactions or other significant information.
  - (iii) Intentional misapplication of accounting principles relating to measurement, recognition, classification, presentation, or disclosure.
- (g) Misappropriation of assets involves the theft of an entity's assets. Misappropriation of assets can be accomplished in a variety of ways (including embezzling receipts, stealing physical or intangible assets, or causing an entity to pay for goods and services not received); it is often accompanied by false or misleading records or documents in order to conceal the fact that the assets are missing.
- (h) Fraudulent financial reporting may be committed by the company because management is under pressure, from sources outside or inside the entity, to achieve an expected (and perhaps unrealistic) earnings target particularly when the consequences to management of failing to meet financial goals can be significant. The auditor must appreciate that a perceived opportunity for fraudulent financial reporting or misappropriation of assets may exist when an individual believes internal control could be circumvented, for example, because the individual is in a position of trust or has knowledge of specific weaknesses in the internal control system.

### **Audit Procedures and Reporting**

- (i) While planning the audit, the auditor should discuss with other members of the audit team, the susceptibility of the company to material misstatements in the financial

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statements resulting from fraud. While planning the audit, the auditor should also make inquiries of management to determine whether management is aware of any known fraud or suspected fraud that the company is investigating.

- (j) The auditor should examine the reports of the internal auditor with a view to ascertain whether any fraud has been reported or noticed by the internal auditor. The auditor should examine the minutes of the audit committee, if available, to ascertain whether any instance of fraud pertaining to the company has been reported and actions taken thereon. The auditor should enquire from the management about any frauds on the company that it has noticed or that have been reported to it. The auditor should also discuss the matter with other employees including officers of the company. The auditor should also examine the minutes book of the board meeting of the company in this regard.
- (k) The auditor should obtain written representations from management that:
  - (i) it acknowledges its responsibility for the implementation and operation of accounting and internal control systems that are designed to prevent and detect frauds and errors;
  - (ii) it believes the effects of those uncorrected misstatements in financial statements, aggregated by the auditor during the audit are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. A summary of such items should be included in or attached to the written representation;
  - (iii) it has disclosed to the auditor all significant facts relating to any frauds or suspected frauds known to management that may have affected the entity; and
  - (iv) it has disclosed to the auditor the results of its assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- (l) Because management is responsible for adjusting the financial statements to correct material misstatements, it is important that the auditor obtains written representation from

management that any uncorrected misstatements resulting from frauds are, in management's opinion, immaterial, both individually and in the aggregate. Such representations are not a substitute for obtaining sufficient appropriate audit evidence. In some circumstances, management may not believe that certain of the uncorrected misstatements aggregated by the auditor during the audit are misstatements. For that reason, management may want to add to their written representation words such as, "We do not agree that items constitute misstatements because [description of reasons]." In such situation, the auditor shall carry out the procedures laid down in SA 450, "Evaluation of Misstatements Identified During the Audit" for uncorrected misstatements and consider its materiality including its impact on the auditor's opinion.

- (m) Under clause 3(xi)(c), the auditor is required to report whether he has considered whistle-blower complaints, if any, received during the year by the company. The auditor should be mindful while performing the procedures under this clause and consider complaints received under whistle blower mechanism. The auditor should consider whether additional procedures are required to be performed under SA 240 in this regard.
- (n) Under clause 3(viii), the auditor is required to consider whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments. The auditor should consider such voluntary surrender of income and assess if the company has intentionally not accounted income in any of the previous years and has offered it to taxes at the time of assessment. It may be an indicator that the company had misstated the results which may lead to fraudulent financial reporting. The auditor should make necessary inquiries from the management in this regard.
- (o) The auditor should also consider if there are any adverse findings noticed by him while reporting under clause 3(ii)(b) which requires the auditor to provide details if the quarterly returns or statements filed by the company with banks or financial institutions for sanctioned working capital limits are not in agreement with the books of account of the company.

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- (p) Where the auditor notices that any fraud by the company or on the company has been noticed or reported during the year, the auditor, apart from reporting the existence of fraud, is also required to report, the nature of fraud and amount involved. For reporting under this clause, the auditor may consider the following:
- (i) This clause requires that all frauds noticed or reported during the year shall be reported indicating the nature and amount involved.
  - (ii) While reporting under this clause with regard to the nature and the amount involved of the frauds noticed or reported, the auditor may also consider the principles of materiality outlined in Standards on Auditing.
- (q) The following is an example of reporting under this clause:
- “We have been informed that the accountant of the company had misappropriated funds amounting to rupees ten lakhs during the preceding year and the year under audit. Investigations are in progress and the accountant has been dismissed and arrested. The company has withheld his terminal benefits and it is estimated that the amount misappropriated may not exceed the terminal benefits due to the accountant. The company is also adequately covered by fidelity insurance cover.”

**69. Whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government; [Paragraph 3(xi)(b)]**

### Relevant Provisions

- (a) This clause requires the auditor to report if any report under sub-section (12) of section 143 of the Companies Act 2013 has been filed by the auditors in Form ADT-4. Rule 13 of the Companies (Audit and Auditors) Rules, 2014 specifies the manner in which the auditor is required to report on fraud to

the Central Government and Form ADT-4 prescribed in these Rules provides the format and information to be included in such report.

- (b) As per section 143(12) of the Act, "Notwithstanding anything contained in this section, if an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed.

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed.

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed."

- (c) Section 143(12) of the Act read with Rule 13(1) of the Companies (Audit and Auditors) Rules, 2014 prescribes that if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving an amount of one crore rupees or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Board or the Audit Committee, as the case may be, immediately but not later than two days of his knowledge of the fraud, seeking their reply or observations within forty-five days.
- (d) On receipt of such reply or observations, the auditor shall forward his report in Form ADT-4 and the reply or observations of the Board or the Audit Committee along with

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his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within fifteen days from the date of receipt of such reply or observations. In case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of forty-five days, he shall forward his report in Form ADT-4 to the Central Government along with a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he has not received any reply or observations. Further, in this regard ICAI has issued "Guidance Note on Reporting on Fraud under Section 143(12) of the Companies Act 2013". If the auditor does not comply with the provisions of sub-section (12) of Section 143 of the Act, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty five lakh rupees.

### **Audit Procedures and Reporting**

- (e) The auditor should consider whether any fraud has been reported by him during the year and upto the date of issuance of auditor's report under section 143(12) of the Act and if so, the same needs to be reported under this clause. The reporting requirement under this clause would also apply to situations where during the year the predecessor auditor of the company has reported under section 143(12) before the appointment of the successor auditor. The auditor should obtain management representation in this regard.
- (f) Reporting requirement under section 143(12) of the Act on frauds is equally applicable to the cost accountant in practice, conducting cost audit under section 148 of the Act; and to the company secretary in practice, conducting secretarial audit under section 204 of the Act. The auditor reporting under this clause, should consider whether cost auditor or secretarial auditor has filed any report under section 143(12) of the Act in Form ADT-4 and accordingly the fact shall be reported. The auditor should obtain written representations from management in this regard.

**70. Whether the auditor has considered whistle-blower complaints, if any, received during the year by the company; [Paragraph 3(xi)(c)]**

**Relevant Provisions**

- (a) This is a new reporting requirement in the Order and requires the auditor to consider whistle blower complaints, if any, received by the company **during the year** (emphasis applied) under audit.
- (b) The establishment of whistle blower mechanism is not mandatory for all companies and therefore the auditor should consider the requirements prescribed in the Act and in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI LODR Regulations) in this regard. Section 177(9) of the Act requires the following class of companies to establish a vigil mechanism for their directors and employees to report their genuine concerns or grievances:
- Every listed company.
  - Companies which accept deposits from the public.
  - Companies which have borrowed money from banks and public financial institutions in excess of fifty crore rupees.

The vigil mechanism under section 177(9) of the Act shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provisions for direct access to the Chairperson of the Audit Committee in appropriate or exceptional cases.

- (c) Regulation 4(2)(d) of the SEBI LODR Regulations also mandates all listed entities for devising an effective whistle blower mechanism enabling directors, employees or any other person, to freely communicate their concerns about illegal or unethical practices. Regulation 46(2)(e) of SEBI LODR Regulations requires a listed company to disseminate on its website details of establishment of vigil mechanism/ whistle blower policy. Further, the role of audit committee

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also includes review the functioning of the whistle blower mechanism.

- (d) Other companies i.e., companies not covered in the thresholds specified in paragraphs (b) and (c) above may voluntarily establish vigil/whistle blower mechanism through which instances of whistle blower and frauds are reported. Also, in case a fraud has already been reported or has been identified/detected by the management or through the company's vigil/whistle blower mechanism and has been/is being remediated/dealt with by them **during the year**, all such cases should be informed to the auditor. Further, all such cases should be considered by the auditor in accordance with the requirements of SA 240 and will also be required to be considered as part of this clause. **The auditor is not required to consider whistle-blower complaints pertaining to earlier years while reporting under this clause.**

### Audit Procedures and Reporting

- (e) Where establishment of whistle blower mechanism is mandated by law (as discussed above), the auditor should check as to whether the company has an ethics/whistle blower/ hotline process with adequate procedures to handle anonymous complaints (received from inside and outside the company), and to accept confidential submission of concerns about questionable accounting, internal control, or auditing matters. The auditor is required to consider every complaint received by the company including anonymous complaints while deciding the nature, timing and extent of audit procedures. The auditor should also evaluate whether whistle blower complaints are investigated and resolved by the company in an appropriate and timely manner.
- (f) In case of a listed company, the auditor should also examine whether vigil mechanism has been established in accordance with the requirements of section 177 of the Act and Regulation 4(2)(d) of SEBI LODR Regulations. For unlisted (public or private) companies required to establish vigil mechanism as per the Act, the auditor should ensure compliance with the provisions of section 177 of the Act.

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- (g) For other companies, the auditor should examine whether such companies have established a vigil mechanism/whistle blower mechanism on a voluntary basis. If the companies have established it on a voluntary basis, the auditor should perform the procedures as stated in paragraph (e) above.
- (h) Where there is no whistle blower mechanism established by the company considering that it is not a mandatory requirement either under the Act, or under SEBI LODR Regulations or under any other law, the auditor should ask from the management to share all whistle blower complaints and review the whistle blower complaints while reporting under this clause.
- (i) The auditor should enquire from the management about investigation of all whistle blower complaints received and the findings, if any. The auditor shall review the minutes of audit committee and board meetings to identify whistle blower complaints, if any.
- (j) The auditor should also consider when whistle-blower complaint is received or has been identified, during the course of audit, about a fraud or suspected fraud, whether the auditor has analysed the stages of fraud as per paragraph 80 of the Guidance Note on Reporting on Fraud under Section 143(12) of the Companies Act, 2013.
- (k) While reporting under this clause with regard to the consideration of the whistle blower complaints, the auditor may also consider the principles of materiality outlined in Standards on Auditing.
- (l) The auditor should obtain written representation from the Board/Audit Committee, management regarding completeness of whistle blower complaints, if any, received by the company and regarding the related information such as evaluation of such complaints and actions taken by the management. If management represents that they have not received any whistle blower complaints during the year and the auditor has no other reason to believe so while performing his duties as an auditor, he should rely on the management representation in this regard. Also, the Board/Audit Committee should take note of the representation

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being given by the management to the auditor with respect to completeness of the whistle blower complaints.

- (m) The following are examples of reporting by the auditor under this clause:

*For a listed company and other companies which are required to establish vigil mechanism under Section 177 of the Act /SEBI LODR Regulations:*

"We have taken into consideration the whistle blower complaints received by the company during the year while determining the nature, timing and extent of audit procedures".

*For other companies, wherein establishment of vigil mechanism is not mandated by the Companies Act, 2013 or by SEBI LODR Regulations:*

"We have taken into consideration the whistle blower complaints received by the company during the year and shared with us for reporting under this clause".

*In case no whistle-blower complaints are received during the year:*

"As represented to us by the management, there are no whistle blower complaints received by the company during the year".

- 71.(a) Whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1:20 to meet out the liability;**
- (b) Whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;**
- (c) Whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof; [Paragraph 3(xii)]**

### Relevant Provisions

- (a) This clause requires the auditor to report whether, in the case of a Nidhi Company, net-owned funds to deposit liability ratio is more than 1:20 and the Nidhi Company is

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maintaining ten per cent unencumbered term deposits as specified in the Nidhi Rules 2014 to meet out the liability and whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof.

- (b) Nidhi Rules 2014 apply to Nidhi company incorporated as a Nidhi pursuant to the provisions of section 406 of the Act and also to the Nidhi companies declared under sub-section (1) of section 620A of the Companies Act 1956.
- (c) As per Rule 3(1)(da) of Nidhi Rules 2014 - "Nidhi" means a company which has been incorporated as a nidhi with the object of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and which complies with the rules made by the central Government for regulation of such class of companies.
- (d) As per Rule 21 of Nidhi Rules, 2014, every Nidhi Company shall file half yearly return with the Registrar in Form NDH-3 along with such fee as provided in Companies (Registration Offices and Fees) Rules, 2014 within thirty days from the conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice or cost accountant in practice.

### **Audit Procedures and Reporting**

- (e) It may be noted that Rule 5(1) of these rules prescribes the requirements for minimum number of members, net owned fund etc. As per Rule 5(1), every Nidhi shall, within a period of one year from the date of its incorporation, ensure that it has—
  - (i) not less than two hundred members;
  - (ii) net owned funds of ten lakh rupees or more;
  - (iii) unencumbered term deposits of not less than ten per cent of the outstanding deposits as specified in Rule 14; and

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- (iv) ratio of net owned funds to deposits of not more than 1:20.

The auditor should note that as such a Nidhi Company can accept deposits not exceeding twenty times of its net owned funds as per last audited balance sheet. Furthermore, as per Rule 14 of these rules, every Nidhi is to invest and continue to keep invested, in encumbered term deposits with a scheduled commercial bank (other than a co-operative bank or a regional rural bank), or post office deposits in its own name an amount which shall not be less than ten per cent of the deposits outstanding at the close of business on the last working day of the second preceding month, which needs to be examined.

- (f) As per Rule 3(1)(d) of these rules, "net owned funds" are defined as the aggregate of paid up equity share capital and free reserves as reduced by accumulated losses and intangible assets appearing in the last audited balance sheet:

Provided that, the amount representing the proceeds of issue of preference shares, shall not be included for calculating net owned funds.

- (g) A Nidhi company can accept fixed deposits, recurring deposits accounts and savings deposits from its members in accordance with the directions notified by the Central Government. The aggregate of such deposits is referred to as "deposit liability".
- (h) The auditor should ask the management to provide the computation of the deposit liability and net owned funds on the basis of the requirements mentioned above. This would enable the auditor to verify that the ratio of deposit liability to net owned funds is in accordance with the requirements prescribed in this regard. The auditor should verify the ratio using the figures of net owned funds and deposit liability computed in accordance with what is stated above. The comments of the auditor should be based upon such a statement provided by the management and verification of the same by the auditor.

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- (i) The auditor shall also obtain and examine the details furnished in Form NDH-3 filed by the company. Form NDH-3 consists of all details required to be furnished by Nidhi Companies including (a) details of deposits including its movement (b) details of loans (c) financial summary such as ratio of net owned funds to deposits, amount of encumbered term deposits, number of banks where deposits have been placed, etc.
- (j) The auditor should obtain the schedule of payments of interest and repayments of deposits. The schedule should indicate the amount and the due dates of the payment of interest and repayments of deposits.
- (k) The auditor should examine the documents such as Form NDH-3 filed by the Nidhi Company half yearly containing the terms and conditions of the deposits. This examination would enable the auditor in verifying the amount and due dates of the payments mentioned in the documents. The auditor should then verify whether the repayments as well as payment of interest as per books of account are in accordance with the terms and conditions of the relevant documents.
- (l) A question that arises is whether the scope of the auditor's enquiry would cover defaults made by the Nidhi company during the year under audit only or whether the defaults committed in previous years and continuing until the year under audit would also be covered. It is clarified that the auditor should report the period and amount of all defaults:
- Existing as at the year-end; and
  - Defaults existing during any period and made good during the year.
- (m) The auditor may come across a situation where there may be disputes between the Nidhi company and the depositor on certain issues relating to repayments. In such situations, the auditor should consider the prevailing terms and conditions only. However, he may give a brief nature of the dispute while reporting under this clause.

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- (n) The auditor should report, incorporating the following details as at the balance sheet date:
- (i) In case of shortfall in the ratio of net owned funds to the deposits, report the amount of shortfall and state the actual ratio of net owned funds to the deposits.
  - (ii) In case of shortfall with regard to the minimum amount of 10% as unencumbered term deposits, as specified in Nidhi Rules 2014, report the amount thereof.
  - (iii) In case of default of either payment of interest on deposit or repayment thereof or both, the auditor may report:
    - Nature of default,
    - Amount of default,
    - Period of default,
    - Number of persons to whom there was default in payment,
    - Any other detail.

In case there is no such default, the auditor should report accordingly.

**72. Whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act, where applicable and the details have been disclosed in the financial statements etc., as required by the applicable accounting standards; [Paragraph 3(xiii)]**

### Relevant Provisions

- (a) The duty of the auditor under this clause is to report:
- (i) Whether all transactions with the related parties are in compliance with sections 177 and 188 of the Companies Act, 2013 (“Act”).
  - (ii) Whether related party disclosures as required by relevant Accounting Standards (AS 18, “Related Party Disclosures” or Ind AS 24, “Related Party

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Disclosures", as may be applicable) are disclosed in the financial statements.

- (b) Section 188 of the Act is applicable to all classes of companies (including private companies). The Act envisages the approval of Board of Directors and/or the approval of the shareholders (by way of resolution passed in the general meeting of the company), as the case may be, in accordance with the provisions of section 188. However:
  - (i) Approval of shareholders by way of resolution is not required for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.
  - (ii) Approval of the Board of Directors and shareholders is not required in respect of related party transactions entered into by the company in its ordinary course of business and on an arm's length basis.
- (c) The related party, with reference to a company is defined in section 2(76) of the Act. The transactions which are covered by section 188 of the Act are:
  - (i) Sale, purchase or supply of any goods or materials;
  - (ii) Selling or otherwise disposing of, or buying, property of any kind;
  - (iii) Leasing of property of any kind;
  - (iv) Availing or rendering of any services;
  - (v) Appointment of any agent for purchase or sale of goods, materials, services or property;
  - (vi) Such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and
  - (vii) Underwriting the subscription of any securities or derivatives thereof, of the company.

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- (d) Explanation (b) to section 188(1) of the Act defines 'arm's length transaction' to mean a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

SA 550, "Related Parties" defines arm's length transaction as "a transaction conducted on such terms and conditions as between a willing buyer and a willing seller who are unrelated and are acting independently of each other and pursuing their own best interest." The decision as to whether a transaction is at an arm's length or not would need considering several factors such as benefits/ consideration for each of the parties to enter into the agreement, the prevalent market/industry practice, economic circumstances, the specific contractual understanding and/or terms between the parties, similar contracts executed between other unrelated parties, etc. For the purpose of this clause, the auditor may also test the transaction of arm's length basis based on the transfer pricing mechanism in use for the purposes of the Income Tax Act, 1961.

- (e) The phrase 'ordinary course of business' is not defined under the Act. It seems that the ordinary course of business will cover the usual transactions, customs and practices of a business and of a company. In many cases, it may be obvious that a transaction is in the 'ordinary course of business.' For example, a car manufacturing company sells a car to its group company. The price charged for the sale is the same as what it charges to other corporate customers who are unrelated parties. In this case, one may be able to conclude, without much difficulty, that the transaction has been entered into by the company in its ordinary course of business. Similarly, in certain extreme cases, it may be clear that the transaction is highly unusual and/ or extraordinary from the perspective of the company as well as its line of business. Hence, it may not be construed as being in the ordinary course of business. Paragraph A25 of SA 550 has listed certain examples of transactions outside the entity's normal course of business:

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- (i) Complex equity transactions, such as corporate restructurings or acquisitions;
  - (ii) Transactions with offshore entities in jurisdictions with weak corporate laws;
  - (iii) The leasing of premises or the rendering of management services by the entity to another party if no consideration is exchanged;
  - (iv) Sales transactions with unusually large discounts or returns;
  - (v) Transactions with circular arrangements, for example, sales with a commitment to repurchase; and
  - (vi) Transactions under contracts whose terms are changed before expiry.
- (f) The above examples are just illustrative and are not conclusive for the purposes of analysis under the Act. However, it provides some indicators based on which one may consider following aspects while performing evaluation of 'ordinary course of business':
- (i) Whether the transaction is covered in the objects of the company as envisaged in the Memorandum of Association;
  - (ii) Whether a transaction is usual or unusual, both from the perspective of the company and its line of business;
  - (iii) Frequency: If a transaction is happening quite frequently over a period of time, it is more likely to be treated as an ordinary course of business. However, the inverse does not necessarily hold true;
  - (iv) Whether transaction is taking place at arm's length;
  - (v) Business purpose of the transaction;
  - (vi) Whether transaction is done on similar basis with other third parties; and
  - (vii) Size and volume of transaction.

The assessment of whether a transaction is in the ordinary course of business is likely to be very subjective, judgmental and will vary on case-to-case basis. The factors mentioned above may help in making this assessment.

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### Audit Procedures and Reporting

- (g) The auditor should obtain written representations from management and, where appropriate, those charged with governance that:
  - (i) They have disclosed to the auditor the identity of the entity's related parties and all the related party relationships and transactions of which they are aware; and
  - (ii) They have appropriately accounted for and disclosed such relationships and transactions in accordance with the requirements of the applicable financial reporting framework.
- (h) Circumstances in which it may be appropriate to obtain written representations from those charged with governance include:
  - (i) When they have approved specific related party transactions that:
    - a) materially affect the financial statements; or
    - b) involve management.
  - (ii) When they have made specific oral representations to the auditor on details of certain related party transactions.
  - (iii) When they have financial or other interests in the related parties or the related party transactions.
  - (iv) Management's assertion of responsibility that related party transactions were conducted on terms equivalent to those prevailing in an arm's length transaction.
- (i) The auditor may also decide to obtain written representations regarding specific assertions that management may have made, such as a representation that specific related party transactions do not involve undisclosed side agreements.
- (j) In addition to management representation, the auditor may review the minutes of audit committee meetings as well as Board of Directors meetings. The copies of minutes of such

meetings that are found relevant and important from the perception of the auditor may be preserved as working papers.

- (k) The auditor should obtain a list of companies, firms or other parties, the particulars of which are required to be entered in the register maintained under section 189 of the Act. The auditor should verify the entries made in the register maintained under section 189 of the Act from the declarations made by the directors in Form MBP-1 i.e., general notice received from a director under Rule 9(1) of the Companies (Meetings of Board and its Powers) Rules, 2014. The auditor should also obtain a written representation from the management concerning the completeness of the information so provided to the auditor. The auditor should review the information provided by the management. The auditor should also perform the following procedures in respect of the completeness of this information:
  - (i) Review his working papers for the prior years, if any, for names of known companies, firms or other parties the particulars of which are required to be entered in the register maintained under section 189 of the Act; and
  - (ii) Review the entity's procedures for identification of companies, firms or other parties the particulars of which are required to be entered in the register maintained under section 189 of the Act.
- (l) A difficulty in judging the arm's length of prices may also arise in cases where transactions are entered with sole suppliers. In such cases, the auditor may examine the prices paid with reference to list prices of the supplier concerned, other trade terms of the supplier, etc. It may be noted that the company while determining whether the transactions entered into by it in its ordinary course of business with its related parties are on an arm's length basis must have documentary proof of same while entering into the transaction.

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- (m) Section 177(4)(iv) of the Act requires that audit committee (of every listed companies and other classes of companies which is required to constitute audit committee) to approve transactions of the company with related parties.
- (n) The auditor is required to perform appropriate procedures to satisfy himself regarding compliance with sections 177 and 188 of the Act so that the auditor is able to appropriately report under this clause. The auditor can refer SA 550 which has prescribed auditor's responsibilities regarding related party relationships and transactions when performing an audit of financial statements, including guidance on the procedures to be performed by auditors. The key aspects of SA 550 which would be relevant for reporting on this clause are:
  - (i) Identified significant related party transactions outside the entity's normal course of business, detailed guidance is available in paragraphs A38 to A41 of SA 550.
  - (ii) Assertions that related party transactions were conducted on terms equivalent to those prevailing in an arm's length transaction, detailed guidance is available in paragraphs A42 to A45 of SA 550.
  - (iii) Evaluation of the accounting for and disclosure of identified related party relationships and transactions, detailed guidance is available in paragraphs A46 to A47 of SA 550.
- (o) A smaller entity may not have the same controls provided by different levels of authority and approval that may exist in a larger entity. Accordingly, when auditing a smaller entity, the auditor may rely to a lesser degree on authorization and approval for audit evidence regarding the validity of significant related party transactions outside the entity's normal course of business. Instead, the auditor may consider performing other audit procedures such as inspecting relevant documents, confirming specific aspects of the transactions with relevant parties, or observing the owner-manager's involvement with the transactions.

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- (p) The disclosure requirements as per AS 18 or Ind AS 24 (as may be applicable) need to be checked. There are certain specific additional requirements in respect of Ind AS 24, where the issues like significant influence, close members of key management personnel's (KMP) family who has significant influence/ control over entity also need to be carefully documented.
- (q) Based on the procedures performed by the auditor, if the auditor comes across any non-compliance of requirements of sections 177 and 188 of the Act, then, it should be duly reported. The non-compliance of disclosure requirements as per AS 18 or Ind AS 24 (as may be applicable) may also be reported and the categorisation may be made as:
- Non-compliance of requirements of sections 177 and 188 of the Act.
  - Non-compliance of disclosure requirements as per AS 18 or Ind AS 24 (as may be applicable). The following particulars may be incorporated:

Nature of the related party relationship and the underlying transaction	Amount involved (Rs.)	Remarks (details of non-compliance may be given)
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**73. Whether the company has an internal audit system commensurate with the size and nature of its business; [Paragraph 3(xiv)(a)]**

### Relevant Provisions

- (a) This clause requires the auditor to comment whether the company has an internal audit system commensurate with the size and nature of its business.
- (b) In accordance with section 138 of the Act, which mandates internal audit system, this clause has a mandatory application for the listed companies irrespective of the size

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of paid-up share capital, turnover, borrowings or deposits. It may be noted that the Order does not specify the date with reference to which the listing status of the company should be determined. In this regard, it is clarified that if the company is listed on a recognised stock exchange as on the date of the balance sheet, it should be considered as listed for the purpose of this clause. In respect of unlisted companies, section 138 prescribes the limits for having internal audit system as follows:

- (i) in case of private limited companies if the turnover is greater than rupees two hundred crores during the previous financial year or outstanding loans/borrowings from banks/public financial institutions is greater or equal to one hundred crore rupees at any time during the previous financial year.
- (ii) in case of unlisted public limited companies if the paid up share capital is greater than rupees fifty crores during the previous financial year or the turnover is greater than rupees two hundred crores during previous financial year or outstanding loans/borrowings from banks/public financial institutions is greater or equal to one hundred crore rupees at any time during the previous financial year or outstanding deposits is greater or equal to twenty five crore rupees at any time during the previous financial year.

As per section 138 of the Act read with Rule 13 of the Companies (Accounts) Rules, 2014, internal auditor may be either an individual or a partnership firm or a body corporate. The qualification of internal auditor, shall be chartered accountant or a cost accountant, (whether engaged in practice or not), or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company. Internal auditor may or may not be an employee of the company.

The audit committee of the company or the Board shall, in consultation with the internal auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit.

- (c) Definition of Internal audit function: As per SA 610(Revised), Using the Work of Internal Auditors, the term internal audit function is defined as follows:
- “A function of an entity that performs assurance and consulting activities designed to evaluate and improve the effectiveness of the entity’s governance, risk management and internal control processes”.
- (d) Generally internal audit function includes the following activities with regard to the entity:
- (i) Evaluation of internal controls.
  - (ii) Examination of financial and operational information.
  - (iii) Review of operating activities.
  - (iv) Review of compliance with laws and regulations.
  - (v) Evaluation of risk management and governance practices.
- (e) A company may either have its own internal audit department or entrust the work of internal audit to an external agency, which shall include a firm of chartered accountants, cost accountants or such other professionals as may be decided by the Board of directors of the company. In the case of a group of companies, it is also quite common to have a central internal audit department. The arrangement which is more suitable will depend upon the circumstances of each company but generally, where a company is small, it may find it expensive to have its own internal audit department staffed by personnel having the requisite qualifications.

**Audit Procedures and Reporting**

- (f) The auditor needs to examine whether the internal audit system is commensurate with the size of the company and the nature of its business. In this regard, the auditor should evaluate the following:
- (i) The size of the internal audit department: In considering the adequacy of internal audit system, it is necessary to consider the nature of the business of the company, the number of operating locations, the

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extent to which internal controls are decentralised, the effectiveness of other forms of internal control, etc.

- (ii) Qualifications of the persons who undertake the internal audit work: Internal auditing, as its name implies, is an aspect of audit and, therefore, it is reasonable to expect that the internal audit department should normally be headed by a qualified professional and that, depending upon the size of the internal audit department, it employs other qualified persons. In deciding the adequacy of the internal audit department, it is, therefore, necessary that there is adequate number of qualified personnel. In cases where external agencies are appointed, the auditor would need to evaluate their competency, objectivity and the independence. The auditor may do this by assessing the qualifications, experience and the professional standing.
- (iii) Reporting responsibility of the internal auditor: In general, the higher the level to which the internal auditor reports, the greater would be the independence of the internal auditor. It is expected that the internal auditor would report to those charged with governance. Under Companies Act, 2013, the internal auditor reports to the Board / Audit Committee as per section 138.

In case of listed companies, compliance of provisions of SEBI LODR Regulations with regard to review of internal audit function by audit committee and the presence of head of internal audit in the audit committee meeting shall also be verified.

The auditor should also cross check the entrusted function of audit committee with regard to appointment, removal and terms of remuneration of the chief internal auditor.

Also, requirements of SEBI LODR Regulations as to establishing a direct communication link with the internal auditor by the audit committee and providing him necessary independence and reviewing the effectiveness of the internal controls by the audit committee shall also be verified by the auditor.

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- (iv) The audit committee of the company or the Board shall, in consultation with the internal auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit. It is also a good practice that statutory auditors are also involved by the internal auditor/ those charged with governance in determining the scope of work and periodicity of reporting.
- (v) Technical assistance to the internal auditor: In number of companies, where the operations are highly technical in nature, an internal auditor cannot function effectively unless he has adequate technical assistance. This can be provided either by having full-time technically qualified persons in the internal audit department or by such persons being deputed to the internal audit department for specific assignments. Similar considerations would apply where a large part of the transactions are computerised. In such cases, the internal auditor should have the assistance of persons who are able to audit computer systems.
- (vi) It is important that the auditor should satisfy himself that the internal audit system exists and also that it is functioning effectively. The auditor can do so by examining the reports submitted by the internal auditor.
- (vii) It is not sufficient that the internal audit system should merely point out errors in operation or deficiencies in the internal control system. It is equally necessary that there is an adequate follow-up system to ensure that the deficiencies pointed out are corrected and remedial action taken on the deficiencies reported upon.
- (viii) The auditor should examine the minutes of the meetings of the Board of Directors and audit committee, if any. These minutes would provide the auditor useful evidence regarding the efficiency and efficacy of the internal audit system.
- (ix) Internal audit is one of the key elements of organizational governance and provides independent assurance to the Board / Audit Committee on the

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functioning of the financial and operational controls put in place and operated by the management. It is equally important to note that the internal audit system is a part of the overall internal control system. Therefore, the scope of the internal audit and the extent of its coverage will, to some extent, depend upon the existence or otherwise of other forms of internal control. This is also a factor to be considered when evaluating the adequacy of the internal audit system.

- (x) In respect of companies which are excluded from the ambit of internal audit under section 138 of the Act, (with regard to mandatory applicability of internal audit system), the auditor would still be well-advised to make inquiries regarding the existence of internal audit system and to report the fact under this clause.
  - (xi) The auditor should include in the audit documentation as to how assessment of internal audit system was made and conclusions reached thereon.
  - (xii) If the auditor determines that the internal audit system is not commensurate with the size and nature of business of a company that is required to have internal audit, then the auditor should communicate with the Audit Committee/Board and seek their inputs as part of “Communication to Those Charged with Governance” as required under Standards on Auditing and shall accordingly report the fact under this clause.
- (g) The following are examples of reporting under this clause:

*Situation A – Company has an adequate Internal Audit System:*

“In our opinion and based on our examination, the company has an internal audit system commensurate with the size and nature of its business.”

*Situation B – Company does not have Internal Audit System though mandated under section 138 of the Act:*

“In our opinion and based on our examination, though the company is required to have an internal audit system under

section 138 of the Act, it does not have the same established for the year.”

*Situation C – Company does not have Internal Audit System also, not mandated under section 138 of the Act:*

“In our opinion and based on our examination, the company does not have an internal audit system and is not required to have an internal audit system as per provisions of the Companies Act 2013.”

**74. Whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor; [Paragraph 3(xiv)(b)]**

**Relevant Provisions**

- (a) This clause requires the auditor to comment whether the reports of the internal auditors for the period under audit were considered by the statutory auditor. Normally, the statutory auditor reporting under the Order, as part of his regular audit procedures shall review the internal audit reports to evaluate the system of internal controls operated in the company.
- (b) It is pertinent to note that where the auditor considers the work done by the internal auditor for his audit purposes, compliance with SA 610(Revised), “Using the Work of Internal Auditors”, is mandatory for the statutory auditor.
- (c) As a part of his audit procedures, the auditor is required to consider the reports of the internal auditor before conclusion of audit and finalization of his audit report.

**Audit Procedures and Reporting**

- (d) The statutory auditor should discuss and agree with the management that the internal audit is completed as per the plan and the periodic reports of the internal auditors are made available sufficiently in advance for statutory auditor to review and assess the impact of the internal audit observations.

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- (e) The statutory auditor may have meeting with the internal auditor to discuss the findings and observations of the internal auditor in order to independently evaluate the impact of the observations on the financial statements.
- (f) The statutory auditor as a part of his audit procedures should ensure that all internal audit observations having a financial impact are considered by the management and also control deficiencies pointed out by the internal auditors are rectified.
- (g) The statutory auditor should also assess the impact of the control deficiencies, if any pointed by the internal auditors, while framing his report on the internal financial controls over financial reporting (IFCoFR) under clause (i) of sub-section 3 of section 143 of the Companies Act, 2013 (“the Act”).
- (h) As guided by SA 610(Revised), the statutory auditor may also consider whether to reassess the nature, timing and extent of his audit procedures based on the observations of the internal audit, to enable him to obtain sufficient appropriate audit evidence in forming his opinion.
- (i) The statutory auditor should also maintain as a part of his working papers, the evidence of evaluating the reports of the internal auditors and the conclusion reached thereon.
- (j) The statutory auditor should consider all the internal audit reports covering period upto the end of the financial year under audit prior to finalising his audit report (including his report on IFCoFR). Towards this, the statutory auditor should set this expectation both in his engagement letter which is signed off with the company as well as during the interactions with senior management / those charged with governance.
- (k) The statutory auditor is vested with the right to receive the full-fledged internal audit reports (including draft audit reports) together with annexures and not merely the

executive summary/power point presentations. The statutory auditor should prepare a list of gaps in control design which impact the operational effectiveness of controls and classify each such gap as one of normal control deficiency, significant deviation or material weakness. The auditor should also consider the pervasiveness of the same as per “Guidance Note on Audit of Internal Financial Controls over Financial Reporting” as well consider if the effects/possible effects of the material weakness in such internal controls are material.

- (l) The statutory auditor should consider the internal audit reports shared by the company till the date of completing the audit. Where some or all internal audit reports are not available, or provided at very short notice or do not adequately address the plan and scope required, the statutory auditor should consider appropriate reporting in this clause as well as consider its effect on the overall control environment with regard to reporting on internal financial controls over financial reporting (IFCoFR).
- (m) The following are examples of reporting under this clause:

*Situation A – Internal Audit Reports Considered*

We have considered the internal audit reports of the company issued till date, for the period under audit.

*Situation B – Internal Audit System does not exist for the Company*

The company did not have an internal audit system for the period under audit.

*Situation C – Internal Audit Reports entirely unavailable or provided at short notice or only partly (either by date of issue or scope) available - hence not considered*

We were unable to obtain [any/ some/ on timely basis] of the internal audit reports of the company, hence the internal audit reports have not been [entirely] considered by us.

[The statutory auditor may also determine whether this is a material internal control weakness under IFCoFR]

**75. Whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with; [Paragraph 3(xv)]**

**Relevant Provisions**

- (a) Section 192 of the Act on “Restriction on non-cash transactions involving directors” provides as under:
- “(1) No company shall enter into an arrangement by which—
- a) a director of the company or its holding, subsidiary or associate company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or
  - b) the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected, unless prior approval for such arrangement is accorded by a resolution of the company in general meeting and if the director or connected person is a director of its holding company, approval under this sub-section shall also be required to be obtained by passing a resolution in general meeting of the holding company.
- (2) The notice for approval of the resolution by the company or holding company in general meeting under sub-section (1) shall include the particulars of the arrangement along with the value of the assets involved in such arrangement duly calculated by a registered valuer.
- (3) Any arrangement entered into by a company or its holding company in contravention of the provisions of this section shall be voidable at the instance of the company unless—
- a) the restitution of any money or other consideration which is the subject matter of the

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arrangement is no longer possible and the company has been indemnified by any other person for any loss or damage caused to it; or

- b) any rights are acquired bona fide for value and without notice of the contravention of the provisions of this section by any other person.”
- (b) Section 192 of the Act deals with restriction on non-cash transactions involving directors or persons connected with them. The section prohibits the company from entering into following types of arrangements unless it meets the conditions laid out in the said section:
- (i) An arrangement by which a director of the company or its holding, subsidiary or associate company or a person connected with such director acquires or is to acquire assets for consideration other than cash, from the company.
  - (ii) An arrangement by which the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected.
- (c) Arrangements, as discussed herein above, can only be entered by the company on fulfillment of the conditions laid out in section 192 of the Act which are as under:
- (i) The company should have obtained prior approval for such arrangement through a resolution of the company in general meeting.
  - (ii) In case the concerned director or the person connected therewith, is also a director of its holding company, a similar approval should have been obtained by the holding company through a resolution at its general meeting.
- (d) The reporting requirements under this clause are in two parts. The first part requires the auditor to report on whether the company has entered into any non-cash transactions with the directors or any persons connected with such director/s. The second part of this clause requires the auditor to report whether the provisions of section 192 of the Act have been complied with. Therefore, the second part of

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this clause becomes reportable only if the answer to the first part is in affirmative.

- (e) In other words, such transactions involving change in the assets or liabilities of a company but not involving “cash” or cash equivalents” as defined under AS 3, “Cash Flow Statement” or as defined under Ind AS 7, “Cash Flow Statement (as may be applicable), may be construed as non-cash transactions. At this point, it may be appropriate to also refer to the definition and discussion on “non-cash transactions” & “cash and cash equivalents”, as given in AS 3 or Ind AS 7 as may be applicable.
- (f) There may be a situation where the acquisition of the asset takes place in one year and the corresponding liability is created in the financial statements, however, the corresponding settlement is made in the following year. The said transaction will not be considered as non-cash transaction. Further, mergers under Court schemes would be entered into subject to requisite approvals of Court etc. and would not be considered non-cash transactions.
- (g) The term “person connected with the director” has not been defined in the Act, or the Rules thereunder. Instead, the term “any person in whom any of the director of the company is interested” is defined in the Explanation to sub-section (2) of section 185 of the Act, which is reproduced as under and may be used as the reference point for reporting under this clause.
  - a) any private company of which any such director is a director or member;
  - b) any body corporate at a general meeting of which not less than twenty-five per cent of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or
  - c) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.

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- (h) Section 2(77) of the Act read with Rule 4 of the Companies (Specification of Definition Details) Rules, 2014 defines the term “relative”. As per the aforesaid section 2(77),
- “Relative, with reference to any person, means anyone who is related to another, if –
- (i) they are members of a Hindu Undivided Family;
  - (ii) they are husband and wife; or
  - (iii) one person is related to the other in such manner as may be prescribed”.

As per Rule 4 of the Companies (Specification of Definition Details) Rules, 2014, a person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely –

- (i) Father, including step father
  - (ii) Mother, including step mother
  - (iii) Son, including step son
  - (iv) Son’s wife
  - (v) Daughter
  - (vi) Daughter’s husband
  - (vii) Brother, including step brother
  - (viii) Sister, including step sister
- (i) The term “acquire” simply means to come into possession of something. A thing that cannot be sold cannot be acquired<sup>5</sup>. Thus, an acquisition would necessarily involve existence of two parties and a transfer of rights and/or obligations in a thing. In the context of section 192 of the Act, this transfer is between the company and the director and/or a person connected with a director. Such “director” is not restricted to being a director of the concerned company, but extends to director of a holding company, subsidiary or associate of the company under question.

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<sup>5</sup> Acquire. (n.d.) *A Law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier*(1856). Retrieved March 26, 2016 from <http://legal-dictionary.thefreedictionary.com/acquire>.

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- (j) As provided in section 192 of the Act, the acquisition by/from the company has to be that of an “asset”. Further, the term asset should be construed to have the same meaning as described in the Framework for Preparation and Presentation of Financial Statements, issued by the Institute of Chartered Accountants of India. The auditor would need to evaluate whether the subject matter of acquisition by/from the company satisfies the characteristic of an “asset”.

### Audit Procedures and Reporting

- (k) For reporting on the first part of this clause, the starting point of the auditor’s procedures could be obtaining a management representation as to whether the company has undertaken any non-cash transactions with the directors or persons connected with the directors, as envisaged in section 192(1) of the Act. The auditor would need to corroborate the management representation with sufficient appropriate audit evidence. A scrutiny of the following books of account, records and documents could provide source of such audit evidence to the auditor as to the existence of such non-cash transactions as well as persons connected with the directors:

<b>Persons connected with Director</b>	<b>Acquisition by/ From Company</b>
Form No. MBP 1, <i>Notice of Interest by Director</i> , filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014  [Ref: Section 184(1) and Rule 9(1)]	Form No. MBP 2, <i>Register of Loans, Guarantee, Security and Acquisition Made by the company</i> , filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014  [Ref: Section 186(9) and Rule 12(1)]
	Form No. MBP 4, <i>Register of Contracts with Related Party and Contracts and Bodies etc in which Directors are Interested</i> , filed pursuant to the Companies (Meetings of

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	Board and Its Powers) Rules, 2014 [Ref: Section 189(1) and Rule 16(1)]
	Movements in the Property, Plant and Equipment Register
	Minutes book of the General Meeting and Meetings of Board of Directors
	Reports available in the public domain, which are to be substantiated from the company.
	Report on Annual General Meeting pursuant to Companies (Management and Administration) Rules, 2014 in Form No. MGT 15 [Ref: Section 121(1) and Rule 31(2)]

- (l) The above documents and records would provide evidence of any such non-cash transactions that have actually taken place. The language of section 192(1) of the Act also uses the term “is to acquire” in the context of such transactions, indicating the existence of intention to acquire. The management may be requested to provide details of its intention to enter into transactions covered under section 192 of the Act, after the date of the financial statements under audit. The minutes of the meetings of the Board of Directors and the Audit Committee may provide evidence of such intention. Besides, a scrutiny of the information for subsequent period as contained in the aforesaid records and documents may provide corroborative audit evidence of such intention having existed as at the date of the auditor’s report.
- (m) Where the company has entered into/is to enter into any non-cash transactions as discussed above, the auditor

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would make a report to that effect under this clause. The second part of this clause requires the auditor to report whether the company has complied with the provisions of section 192 in this regard. Section 192(1) and (2) of the Act envisage the following compliances in respect of such transactions:

- (i) The company should have obtained a prior approval for such arrangement by a resolution in the general meeting.
- (ii) If the concerned Director or connected person is a director of the company's holding company, the latter too should have obtained a similar prior approval for the arrangement by a resolution at its general meeting.
- (iii) Notice for approval of the resolution should contain details of the arrangement along with the value of assets involved duly calculated by a registered valuer, as per valuation rules specified under Companies (Registered Valuers and Valuation) Rules, 2017.

The auditor should check compliance with section 192(2) of the Act and verify the notice of the general meeting that it includes particulars of arrangement along with the value of the assets involved in such arrangements. The said value should be calculated by the register valuer in compliance of Companies (Registered Valuers and Valuation) Rules, 2017.

- (n) In case where the concerned director/connected person is also a director of the holding company, the auditor would need to check whether the holding company has complied with the requirements. For this purpose, the auditor would need to obtain a management representation letter from the holding company through the management of the auditee company.
- (o) Suggested paragraph on reporting:
  - a) *In case there are non-cash transactions entered into:*

According to the information and explanations given to us, the company has entered into non-cash transactions with one of the directors/ person connected with the director

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during the year, by the acquisition of assets and/or by assuming directly related liabilities, which in our opinion is covered under the provisions of section 192 of the Act, and for which approval has not yet been obtained in a general meeting of the company.

In case the said non-cash transactions are entered into by the company after obtaining prior approval of shareholders in the general meeting, then, such factual position giving details of approval must be disclosed.

*b) In case there are no non-cash transactions entered into:*

According to the information and explanations given to us, in our opinion during the year the company has not entered into any non-cash transactions with its directors or persons connected with its directors and hence provisions of section 192 of the Companies Act, 2013 are not applicable to the company.

**76. Whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained; [Paragraph 3(xvi)(a)]**

### Relevant Provisions

- (a) Under this clause, the auditor is required to examine whether the company is engaged in the business which attract the requirements of the registration under section 45-IA of the Reserve Bank of India Act, 1934. The registration is required where the company is engaged in the business of a non-banking financial institution (as defined in section 45-I(a) of the Reserve Bank of India Act, 1934) as its principal business.
- (b) The Reserve Bank of India restricts companies from carrying on the business of a non-banking financial institution without obtaining the certificate of registration. Reference may be made to Section 45-IA of Reserve Bank of India Act, 1934.

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- (c) A non-banking financial company (NBFC) is a company registered under the Act, engaged in the business of loans and advances, acquisition of shares/stocks/bonds/debentures/ securities issued by Government or local authority or other marketable securities of a like nature, leasing, hire-purchase, insurance business, chit business but does not include any institution whose principal business is that of agriculture activity, industrial activity, purchase or sale of any goods (other than securities) or providing any services and sale/purchase/construction of immovable property.

A non-banking institution which is a company and has principal business of receiving deposits under any scheme or arrangement in one lump sum or in installments by way of contributions or in any other manner, is also a non-banking financial company (Residuary non-banking company).

- (d) What does conducting financial activity as “principal business” mean? The definition of “principal business” provided by the RBI vide press release 1998-99/1269 dated April 8, 1999, which is further clarified in a response to an FAQ as given by Reserve Bank of India, is required to be considered while examining the requirement of registration: -

“Financial activity as principal business is when a company’s financial assets constitute more than 50 per cent of the total assets and income from financial assets constitute more than 50 per cent of the gross income. A company which fulfils both these criteria will be registered as NBFC by RBI. The Reserve Bank has defined it so as to ensure that only companies predominantly engaged in financial activity get registered with it and are regulated and supervised by it. Hence if there are companies engaged in agricultural operations, industrial activity, purchase and sale of goods, providing services or purchase, sale or construction of immovable property as their principal business and are doing some financial business in a small way, they will not be regulated by the Reserve Bank. Interestingly, this test is popularly known as 50-50 test and is applied to determine whether or not a company is into financial business.

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(As per FAQ response of question - What does conducting financial activity as “principal business” mean?

<https://www.rbi.org.in/Scripts/FAQView.aspx?Id=92>)”

- (e) NBFCs are doing functions similar to banks, however there exist differences between banks & NBFCs. NBFCs lend and make investments and hence their activities are akin to that of banks; however, there are a few differences as given below:
- (i) NBFCs cannot accept demand deposits;
  - (ii) NBFCs do not form part of the payment and settlement system and cannot issue cheques drawn on itself;
  - (iii) Deposit insurance facility of Deposit Insurance and Credit Guarantee Corporation is not available to depositors of NBFCs, unlike in case of banks.

(As per FAQ response of question NBFCs are doing functions similar to banks. What is difference between banks & NBFCs?

<https://www.rbi.org.in/Scripts/FAQView.aspx?Id=92>)

- (f) Section 45–I, Clause (c) of Reserve Bank of India Act, 1934 defines “financial Institution”. Any Non-banking Institution which carries on as its business or part of its business any of the specified activities, shall be considered as Financial Institution. Reference may be made to Section 45I(c) of Reserve Bank of India Act, 1934.
- (g) Further, reference may be made to Section 45-I, Clause (f) of the Reserve Bank of India Act, 1934 which defines “Non-Banking Financial Company”.
- (h) The Reserve Bank of India defines “net owned fund” under section 45-IA of the Reserve Bank of India Act, 1934 as (a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the company after deducting there from (i) accumulated balance of loss; (ii) deferred revenue expenditure; and (iii) other intangible assets; and (b) further reduced by the amounts representing– (1) investments of such company in shares

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of– (i) its subsidiaries; (ii) companies in the same group; (iii) all other non-banking financial companies; and (2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,— (i) subsidiaries of such company; and (ii) companies in the same group, to the extent such amount exceeds ten per cent of (a) above. (“Subsidiaries” shall have the same meaning assigned to it in the Companies Act, 2013.) “Companies in the group” has been defined in the Master Direction - Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 and Master Direction - Non-Banking Financial Company – Non-Systemically Important Non-Deposit taking Company (Reserve Bank) Directions, 2016.

### **Audit Procedures and Reporting**

- (i) The auditor should examine the transactions of the company with relation to the activities covered under the Reserve Bank of India Act 1934 and directions related to the Non-Banking Financial Companies.
- (j) The financial statements should be examined to ascertain whether the company’s financial assets constitute more than 50 per cent of the total assets and income from financial assets constitute more than 50 per cent of the gross income. The terms financial assets and income from financial assets have not been defined by RBI. However, the auditor should examine this with reference to the business of a non-banking financial institution, as defined in section 45-I(a) of the Reserve Bank of India Act, 1934. Also, the auditor should take into consideration any specific exclusions prescribed by the RBI (for instance: fixed deposits and income from fixed deposits are required to be excluded for computation of the asset/ income pattern).
- (k) Whether the company has net owned funds as required for the registration as NBFC.

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- (l) Whether the company has obtained the registration as NBFC, if not, the reasons should be sought from the management and documented.
- (m) The auditor should also check whether the thresholds mentioned above achieved by the company are temporary in nature or permanent. If there is breach in the limits due to certain specific transactions / event, the company should have appropriate communication with the regulator and the fact should be disclosed in the financial statements and the auditor should consider the facts in reporting under this clause.
- (n) The auditor should report incorporating the following details: -
  - (i) Whether the registration is required under section 45-IA of the RBI Act, 1934.
  - (ii) If so, whether the company has obtained the registration.
  - (iii) If the registration is not obtained, reasons thereof.

**77. Whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934; [Paragraph 3(xvi)(b)]**

### Relevant Provisions

- (a) This clause is an extension of the clause 3(xvi)(a) and requires reporting on whether the company is carrying on Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration from the Reserve Bank of India.
- (b) The Reserve Bank of India prohibits companies from carrying on the business of a non-banking financial institution without obtaining the certificate of registration.
- (c) For the meaning of the term “Non-Banking Financial Company”, refer the discussion made under clause 3(xvi)(a) above.

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- (d) Housing Finance Activities are carried on by Housing Finance Institutions. The term “Housing Finance Institution” is not defined in RBI Act 1934. Reference can be made to National Housing Bank Act, 1987, which defines such institutions as follows:

"housing finance institution" includes every institution, whether incorporated or not, which primarily transacts or has as one of its principal objects, the transacting of the business of providing finance for housing, whether directly or indirectly;

Further, housing finance companies are defined under the Housing Finance Companies (National Housing Bank) Directions, 2010 as follows:

“housing finance company” means a company incorporated under the Companies Act, 1956 (1 of 1956) which primarily transacts or has as one of its principal objects, the transacting of the business of providing finance for housing, whether directly or indirectly.

- (e) The registering authority for Housing Finance companies has been National Housing Bank. However, based on the amendments made to the Housing Finance Bank Act, 1987 through the Finance (No.2) Act, 2019 such registration in future is to be done by RBI. Press release to this effect, by RBI numbering 2019-2020/419 dated 13.08.2019 can be accessed from the link:  
[https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=47871](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=47871). Reference may be made to aforesaid press release.

### **Audit Procedures and Reporting**

- (f) The auditor shall obtain sufficient knowledge of the company's business and nature of its revenues and assets to ascertain whether the company is conducting any non-banking financial or housing finance activities.
- (g) The auditor shall ascertain whether a certificate of registration is obtained as per clause 3(xvi)(a). Similar audit procedures as provided under the said clause shall be adopted by the auditor for reporting under this clause.

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- (h) The auditor shall obtain written representation from the management and examine, whether the certificate of registration has been withdrawn/revoked/suspended/surrendered during the period under review and whether business is continued to be carried after such withdrawal/revocation/suspension/surrender.
- (i) In the event the company has conducted such activities without holding a valid certificate of registration, the auditor shall report the same under this clause along with reasons, if any, for not obtaining registration.

**78. Whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria; [Paragraph 3(xvi)(c)]**

### Relevant Provisions

- (a) Under this clause, the auditor is required to examine whether the company is engaged in the business which attracts the requirement of registration as Core Investment Company.
- (b) As per RBI Master Direction – Core Investment Companies (Reserve Bank) Directions, 2016, (Reference may be made to aforesaid Master Direction), these directions shall apply to every Core Investment Company (CIC), that is to say, a non-banking financial company carrying on the business of acquisition of shares and securities and which satisfies the following conditions as on the date of the last audited balance sheet:-
  - (i) it holds not less than 90% of its net assets in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in group companies;
  - (ii) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies and units of

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Infrastructure Investment Trust only as sponsor constitute not less than 60% of its net assets as mentioned in clause (i) above;

Provided; that the exposure of such CICs towards InvITs shall be limited to their holdings as sponsors and shall not, at any point in time, exceed the minimum holding of units and tenor prescribed in this regard by SEBI (Infrastructure Investment Trusts) Regulations, 2014, as amended from time to time.

- (iii) it does not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;
- (iv) it does not carry on any other financial activity referred to in Section 45l(c) and 45l(f) of the Reserve Bank of India Act, 1934 except
  - a. investment in
    - i) bank deposits,
    - ii) money market instruments, including money market mutual funds and liquid mutual funds
    - iii) government securities, and
    - iv) bonds or debentures issued by group companies,
  - b. granting of loans to group companies and
  - c. issuing guarantees on behalf of group companies.
- (c) Core Investment companies having total assets of not less than Rs.100 Crores either individually or in aggregate along with other CICs in the Group and which raises or holds public funds are categorized as Systematically Important Core Investment Company (CIC-ND-SI).
- (d) All CIC-ND-SI are required to apply to RBI for grant of certificate of registration. Every CIC shall apply to the RBI for grant of certificate of registration within a period of three months from the date of becoming a CIC-ND-SI.

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- (e) Companies which fall under the definition of Core Investment Company but do not have asset size of more than Rs.100 Crores and Core Investment Companies that do not have access to public funds are exempted from registration requirement with RBI. However, these CICs exempted from registration with the RBI shall pass a Board Resolution that it will not, in the future, access public funds.
- (f) All CICs investing in Joint Venture/Subsidiary/ Representative Offices overseas in the financial sector shall require prior approval from the RBI. CICs desirous of making overseas investment in financial sector shall hold a certificate of registration (CoR) from the Bank and shall comply with all the regulations applicable to CIC-ND-SI. CICs that are presently exempted from the regulatory framework of the RBI (exempted CICs), shall be required to be registered with the Bank and shall be regulated like CICs-ND-SI, where they intend to make overseas investment in financial sector.
- (g) Further CICs may be required to issue guarantees or take on other contingent liabilities on behalf of their group entities. Before doing so, all CICs must ensure that they can meet the obligations thereunder, as and when they arise. In particular CICs which are exempt from registration requirement must be in a position to do so without recourse to public funds in the event the liability devolves, else they shall approach the RBI for registration before accessing public funds. If unregistered CICs with asset size above Rs. 100 crore access public funds without obtaining a Certificate of Registration (CoR) from RBI, they shall be seen as violating Core Investment Companies (Reserve Bank) Directions, 2016.
- (h) “Companies in the Group” is defined in the Core Investment Companies (Reserve Bank) Directions 2016 as follows:  
  
“Companies in the Group” means an arrangement involving two or more entities related to each other through any of the following relationships, viz. Subsidiary – parent (defined in terms of AS 21), Joint venture (defined in terms of AS 27), Associate (defined in terms of AS 23), Promoter- promotee

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[as provided in the SEBI (Acquisition of Shares and Takeover) Regulations, 1997] for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above).

### **Audit Procedures and Reporting**

- (i) The auditor should examine whether the activities carried on by the company satisfies the conditions of a Core Investment Company as per the Core Investment Companies (Reserve Bank) Directions, 2016.
- (j) The auditor shall examine the last audited balance sheet of the company to ascertain whether the company holds not less than 90% of its net assets in form of investment in equity shares, preference shares, bonds, debentures, debt or loan in group companies.
- (k) In respect of CIC-ND-SI i.e. core investment companies having total assets of not less than Rs.100 Crores either individually or in aggregate along with other CICs in the Group and which raise or hold public funds, the auditor should verify whether the company has obtained registration as a Core Investment Company or has made an application for registration with Reserve Bank of India.
- (l) In case of exempted CIC which are not required to be registered, viz, unregistered CIC, the auditor shall ascertain whether the company continues to fulfill the exemption criteria of not accessing public funds or issue of guarantees or take on other contingent liabilities on behalf of their group entities.
- (m) In case of all CICs (including CICs that are presently exempted from the regulatory framework of the Bank (exempted CICs)) making overseas investment in financial sector, the auditor shall verify whether they hold a certificate of registration (CoR) from RBI as per paragraph 32 of Core Investment Companies (Reserve Bank) Directions 2016.
- (n) The auditor shall ascertain, whether the CIC which is not exempt from registration as CIC and consequently required to get registered as per Core Investment Companies (Reserve Bank) Directions 2016, but is not registered.

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- (o) In case of the companies being categorized as Core Investment Companies, the auditor shall examine whether all the directions provided in the Core Investment Companies (Reserve Bank) Directions 2016 as updated from time to time are complied with along with periodical filings with RBI.
- (p) The auditor should report under this clause incorporating the following details:
- i. Whether the company is a Core Investment Company as defined in the regulations made by Reserve Bank of India.  
  
[If the answer to point (i) above is affirmative, report on two of the following four points – [(i.e. either point (ii) and (iii) or point (iv) and (v)]]
  - ii. If so, whether it has obtained registration with RBI, if not reasons thereof.
  - iii. If registered, whether it continues to fulfil the criteria of a CIC; if not reasons thereof.
- OR
- iv. If the company is exempted from registration whether the company continues to meet the criteria for non-registration; if not reasons thereof.
  - v. If the company is required to be registered and it is not registered or has not applied for registration the fact shall be reported along with the reasons for non-registration.

<p><b>79. Whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group; [Paragraph 3(xvi)(d)]</b></p>
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### Relevant Provisions

- (a) This clause requires the auditor to report whether there is more than one CIC as part of the Group and if there are more than one CIC in the Group the number of CICs shall be indicated in the report.

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- (b) “Companies in the Group” is defined in the Core Investment Companies (Reserve Bank) Directions as follows:

“Companies in the Group” means an arrangement involving two or more entities related to each other through any of the following relationships, viz. Subsidiary – parent (defined in terms of AS 21), Joint venture (defined in terms of AS 27), Associate (defined in terms of AS 23), Promoter-promotee [as provided in the SEBI (Acquisition of Shares and Takeover) Regulations, 1997] for listed companies, a related party (defined in terms of AS 18) Common brand name, and investment in equity shares of 20% and above).

### Audit Procedures and Reporting

- (c) The auditor should obtain the list of Companies in the group as defined in Core Investment Companies (Reserve Bank) Directions 2016.
- (d) The auditor shall obtain a written representation from management about the CICs in the group (including CICs exempt from registration and CICs not registered) and completeness thereof. To the extent possible, the auditor shall corroborate this with the list of registered CICs in the RBI Website. Link for accessing such details from RBI website is:  
<https://rbidocs.rbi.org.in/rdocs/content/docs/FACNBFC220914.xlsx>
- (e) If the group has no CIC or not more than one CIC, the auditor shall report this fact.

If the group has more than one CIC (including CICs exempt from registration and CICs not registered), the auditor shall report the number of CICs in the Group.

### **Note: Reporting under Clause 3(xvi) – (Applies to Paragraphs 76, 77, 78 and 79 of this Guidance Note)**

If any of the non-compliance is reported in clause 3(xvi) of CARO 2020 regarding NBFC / NHB / Core Investment Company Regulations, the auditor should also consider whether such non-compliance should be reported by way of an Exception Report to Reserve Bank of India in terms of Non-Banking Financial Companies Auditor’s Report (Reserve Bank) Directions, 2016.

**80. Whether the Company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses; [Paragraph 3(xvii)]**

**Relevant Provisions**

- (a) This clause is applicable to all companies. This clause requires the auditor to report:
- Whether the company has incurred cash losses during the period covered by the audit report and in the immediately preceding financial year.
  - If so, the auditor is required to report amount of cash losses for the period covered under audit and immediately preceding financial year.

**Audit Procedures and Reporting**

- (b) It is important to note that the term “cash losses” is not defined in the Act and the accounting standards/Indian accounting standards. The figure of cash losses is not readily available from the financial statements of the company. Accordingly, for the purpose of reporting under this clause, the auditor would need to determine the figure of cash losses for the period covered by the audit report and for the financial year immediately preceding the period covered by the audit report. The term ‘cash losses’ needs to be distinguished from ‘distributable surplus’ and ‘realised profits/losses’. Further, while this term may have a different meaning for other regulatory purposes, the following approach can be considered as far as reporting under this clause is concerned.
- (i) In case of a company preparing its financial statements in accordance with accounting standards (AS), the figure of net profit/loss after taxes (PLAT) shown by the statement of profit and loss is adjusted for the effects of transactions of non-cash nature such as depreciation provided as per provisions of AS 10, Property, Plant & Equipment, amortization as per AS

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26, Intangible Assets and impairment loss or its reversal as per AS 28, Impairment of Assets etc.

- (ii) In case of a company preparing its financial statements in accordance with Indian accounting standards (Ind AS), the figure of profit or loss (excluding other comprehensive income) shown by the statement of profit and loss (hereinafter referred to as “net profit/loss after tax”) is adjusted for the effects of transactions of non-cash nature such as depreciation provided as per provisions of Ind AS 16, Property, Plant and Equipment, Ind AS 116, Leases, amortisation as per Ind AS 38, Intangible Assets and impairment loss or its reversal as per Ind AS 36, Impairment of Assets etc.
- (c) Further, cash profits/ cash losses realized and recognized in other comprehensive income before their reclassification to statement of profit and loss, should be considered in determination of cash losses but its subsequent reclassifications into statement of profit and loss, being a non-cash adjustment, should not be considered. Some of the examples of such items are cash flow hedging transactions for forecasted transactions and hedging transactions for investment in foreign subsidiaries etc.
- (d) In case of restatement of financial statements for the previous financial year as per Ind AS 8, Accounting Policies, Changes in Accounting Estimates and Errors, net profit/loss after tax determined after such restatement should be considered.
- (e) Given the objective of this clause, net profit/loss after tax would require adjustment for non-cash items such as deferred tax income/expense, foreign exchange gain/loss, fair value changes for determination of cash losses etc.
- (f) The above mentioned amount of net profit/loss after tax should however not be adjusted for items of expenses of contingent nature such as claims not acknowledged as due by the company, demand for tax liability for which provision has been made in the financial year but which has been appealed against by the company etc.

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- (g) It may be noted that the cash flow statement also presents cash flows from operating activities. However, it may not be appropriate to consider such cash flows for the specific and limited purpose of this clause considering that items such as interest income/expense are also relevant for determination of cash losses.
- (h) The figure of cash losses of the company for the financial year covered by the audit report and the immediately preceding financial year should also be adjusted for the effect of qualifications in the respective audit reports to the extent the qualifications are quantified.

The auditor while reporting on this clause should indicate that his opinion has been arrived at after considering the effect of the qualifications on the figure of cash losses. Where any of the qualifications in the audit report is not capable of being quantified, the auditor should state that the effect of such unquantified qualification(s) has not been taken into consideration for the purpose of making comments in respect of this clause.

- (i) Further, a situation may be there where the company has suffered cash losses in only one of the years referred to in this clause. In such a situation, the auditor is well advised to comment on the two years separately. Thus, for example, it would be proper to report that the company has incurred cash losses only during the immediately preceding financial year but has not incurred any cash losses during the current financial year.

**81. Whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors; [Paragraph 3(xviii)]**

### Relevant Provisions

- (a) This is a new reporting requirement in the Order wherein the auditor is required to report if there has been any resignation of the statutory auditors during the year. This clause also requires the auditor to consider the issues, objections or

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concerns raised by the outgoing auditors in case of resignation.

- (b) This clause is applicable where new auditor ('incoming auditor') is appointed during the year to fill a casual vacancy caused by resignation of the auditor created in the office of the previous auditor under section 140(2) of the Act. Auditor's resignation can occur for various reasons.
- (c) When an incoming auditor is appointed by an entity, the incoming auditor, prior to accepting the position as auditor, in accordance with the requirements of ICAI Code of Ethics<sup>6</sup>, is required to communicate with the previous auditor to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant.
- (d) Section 140(2) of the Act read with Rule 8 of the Companies (Audit and Auditors) Rules 2014 requires the auditor who has resigned from the company to file within a period of thirty days from the date of resignation, a statement in Form ADT 3 - Notice of Resignation by the Auditor, with the Registrar of Companies (ROC) indicating the reasons and other facts as may be relevant with regard to his resignation.
- (e) As mentioned in the "Implementation Guide on Resignation/ Withdrawal from an Engagement to Perform Audit of Financial Statements" (the "Implementation Guide"), the auditor is expected to describe the circumstances while giving the reasons for resignation suitably, instead of mentioning ambiguous reasons such as other pre-occupation or personal reasons or administrative reasons or health reasons or mutual consent or unavoidable reasons. Paragraph 19 of the said Implementation Guide also advises the auditor to include the following in the letter of resignation, as applicable: (a) If the withdrawal or resignation results from an inability to obtain sufficient

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<sup>6</sup> Refer to Clause 8 of Part I of the First Schedule to the Chartered Accountants Act, 1949, "Professional Misconduct in relation to Chartered Accountants in Practice".

appropriate audit evidence, the reasons for that inability; (b) The possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive; (c) If the matter is related to a material misstatement of the financial statements that relates to specific amounts in the financial statements (including quantitative disclosures), the auditor should include a description and quantification of the financial effects of the misstatement, unless impracticable; (d) If the withdrawal or resignation results from inability of the auditor/the firm to complete the engagement due to bonafide reasons; (e) The fact that circumstances leading to withdrawal or resignation from the engagement were communicated to an appropriate level of the management, and where appropriate, to those charged with governance; (f) The response from the management or those charged with governance on the written communication made by the auditor. If response is not received, state the fact. (g) Prior to resignation, the last audit/ limited review report issued by the auditor.

- (f) In respect of listed entities, SEBI vide its Circular CIR/CFD/CMD1/114/2019 dated October 18, 2019 on “Resignation of statutory auditors from listed entities and their material subsidiaries” has prescribed conditions and disclosure requirements to be complied with when the statutory auditors of a listed entity or its material subsidiary resign, in relation to a limited review/audit report. Upon resignation, the company is required to obtain information from the auditor in the format specified in “Annexure A” of the Circular. The format includes information such as detailed reasons for resignation, details of association with the listed entity/its material subsidiary, whether the inability to obtain sufficient appropriate audit evidence was due to a management-imposed limitation or circumstances beyond the control of the management, whether the lack of information was prevalent in the previous reported financial statements/results. Further, a declaration of the information needs to be given by the statutory auditor that the information so provided is correct and complete and there

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are no other material reasons for resignation other than those provided by the statutory auditor. The listed entities are required to ensure disclosure of the same under sub-clause (7A) of Clause A in Part A of Schedule III under Regulation 30(2) of SEBI LODR Regulations.

### **Audit Procedures and Reporting**

- (g) The incoming auditor should comply with the provisions of ICAI Code of ethics, abovementioned Implementation Guide and requirements of the Companies Act, 2013. In case of listed companies, the incoming auditor should also comply with abovementioned SEBI circular for listed entities.
- (h) Incoming auditor should obtain a copy of letter of resignation stating the reasons as submitted to the management and copy of Form ADT 3 as submitted to ROC. In case of listed companies, incoming auditor should also obtain copy of Annexure A from the listed company. The incoming auditor should also carry out the following additional audit procedures:
- reading minutes of Board meetings.
  - inquiring from the management and reading the communication to audit committee e.g. audit committee presentation to determine if there is any matter communicated to those charged with governance.
  - exercise his professional judgement while evaluating the reasons for resignation.

Further, the incoming auditor should also consider the audit evidence obtained during the audit while performing audit procedures under SA 500, Audit Evidence. For example, if the incoming auditor obtains additional audit evidence which relates to reasons for resignation of the outgoing auditor, the incoming auditor should consider such evidence obtained while issuing an audit opinion on the financial statements of the current year.

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- (i) The incoming auditor should consider the reasons for resignation. The incoming auditor should also refer to last audit/review report issued by the outgoing auditor to understand the modifications, if any, in the audit/review report. As part of obtaining 'no objection' from outgoing auditor, the incoming auditor should enquire in respect of such modifications/adverse comments included by the outgoing auditor in his last issued audit/review report, since this clause casts an obligation on the incoming auditor to consider the issues, objections or concerns, if any, raised by the outgoing auditors. To illustrate, where a modification in audit report relates to non-availability of sufficient and appropriate audit evidence, the incoming auditor should specifically enquire from outgoing auditor on nature of such audit evidence and responses received from the management/those charged with governance (as applicable). The auditor is further expected to assess the potential impact of such a matter on his audit strategy/reporting.
- (j) The incoming auditor should obtain a management representation letter on the matter that there are no concerns of outgoing auditor beyond those stated in no objection certificate and resignation letter received from the outgoing auditor.
- (k) If joint auditors are appointed by a company and one of the joint auditors resigns, the other joint auditor(s) should consider the reasons for resignation by the outgoing auditor in accordance with the guidance stated in the above paragraphs. Also, it should be noted that this clause does not cover change of auditors pursuant to mandatory rotation requirements prescribed under Companies Act, 2013.
- (l) The following are examples of reporting by the auditor under this clause:

*Where there is resignation of statutory auditor during the year:*

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“There has been resignation of the statutory auditors during the year and we have taken into consideration the issues, objections or concerns raised by the outgoing auditors.”

*Where there is no resignation of statutory auditor during the year:*

“There has been no resignation of the statutory auditors during the year and accordingly this clause is not applicable.”

**82. On the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor’s knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date; [Paragraph 3(xix)]**

### Relevant Provisions

- (a) Under this clause the auditor is required to report whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report about the company’s capability of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date. The auditor needs to form his opinion on the basis of the financial ratios, ageing and expected dates of realization of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor’s knowledge of the Board of Directors and management plans.
- (b) Financial assets and financial liabilities have been defined in Ind AS 32, Financial Instruments: Presentation. In the absence of definition of financial assets and financial liabilities under any other standard or the Act, the definitions

as per Ind AS 32 may be considered for the purpose of this clause.

- (c) Currently, there is no legal requirement under the Act for the companies to provide explicit disclosure in the financial statements or in the Director's Report that whether material uncertainty exists about the company's capability of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date. However, AS 1, Disclosure of Accounting Policies, considers going concern as a fundamental accounting assumption and paragraph 27 of AS 1 requires a disclosure where such assumption is not followed. Paragraph 25 of Ind AS 1, Presentation of Financial Statements, requires that when preparing financial statements, management shall make an assessment of an entity's ability to continue as a going concern. When management is aware, in making its assessment, of material uncertainties related to events or conditions that may cast significant doubt upon the entity's ability to continue as a going concern, the entity shall disclose those uncertainties.

The auditor is required to report that no material uncertainty exists as on the date of the audit report about company's ability to meet its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date. The emphasis, therefore, is on the company's ability to meet its liabilities.

- (d) As per SA 570(Revised), Going Concern, the auditor's responsibilities are to obtain sufficient appropriate audit evidence regarding, and to conclude on, the appropriateness of management's use of the going concern basis of accounting in the preparation of the financial statements, and to conclude, based on the audit evidence obtained, whether a material uncertainty exists about the entity's ability to continue as a going concern. The auditor should consider the guidance given in SA 570(Revised) and the Implementation Guide to SA 570(Revised), Going Concern to the extent relevant for the purpose of reporting under this clause.

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If the main audit report contains a paragraph on “material uncertainty related to going concern or key audit matter on going concern indicators”, it should be duly considered while making comment under this clause.

- (e) The Schedule III to the Act states that if, in the opinion of the Board, any of the assets other than property, plant and equipment and non-current investments do not have a value on realization in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion, shall be stated. It is difficult to contemplate a situation where any asset other than property, plant and equipment and non-current investments has a realizable value that is lower than its carrying value, and the same is not given effect to in the books of account, since Accounting Standards do not permit the same. AS 13, “Accounting for Investments” or Ind AS 9, “Financial Instruments” requires current investments to be valued at lower of cost and fair value. AS 2, “Valuation of Inventories” or Ind AS 2, “Inventories” also requires inventories to be valued at the lower of cost and net realizable value. Further, allowance for bad and doubtful debts is required to be shown as a deduction from both long-term loans & advances and other non-current assets as well as trade receivables and short-term loans and advances as per Schedule III to the Act.
- (f) Under this clause, the test of existence of material uncertainty is to be done as on the date of audit report for the position of liabilities existing at the date of balance sheet. In other words, the auditor needs to consider the subsequent period transactions between the date of balance sheet and the date of audit report. While conducting audit of the financial statements, the auditor is required to carry out audit procedures in accordance with SA 560 “Subsequent Events”. As per paragraph 6 of SA 560, the auditor shall perform audit procedures designed to obtain sufficient appropriate audit evidence that all events occurring between the date of the financial statements and the date of the auditor’s report that require adjustment of, or disclosure in, the financial statements have been identified. The auditor is

not, however, expected to perform additional audit procedures on matters to which previously applied audit procedures have provided satisfactory conclusions.

- (g) The liabilities to be examined for payment should exist at the date of balance sheet which fall due within a period of one year from the balance sheet date. It should be noted that “liabilities falling due within a period of one year” and “current liabilities” should not be construed as same because (1) classification of current liabilities may be based on an operating cycle and such cycle can be shorter or longer than one year and (2) classification of current liabilities is based on its definition given in Schedule III to the Act and which *inter alia* requires the company to mandatorily classify liability as current liability if the company does not have an unconditional right to defer settlement of the liability.
- (h) The auditor needs to comment on the basis of:
  - (i) The financial ratios;
  - (ii) Ageing and expected dates of realization of financial assets and payment of financial liabilities;
  - (iii) Other information accompanying the financial statements, for example - the director’s report, management discussion and analysis forming part of the annual report of the company;
  - (iv) Auditor’s knowledge of the plans of the Board of Directors and management plans.

The parameters prescribed in this clause appear to be inclusive, and the auditor needs to perform audit procedures based on these parameters.

- (i) The auditor generally tests the ageing and expected dates of realization of financial assets and payment of financial liabilities in the normal course of audit of the financial statements, for example, subsequent status of trade receivables and payables, subsequent payment of statutory liabilities, etc.

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- (j) The auditor has to make the assessment as on the date of audit report and should perform necessary procedures as required by SA 560. The auditor is generally not liable for events occurring after the date of his report, provided he has exercised due professional skepticism when reporting under this clause.

### **Audit Procedures and Reporting**

- (k) The suggestive audit procedures under this clause are enumerated as under:
- The auditor should obtain the details of liabilities existing at the date of balance sheet along with their due dates of payment as per the relevant agreements/contracts to evaluate that the liabilities due within one year from the balance sheet date shall be duly discharged as and when these fall due for payment.
  - The auditor should perform audit procedures including going through the underlying documents and correspondence with the lenders to verify expected due dates of liabilities.
  - The auditor should obtain the subsequent payment status as on the date of audit report or date nearer to audit report, of liabilities those existed at the date of balance sheet to capture any material deviation as on the date of audit report.
  - For the liabilities, which remain unpaid as on the date of audit report or date nearer to audit report, the auditor should inquire with the management about their plan and capability to pay off the liabilities as and when they fall due for payment. This may be supported by position of realisable financial assets as on that day or management plans to garner financial resources, to meet the financial liabilities becoming due for payment within a period of one year from the balance sheet date.
  - The auditor should test the recoverability of financial assets based on the agreements/contracts, historical trends and the correspondence with the debtors and

borrowers to assess whether those shall be sufficient to meet the liabilities as and when they fall due for payment. The plan submitted by the management should be supported with related documentary evidence.

- There can be a situation wherein going concern assumption may be appropriate due to support letters provided by the holding company, but the company may not be able to meet its liabilities falling due within a period of one year from the balance sheet date. In such a scenario, the auditor should evaluate whether the holding company has the ability to discharge the financial liabilities of the company as and when they fall due. The auditor will need to state this fact in his report while also stating the facts on the financial position of the company.
- Where companies like non-banking financial companies/ housing finance companies are required to disclose their asset liability maturity (ALM) pattern in the financial statements, the auditor may give due consideration to the information furnished in the ALM disclosure.
- The auditor should read the section of director's report, management discussion and analysis forming part of the annual report of the company, which is required while reporting in accordance with SA 720(Revised), "The Auditor's Responsibilities Relating to Other Information" in case those are made available to the auditor by the date of audit report.
- The auditor should obtain the calculation of financial ratios as on the date of balance sheet and also on the date of audit report or date nearer to audit report and corroborate the same. The auditor can refer the liquidity ratios such as current ratio, acid-test ratio, cash ratio and efficiency ratios such as asset turnover ratio, inventory turnover ratio, accounts receivable turnover ratio etc. The auditor may consider other ratios as considered appropriate depending on the nature of business of the company and circumstances.

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- The auditor should obtain interim financial information prepared after the balance sheet date e.g., MIS for subsequent months, cash flow projections for the future period of 12 months from the date of balance sheet, to assess the assumptions of the management. Also, the auditor may refer the minutes of Audit Committee meeting and Board of Directors meeting held after the balance sheet date.
  - Where the company has given commitments or guarantees on behalf of other entities including its subsidiaries, joint ventures and associates, the auditor should also evaluate the financial position and plans of those entities to determine whether there would be an outflow of resources from the company which may impair its ability to meet its own liabilities as and when they fall due.
- (l) The auditor should obtain written representation from the management including:
- Plans for realization of receivables and other financial assets.
  - Documentation of Board of Directors related to review of liability position (payable within one year) and corresponding payment plans.
  - All material events/transactions post balance sheet date but before date of audit report that could impact the paying capacity of the company which are in the knowledge of the management/Board.
- (m) It is not necessary to establish a one-to-one relationship between the unpaid liabilities and the realizable financial assets. The evaluation should be done on an overall basis.
- (n) Where the auditor concludes, based on the information obtained from the management and audit procedures performed as above, that no material uncertainty exists as on the date of the audit report that the company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date, the auditor should give a negative

assurance in his report. A suggested reporting format under this clause is as follows:

“According to the information and explanations given to us and on the basis of the financial ratios, ageing and expected dates of realization of financial assets and payment of financial liabilities, other information accompanying the financial statements, our knowledge of the Board of Directors and management plans and based on our examination of the evidence supporting the assumptions, nothing has come to our attention, which causes us to believe that any material uncertainty exists as on the date of the audit report that company is not capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date. We, however, state that this is not an assurance as to the future viability of the company. We further state that our reporting is based on the facts up to the date of the audit report and we neither give any guarantee nor any assurance that all liabilities falling due within a period of one year from the balance sheet date, will get discharged by the company as and when they fall due.”

- (o) Where the auditor concludes based on the information obtained from the management and audit procedures performed that material uncertainty exists then the auditor should discuss his findings and conclusion with the management and the Board of Directors, and should make suitable comment in his report by stating the existence of material uncertainty and reasons thereof.
- (p) Where the auditor concludes that material uncertainty exists, the auditor should evaluate the impact on the main audit report regarding going concern. SA 700(Revised), “Forming an Opinion and Reporting on Financial Statements” requires auditor to include a separate paragraph regarding material uncertainty related to going concern. As per SA 570(Revised), the auditor will also need to ensure there are adequate disclosures in the financial statements regarding material uncertainty related to going concern. The auditor may consider detailed guidance on going concern given in the Implementation Guide to SA 570 (Revised).

**83. Whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act; [Paragraph 3(xx)(a)]**

**Relevant Provisions**

- (a) This clause requires the auditor to comment whether the company has transferred the unspent amount, in respect of “other than ongoing projects”, to a fund specified in Schedule VII to the Companies Act 2013 within a period of six months of the expiry of the financial year in compliance with the second proviso to sub-section (5) of section 135 of the said Act.
- (b) Section 135 of the Companies Act, 2013 requires, *inter alia*, as under
  - (i) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during the immediately preceding financial year shall constitute a Corporate Social Responsibility Committee of the Board.
  - (ii) The Corporate Social Responsibility Committee shall,
    - a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII;
    - b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
    - c) monitor the Corporate Social Responsibility Policy of the company from time to time.

- (iii) The Board of every company referred to in 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 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.
- (iv) Explanation to the sub-section (5) of Section 135, states that for the purposes of section 135 "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of Section 198 of the Act.
- (v) The second proviso to sub-section (5) of Section 135 requires that 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 and, unless the unspent amount relates to any ongoing project referred to in sub-section (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.
- (c) Schedule VII to the Companies Act 2013 lists the activities which may be included by companies in their Corporate Social Responsibility Policies. Schedule VII also lists the funds to which company can contribute which shall be recognized as Corporate Social Responsibility spending.

**Audit Procedures and Reporting**

- (d) The auditor needs to evaluate the applicability of section 135 to the company.
- (e) The auditor needs to obtain:

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- (i) Board approval of Corporate Social Responsibility Policy as recommended by Corporate Social Responsibility Committee.
  - (ii) Agenda and minutes of meetings of Corporate Social Responsibility Committee.
  - (iii) The workings of the amount required to be spent under section 135 of the Act detailing the calculations of the average net profits as calculated in accordance with the provisions of section 198 of the Act and evaluate if the total amount required to be spent by the company has been appropriately determined at two percent of such average net profits.
- (f) The auditor is required to obtain confirmation from the management and review whether the Corporate Social Responsibility activities undertaken by the company are in accordance with the Schedule VII to the Act.
- (g) The auditor should obtain from the management, details of the amount spent, in respect of projects other than ongoing projects. In respect of amounts spent on ongoing projects, the auditor should perform the procedures given in clause 3(xx)(b).
- (h) If the Board of a company decides to undertake its Corporate Social Responsibility activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in sub-rule 2(b) of Rule 4 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the auditor shall verify whether conditions stipulated in the said rules are satisfied including the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism of the same.
- (i) In respect of the amounts spent on other than ongoing projects, the auditor should examine the supporting documents such as expenditure receipts, bank statements etc. to verify the quantum of such expenditure. The auditor should also verify if the amount spent is in accordance with

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the Corporate Social Responsibility Policy of the company and in accordance with the provisions of the Act and the rules made thereunder.

- (j) On the basis of verification of the amounts, the auditor should further verify that any unspent amount, in respect of other than ongoing projects, has been transferred to a Fund specified in Schedule VII to the Act within a period of six months of the expiry of the financial year. The auditor should obtain supporting documents such as receipts, payment challans, bank statements to obtain evidence that the amounts have been appropriately transferred to a fund specified in Schedule VII to the Act.
- (k) The auditor shall check whether the company has recorded a provision as at the balance sheet date, to the extent considered necessary in accordance with the provisions of AS 29/ Ind AS 37, Provisions, Contingent Liabilities and Contingent Assets, in respect of the unspent amount.
- (l) In addition to the procedures given above, the auditor should also consider the provisions of the Companies (Corporate Social Responsibility Policy) Rules, 2014 while reporting on the unspent amounts under this clause.
- (m) The auditor may refer to the guidance given in the Guidance Note on Accounting for Expenditure on Corporate Social Responsibility Activities issued by the Institute of Chartered Accountants of India until the amendments made under section 135 of the Companies Act, 2013 are notified.
- (n) The auditor may also consider obtaining a representation from the management regarding compliance of requirements of section 135.
- (o) In case the company has not transferred the unspent amount, in respect of other than ongoing projects, to a fund specified in Schedule VII to the Act within the time limits, the auditor should ascertain the following details as a part of his working papers for reporting under this clause:

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Relevant Financial year*	Amount identified for spending on Corporate Social Responsibility activities "other than Ongoing Projects"	Unspent amount of (b)	Amount Transferred to Fund specified in Schedule VII to the Act	Due date of transfer to the specified fund	Actual date of transfer to the specified fund	Number of days of delay if any
(a)	(b)	(c)	(d)	(e)	(f)	(g)

(\*For Current year and for the previous year/(s) for which the amount remains unspent)

(p) The auditor shall report compliance with this clause as follows:

In respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act, 2013 within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act, except in respect of the following:

Financial year*	Amount unspent on Corporate Social Responsibility activities "other than Ongoing Projects"	Amount Transferred to Fund specified in Schedule VII within 6 months from the end of the Financial Year	Amount Transferred after the due date (specify the date of deposit)
(a)	(b)	(c)	(d)

(\*For Current year and for the previous year/(s) for which the amount remains unspent)

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The auditor should also report under this clause the non-compliance, if any, in respect of earlier financial year(s), in the format given above.

- (q) In situations where the time period specified under the second proviso to sub-section (5) of section 135 has not yet elapsed at the time of the issue of the auditor's report, the auditor should report under this clause on the basis of the information till the date of the auditor's report. In such circumstances the auditor should appropriately bring out this fact while reporting under this clause and the auditor may make the following comment:

"The company has not transferred the amount remaining unspent in respect of other than ongoing projects, to a Fund specified in Schedule VII to the Companies Act, 2013 till the date of our report. However, the time period for such transfer i.e. six months of the expiry of the financial year as permitted under the second proviso to sub-section (5) of section 135 of the Act, has not elapsed till the date of our report."

- (r) It may be noted that the amendments to section 135 of the Act through the Companies (Amendment) Act, 2019 are yet to be notified and until such time of notification of the effective date, the auditor may make the following comment under this clause:

"The amendments to section 135 of the Companies Act, 2013 by addition of the second proviso to sub-section (5), through the introduction of the Companies (Amendment) Act, 2019 is yet to be notified and as such provisions of this clause are not yet applicable to the company."

**84. Whether any amount remaining unspent under section (5) of section 135 of Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with provision of sub section (6) of section 135 of the said Act; [Paragraph 3(xx)(b)]**

### Relevant Provisions

- (a) This clause requires the auditor to comment whether the company has transferred the unspent amount in respect of

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any “ongoing projects”, to a special account within a period of thirty days from the end of the financial year in compliance with the provision of sub-section (6) of section 135 of the Act.

- (b) For detailed discussion on section 135 of the Act, please refer guidance on clause 3(xx)(a) above.
- (c) Any amount remaining unspent under sub-section (5) of section 135, pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company 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 obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

### **Audit Procedures and Reporting**

- (d) The auditor needs to evaluate the applicability of section 135 to the company.
- (e) The auditor needs to obtain:
  - (i) Board approval of Corporate Social Responsibility Policy as recommended by Corporate Social Responsibility Committee.
  - (ii) Agenda and minutes of meetings of Corporate Social Responsibility Committee.
  - (iii) The workings of the amount required to be spent under section 135 of the Act detailing the calculations of the average net profit as calculated in accordance with the provisions of section 198 of the Act and evaluate if the total amount required to be spent by the

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company has been appropriately determined at two percent of such average net profits.

- (f) The auditor is required to obtain confirmation from the management and review whether the Corporate Social Responsibility activities undertaken by the company are in accordance with the Schedule VII to the Act.
- (g) The auditor shall verify the amount spent in respect of ongoing projects with the supporting documents such as expenditure receipts, bank statements etc.
- (h) In respect of unspent amount, the auditor shall verify the bank account to ensure whether it is earmarked for Corporate Social Responsibility activity, opened for that respective financial year only and called as Unspent Corporate Social Responsibility Account.
- (i) Though the auditor is not required to report under this clause, the auditor is required to verify that the amount transferred to such specified bank account has been utilized for the Corporate Social Responsibility activities as per Corporate Social Responsibility policy within three years from the date of such transfer, failing which the amount should be transferred to the fund as specified under Schedule VII to the Act.
- (j) The auditor shall check whether the company has recorded a provision as at the balance sheet date, to the extent considered necessary in accordance with the provisions of AS 29/ Ind AS 37, Provisions, Contingent Liabilities and Contingent Assets, in respect of the unspent amount on ongoing projects. The auditor should also evaluate if the company has considered disclosure of such unspent amounts as commitments in the contingent liabilities and commitments section of the financial statements in accordance with the requirements of Schedule III to the Act.
- (k) In addition to the procedures given above, the auditor should also consider the provisions of the Companies (Corporate Social Responsibility Policy) Rules, 2014 while reporting on the unspent amounts under this clause.

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- (l) The auditor may refer to the guidance given in the Guidance Note on Accounting for Expenditure on Corporate Social Responsibility Activities issued by the Institute of Chartered Accountants of India until the amendments made under section 135 of the Companies Act, 2013 are notified.
- (m) The auditor may also consider obtaining a representation from the management regarding compliance of requirements of section 135.
- (n) In case the company has not transferred the unspent amount, in respect of ongoing projects, to a special account as specified under section 135(6) of the Act within the time limits, the auditor should ascertain the following details as a part of his working papers for reporting under this clause:

Relevant Financial year*	Amount identified for spending on Corporate Social Responsibility activities for "Ongoing Projects"	Unspent amount of (b)	Amount Transferred to Special Account u/s 135(6)	Due date of transfer to the account	Actual date of transfer to the account	Number of days of delay
(a)	(b)	(c)	(d)	(e)	(f)	(g)

(\*For Current year and for the previous year/(s) for which the amount remains unspent)

- (o) The auditor shall report compliance with this clause as follows:

In respect of ongoing projects, the company has transferred unspent amount to a special account, within a period of

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thirty days from the end of the financial year in compliance with section 135(6) of the said Act, except in respect of the following:

<b>Financial year*</b>	<b>Amount unspent on Corporate Social Responsibility activities for “Ongoing Projects”</b>	<b>Amount Transferred to Special Account within 30 days from the end of the Financial Year</b>	<b>Amount Transferred after the due date (specify the date of transfer)</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>

**(\*For Current year and for the previous year/(s) for which the amount remains unspent)**

The auditor should also report under this clause the non-compliance, if any, in respect of earlier financial year(s), in the format given above.

- (p) In situations where the time period specified under the sub-section (6) of section 135 has not yet elapsed at the time of the issue of the auditor’s report, the auditor should report under this clause on the basis of the information till the date of the auditor’s report. In such circumstances the auditor should appropriately bring out this fact while reporting under this clause and the auditor may make the following comment:

“The company has not transferred the amount remaining unspent in respect of ongoing projects, to a Special Account till the date of our report. However, the time period for such transfer i.e. thirty days from the end of the financial year as permitted under the sub-section (6) of section 135 of the Act, has not elapsed till the date of our report.”

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- (q) It may be noted that the amendments to section 135 of the Act through the Companies (Amendment) Act, 2019 are yet to be notified and until such time of notification of the effective date, the auditor may make the following comment under this clause:

“The amendments to section 135 of the Act, by inclusion of sub-section (6), through the introduction of the Companies (Amendment) Act, 2019 is yet to be notified and as such provisions of this clause are not yet applicable to the company.”

**85. Whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor’s Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks. [Paragraph 3(xxi)]**

### **Relevant Provisions**

- (a) This clause requires the auditor to comment whether there have been any qualifications or adverse remarks by the respective auditors (“component auditors”) in the Companies (Auditor’s Report) Order (CARO) reports of the companies included in the consolidated financial statements. This clause further requires the auditor to provide the details of the companies and the paragraph numbers of the respective CARO report containing the qualifications or adverse remarks. Reporting under this clause is only required for those entities included in the consolidated financial statements to whom CARO 2020 is applicable.

### **Audit Procedures and Reporting**

- (b) This clause uses the term “qualifications or adverse remarks”. Paragraph 4 of the Order uses the term

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“unfavourable or qualified answers”. From a combined reading of these provisions, the term qualifications or adverse remarks used in this clause refers to the term unfavourable or qualified answers used in paragraph 4 of the Order. The term qualification/adverse remark used in this clause does not mean a qualification/adverse opinion as per principles enunciated in SA 705(Revised), “Modifications to the Opinion in the Independent Auditor’s Report”. This is because qualification/adverse opinion used in SA 705(Revised) is in connection with issuance of auditor’s opinion on the financial statements as a whole whereas the responses to questions in CARO 2020 are responses to specific questions which are expected to be answered in affirmative or negative. However, to conclude whether the responses to various clauses are in the nature of qualifications or adverse remarks, the principal auditor would need to apply professional experience and judgement.

- (c) Though the principal auditor would need to apply his professional judgement to conclude which responses amount to a qualification/adverse remark, he may also take inputs from the component auditor and request him as part of the group reporting instructions to comment on which clauses amount to a qualification/adverse remark. But the ultimate responsibility would be that of the principal auditor.
- (d) There may be situations where the component auditor has reported on the financial statements of the component to the principal auditor but has not issued his statutory audit report by the date of the principal auditor’s audit report. This may happen because unlisted companies in the group may have time till six months from the year end to conduct their annual general meeting and hence their statutory audit report/CARO report may be finalised later than the principal auditor’s report. In such situations, the principal auditor should clearly mention while reporting on this clause, the name of the component and the fact that CARO report of

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that component has not been issued by its auditor till the date of principal auditor's report.

- (e) This clause requires reporting of qualifications or adverse remarks in the CARO reports of companies included in the consolidated financial statements. Accordingly, qualifications/adverse remarks given in the parent company's standalone CARO report are also required to be included while reporting on consolidated financial statements. Further, the requirement is to provide the paragraph numbers of the CARO report containing the qualifications or adverse remarks, accordingly, text of those paragraphs are not required to be reproduced.
- (f) As mentioned earlier, the concept of materiality is relevant when reporting under CARO. However, if a qualification/adverse remark is given by any individual component, there is a presumption that the item is material to the component. Hence when reporting under clause 3(xxi), the auditor is not required to reevaluate the materiality from a consolidation perspective. Hence every qualification/adverse remark made by every individual component including the parent should be included while reporting under clause 3(xxi).
- (g) For the purpose of reporting the qualifications/adverse remarks, the principal auditor may report in the following manner in the consolidated audit report–

Sr. No.	Name	CIN	Holding Company/subsidiary/ Associate/ Joint Venture	Clause number of the CARO report which is qualified or adverse

### **Comments on Form of Report**

86. The Order requires that the auditor should make a statement on all such matters contained therein as are applicable to the company. The Order further provides that where an auditor is unable to express any opinion on any such matter which is applicable to the company, he is also required to indicate in his report such a fact, together with the reasons as to why he is unable to express any opinion. The auditor is also required to give reasons for any unfavourable or a qualified answer.

87. A question may also arise whether it is necessary for the auditor to include in his report, the management's explanation for any matter on which he makes an unfavourable comment. Normally, such an explanation need not be included but there may be circumstances where the auditor feels such inclusion is necessary. Examples of such circumstances would be:

- (a) to make the comment itself more meaningful and complete. For example, physical verification of inventories, though planned, may not have been carried out because of a strike or a lockout. An unfavourable comment without this explanation could be misleading;
- (b) to explain the fact why despite an unfavourable comment, the true and fair view of the financial statements is not vitiated. For example, physical verification of a part of the inventories at the year-end may not have been carried out, but there is sufficient other evidence produced by the management, which satisfies the auditor regarding the existence, condition and value of the inventories.

88. If any of the comments on matters specified in the Order are qualified/unfavourable, the auditor should consider whether his comments have a bearing on the true and fair view presented by the financial statements and, therefore, might warrant a modification in the report under sub-sections (2) and (3) of section 143 of the Act.

89. If the auditor is of the opinion that any of the unfavourable comments on matters specified in the Order results in a

## **Guidance Note on CARO 2020**

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qualification under sub-sections (2) and (3) of section 143 of the Act, the manner of reporting would have to be in accordance with the principles enunciated in SA 705(Revised), "Modifications to the Opinion in the Independent Auditor's Report".

90. Even where there are no unfavourable comments under the Order, it may be advisable for the auditor to preface his report under sub-sections (2) and (3) of section 143 of the Act with the words:

"Further to our comments in the Annexure, we state that....."

91. It should not, however, be assumed that every unfavourable comment under the Order would necessarily result in a qualification in the report under sub-sections (2) and (3) of section 143 of the Act. Firstly, the unfavourable comment may be regarding a matter which has no relevance to a true and fair view presented by the financial statements, for example, the failure of the company to deposit provident fund dues in time or to comply with the requirements regarding acceptance of public deposits. Secondly, while the non-compliance may be material enough to warrant an unfavourable comment under the Order, it may not be material enough to affect the true and fair view presented by the financial statements. Finally, the non-compliance may be in an area which calls for remedial action on the part of the management, and may be important for that reason, but may not be sufficiently important in the context of the report under sub-sections (2) and (3) of section 143 of the Act. In deciding, therefore, whether a qualification in the report under sub-sections (2) and (3) of section 143 of the Act is necessary, the auditor should use his professional judgement in the facts and circumstances of each case.

92. It is important to note that replies to many of the requirements of the Order will involve expression of an opinion and not necessarily statement of facts. It is necessary, therefore, that this is indicated when making the report under the Order. This can be done in either of the following ways:

- (a) by a general preface to the comments under the Order on the following lines:

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“In terms of the information and explanations sought by us and given by the company and the books of account and records examined by us in the normal course of audit and to the best of our knowledge and belief, we state that.....”

or

(b) by a preface to individual comments, for example:

“In our opinion” or “In our opinion and according to the information and explanations given to us during the course of the audit..”

93. The Order requires that where the answer to a question is unfavourable or qualified, the auditor’s report should also state the reasons for such unfavourable or qualified answer. While it is not necessary for the auditor to give very detailed reasons for an unfavourable or qualified answer, he is expected to explain the general nature of the qualification or unfavourable comment in clear and unambiguous terms. The auditor may consider the principles enunciated in SA 705(Revised) while explaining the reasons for such unfavourable or qualified answer.

94. Similar considerations would apply when the auditor is unable to express an opinion. In such circumstances, he should clearly state the reasons why he is unable to express an opinion, for example, because records or evidence necessary for his examination have not been produced before him.

95. In expressing an opinion or giving any statement, the auditor should evaluate as to whether the circumstances of the case warrant an unfavourable answer or whether his opinion/statement can be expressed subject to a qualification.

96. The auditor’s report under sub-section (3) of section 143 of the Act is required to state whether the auditor has sought and obtained all the information and explanations, which to the best of his knowledge and belief, were necessary for the purposes of his audit, and if not, the details thereof and the effect of such information on the financial statements. The term “audit” would include the reporting requirements under the Order. Therefore,

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when making his report, the auditor has to consider whether he has sought and obtained the information and explanations needed, not merely for the purposes of audit, but also for the purpose of reporting in terms of the Order. If he has sought but not obtained the information and explanations necessary for reporting in terms of the Order, he should mention that fact, both when reporting on the specific question in the Order and also consider the impact of such non-receipt of the information on the auditor's report under section 143(3)(a) of the Act.

### **Board of Director's Report**

97. Section 134(3)(f) of the Act requires that the board of directors shall be bound to give in its report, all the information and explanations regarding every reservation, qualification or adverse remark or disclaimer contained in the auditor's report. The auditor's comments in terms of the Order form part of his report and, therefore, the Board will be bound to give in its report all the information and explanations regarding every unfavourable comment or qualification therein.

98. The auditor's comments in terms of the Order may be in respect of matters of fact or they may be an expression of opinion. It is necessary that there should be no inconsistency in the facts as stated by the auditor and as explained in the board's report. It is, therefore, suggested that wherever possible, a draft report should be submitted by the auditor to the Board to verify and confirm the facts stated therein.

99. It is, however, possible that, on the same facts, there may be a genuine difference of opinion between the auditor and the Board. In such a case, each of them is entitled to hold his or its view. Therefore, the expression of a different opinion in the Board's report should not be regarded as any reflection on the opinion expressed by the auditor.

# Appendices



## Appendix I

### Text of the Companies (Auditor's Report) Order, 2020

#### MINISTRY OF CORPORATE AFFAIRS ORDER

New Delhi, the 25<sup>th</sup> February, 2020

**S.O.849 (E).**— In exercise of the powers conferred by sub-section (11) of section 143 of the Companies Act, 2013 (18 of 2013 ) and in supersession of the Companies (Auditor's Report) Order, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1228 (E), dated the 29<sup>th</sup> March, 2016, except as respects things done or omitted to be done before such supersession, the Central Government, after consultation with the National Financial Reporting Authority constituted under section 132 of the Companies Act, 2013, hereby makes the following Order, namely:—

1. **Short title, application and commencement.** - (1) This Order may be called the Companies (Auditor's Report) Order, 2020.
- (2) It shall apply to every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) [hereinafter referred to as the Companies Act], except—
  - (i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
  - (ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);
  - (iii) a company licensed to operate under section 8 of the Companies Act;
  - (iv) a One Person Company as defined in clause (62) of section 2 of the Companies Act and a small company as defined in clause (85) of section 2 of the Companies Act; and

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- (v) a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than one crore rupees as on the balance sheet date and which does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act (including revenue from discontinuing operations) exceeding ten crore rupees during the financial year as per the financial statements.

- (3) It shall come into force on the date of its publication in the Official Gazette.

**2. Auditor's report to contain matters specified in paragraphs 3 and 4.** - Every report made by the auditor under section 143 of the Companies Act on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2019, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided this Order shall not apply to the auditor's report on consolidated financial statements except clause (xxi) of paragraph 3.

**3. Matters to be included in auditor's report.** - The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:-

- (i) (a) (A) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of Property, Plant and Equipment;  
(B) whether the company is maintaining proper records showing full particulars of intangible assets;
- (b) whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;

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(c) whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below:-

Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held –indicate range, where appropriate	Reason for not being held in name of company*
-	-	-	-	-	*also indicate if in dispute

(d) whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;

(e) whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;

(ii) (a) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if

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so, whether they have been properly dealt with in the books of account;

(b) whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;

(iii) whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so,-

(a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate-

(A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;

(B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;

(b) whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company's interest;

## Guidance Note on CARO 2020

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- (c) in respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;
  - (d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;
  - (e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];
  - (f) whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;
- (iv) in respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;
  - (v) in respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal

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or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;

- (vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act and whether such accounts and records have been so made and maintained;
- (vii) (a) whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;
- (b) where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute);
- (viii) whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;
- (ix) (a) whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below:-

Nature of borrowing, including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
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	*lender wise details to be provided in case of defaults to banks, financial institutions and Government.				
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(b) whether the company is a declared wilful defaulter by any bank or financial institution or other lender;

(c) whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;

(d) whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated;

(e) whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case;

(f) whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;

(x) (a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;

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- (b) whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;
- (xi)
  - (a) whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;
  - (b) whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;
  - (c) whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;
- (xii)
  - (a) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1:20 to meet out the liability;
  - (b) whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;
  - (c) whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;
- (xiii) whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;
- (xiv)
  - (a) whether the company has an internal audit system commensurate with the size and nature of its business;
  - (b) whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;

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- (xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;
- (xvi) (a) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;  
  
(b) whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;  
  
(c) whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;  
  
(d) whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group;
- (xvii) whether the company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses;
- (xviii) whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;
- (xix) on the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;

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- (xx) (a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;
- (b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act;
- (xxi) whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.

**4. Reasons to be stated for unfavourable or qualified answers.** - (1) Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.

(2) Where the auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same.

[F. No. 17/45/2015-CL-V Part I]

K.V.R. Murty, Jt. Secretary

## Appendix II

### Clause-by-clause comparison of the reporting requirements of the Order and the erstwhile CARO 2016

**1. Short title, application and commencement.**-(1) This Order may be called the Companies (Auditor's Report) Order, 2016-2020.

(2) It shall apply to every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) hereinafter referred to as the Companies Act except

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);

(iii) a company licensed to operate under section 8 of the Companies Act;

(iv) a One Person Company as defined ~~under~~in clause (62) of section 2 of the Companies Act and a small company as defined ~~under~~in clause (85) of section 2 of the Companies Act; and

(v) a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than ~~rupees~~ one crore rupees as on the balance sheet date and which does not have total borrowings exceeding ~~rupees~~ one crore rupees from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act, ~~2013~~ (including revenue from discontinuing operations) exceeding ~~rupees~~ ten crore rupees during the financial year as per the financial statements.

(3) It shall come into force on the date of its publication in the Official Gazette.

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### 2. Auditor's report to contain matters specified in paragraphs

**3 and 4.** - Every report made by the auditor under section 143 of the Companies Act, ~~2013~~ on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2015~~2019~~, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided ~~that~~this Order shall not apply to the auditor's report on consolidated financial statements except clause (xxi) of paragraph 3.

**3. Matters to be included in ~~the~~ auditor's report.** - The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:

(i) (a) (A) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of ~~fixed assets~~Property, Plant and Equipment;

(B) whether the company is maintaining proper records showing full particulars of Intangible assets;

(b) whether these ~~fixed assets~~Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;

(c) whether the title deeds of all the immovable properties. (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company.—, if not, provide the details thereof; in the format below:-

<u>Description of property</u>	<u>Gross carrying value</u>	<u>Held in the name of</u>	<u>Whether promoter, director or their relative or employee</u>	<u>Period held – indicate range, where appropriate</u>	<u>Reason for not being held in name of company*</u>

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=	=	=	=	=	*also indicate if in dispute
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(d) whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;

(e) whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;

(ii) (a) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any material discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;

(b) whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;

(iii) whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to

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companies, firms, Limited Liability Partnerships or any other parties covered in the register maintained under section 189 of the Companies Act, 2013, if so,

(a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate -

(A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;

(B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;

~~(a)-(b)~~ whether the investments made, guarantees provided, security given and the terms and conditions of the grant of such all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company's interest;

~~(b)~~(c) in respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;

~~(e)~~d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;

(e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the

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aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];

(f) whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;

(iv) in respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act, 2013 have been complied with. If not, provide the details thereof;

(v) ~~in case, the company has~~ respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act, 2013 and the rules framed ~~made~~ thereunder, where applicable, have been complied with. If not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;

(vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 and whether such accounts and records have been so made and maintained;

(vii) (a) whether the company is regular in depositing undisputed statutory dues including Goods and Service Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;

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(b) where statutory dues of income tax or sales tax or service tax or duty of customs or duty of excise or value added tax referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (~~A~~a mere representation to the concerned Department shall not be treated as a dispute).

(viii) whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;

~~(viii)~~ (ix)(a) whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to a financial institution, bank, government or dues to debenture holders? any lender?, If yes, the period and the amount of default to be reported (in case of defaults to banks, financial institutions, and government, lender wise details to be provided). as per the format below:-

<u>Nature of borrowing, including debt securities</u>	<u>Name of lender*</u>	<u>Amount not paid on due date</u>	<u>Whether principal or interest</u>	<u>No. of days delay or unpaid</u>	<u>Remarks, if any</u>
	<u>* lender wise details to be provided in case of defaults to banks, financial institutions and Government.</u>				

(b) whether the company is a declared wilful defaulter by any bank or financial institution or other lender;

(c) whether term loans were applied for the purpose for

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which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;

(d) whether funds raised on short term basis have been utilised for long term purposes,if yes, the nature and amount to be indicated;

(e) whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case;

(f) whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;

~~(ix)~~ (x)(a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) and term loans during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;

~~xiv)~~ (b) whether the company has made any preferential allotment or private placement of shares or fully or partly convertible debentures (fully, partially or optionally convertible) during the year under review and if so, as to whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the amount funds raised have been used for the purposes for which the funds were raised, if not, provide the details in respect of the amount involved and nature of non-compliance;

~~(x)~~ (xi)(a) whether any fraud by the company or any fraud on the company by its officers or employees has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;

(b) whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in

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Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;

(c) whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;

~~(xi) whether managerial remuneration has been paid or provided in accordance with the requisite approvals mandated by the provisions of section 197 read with Schedule V to the Companies Act? If not, state the amount involved and steps taken by the company for securing refund of the same;~~

(xii)(a) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1:20 to meet out the liability; and

(b) whether the Nidhi Company is maintaining ten per cent unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;

(c) whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;

(xiii) whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act, 2013 where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;

(xiv)(a) whether the company has an internal audit system commensurate with the size and nature of its business;

(b) whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;

(xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act, 2013 have been complied with;

xvi) (a) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934)

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and if so, whether the registration has been obtained.

(b) whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act 1934;

(c) whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;

(d) whether the Group has more than one CIC as part of the Group; if yes, indicate the number of CICs which are part of the Group.

(xvii) whether the company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses;

(xviii) whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;

(xix) on the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;

(xx)(a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;

(b) whether any amount remaining unspent under sub-section

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(5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act;

(xxi) whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.

**4. Reasons to be stated for unfavourable or qualified answers.-** (1) Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.

(2) Where the auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same.

## Appendix III

### Definitions of Important Terms Used

Sr. No.	Nomenclature	Definition	CARO 2020 Clause reference
1	Act	"Act" means the Companies Act, 2013 (18 of 2013).	Short title, application and commencement
2	Foreign Company	Foreign Company as defined in clause (42) of section 2 of the Act: Any company or body corporate incorporated outside India which – (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and (b) conducts any business activity in India in any other manner.	Short title, application and commencement
3	Banking Company	Banking Company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949: "Banking company" means any company which transacts the business of banking in India. Explanation - Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of	Short title, application and commencement

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		financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause.	
4	One Person Company	One Person Company as defined under clause (62) of section 2 of the Act: “One Person Company” means a company which has only one person as a member.	Short title, application and commencement
5	Small Company	Small Company as defined under clause (85) of section 2 of the Act: “Small Company” means a company, other than a public company, — (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; and (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees: Provided that nothing in this clause shall apply to –	Short title, application and commencement

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		<p>(A) a holding company or a subsidiary company;</p> <p>(B) a company registered under section 8; or</p> <p>(C) a company or body corporate governed by any special Act.</p>	
6	Private Limited Company	<p>Private Limited Company as defined under clause (68) of section 2 of the Act:</p> <p>“Private company” means a company having a minimum paid-up share capital as may be prescribed, and which by its articles, -</p> <p>(i) restricts the right to transfer its shares;</p> <p>(ii) except in case of One Person Company, limits the number of its members to two hundred:</p> <p>Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:</p> <p>Provided further that—</p> <p>(A) persons who are in the employment of the company; and</p> <p>(B) persons who, having been</p>	Short title, application and commencement

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		<p>formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and</p> <p>(iii) prohibits any invitation to the public to subscribe for any securities of the company.</p>	
7	Public Company	<p>Public Company as defined under clause (71) of section 2 of the Act:</p> <p>"public company" means a company which -</p> <p>(a) is not a private company; and</p> <p>(b) has a minimum paid-up share capital as may be prescribed</p> <p>Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles.</p>	Short title, application and commencement

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8	Paid-up Share Capital	<p>Paid-up Share Capital as defined under clause (64) of section 2 of the Act:</p> <p>“Paid-up share capital” or “Share capital paid-up” means such aggregate amount of money credited as paid-up as is equivalent to the amount received as paid-up in respect of shares issued and also includes any amount credited as paid-up in respect of shares of the company, but does not include any other amount received in respect of such shares, by whatever name called.</p>	Short title, application and commencement
9	Reserve	<p>The Glossary of Terms Used in Financial Statements, issued by the Research Committee of ICAI, defines the term “reserve” as, the portion of earnings, receipts or other surplus of an enterprise (whether capital or revenue) appropriated by the management for a general or a specific purpose other than a provision for depreciation or diminution in the value of assets or for a known liability.</p>	Short title, application and commencement
10	Property, plant and equipment	<p>Revised Accounting Standard (AS) 10, “Property, Plant and equipment” defines the term “Property, plant and equipment” as tangible items that:</p>	Clause (i)(a)(A), (i)(b) and (i)(d)

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		<p>(a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes; and</p> <p>(b) are expected to be used during more than a period of twelve months.</p> <p>Indian Accounting Standard (Ind) AS 16, "Property, Plant and Equipment" defines the term "Property, plant and equipment" as tangible items that:</p> <p>(a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes; and</p> <p>(b) are expected to be used during more than one period.</p>	
11	Book and Paper	<p>Book and Paper as defined under clause (12) of section 2 of the Act:</p> <p>"Book and paper" and "book or paper" include books of account, deeds, vouchers, writings, documents, minutes and registers maintained on paper or in electronic form.</p>	Clause (i)(a)(A)
12	Electronic Mode	<p>The term "electronic mode" includes "electronic form" as defined in section 2(1)(r) of the Information Technology Act, 2000 and also includes</p>	Clause (i)(a)(A)

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		an electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000.	
13	Electronic form	Section 2(1)(r) of the Information Technology Act, 2000 defines “electronic form” as follows: "Electronic form" with reference to information means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device”.	Clause (i)(a)(A)
14	Electronic record	Section 2(1)(t) of the Information Technology Act, 2000 defines “electronic records” as follows: "Electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche”.	Clause (i)(a)(A)
15	Intangible Asset	Accounting Standard (AS) 26, “Intangible Assets”, defines the term “Intangible Asset” as an identifiable non-monetary asset, without physical substance, held for use in the production or supply of goods or services, for rental to others, or for administrative purposes. Indian Accounting Standard	Clause (i)(a)(B) and (i)(d)

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		(Ind AS) 38 - Intangible Assets, defines the term "Intangible Asset" as an identifiable non-monetary asset, without physical substance.	
16	Right of Use Assets	Indian Accounting Standard (Ind AS) 116 – "Leases" defines the term "right-of-use asset" as an asset that represents a lessee's right to use an underlying asset for the lease term.	Clause (i)(d)
17	Registered Valuer	Rule 2(1)(j) of the Companies (Registered Valuers and Valuation) Rules, 2017 defines "valuer" as a person registered with the authority in accordance with these rules and the term "registered valuer" shall be construed accordingly.	Clause (i)(d)
18	Benami Property and Benami Transaction	Section 2(8) of the Prohibition of Benami Property Transactions Act, 1988 defines the term "benami property" as any property which is the subject matter of a benami transaction and also includes the proceeds from such property. Section 2(9) of the Prohibition of Benami Property Transactions Act, 1988 defines the term "benami transaction" as- (A) a transaction or an	Clause (i)(e)

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		<p>arrangement -</p> <p>(a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and</p> <p>(b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration,</p> <p>except when the property is held by –</p> <p>(i) a Karta, or a member of a Hindu undivided family, as the case may be, and the property is held for his benefit or benefit of other members in the family and the consideration for such property has been provided or paid out of the known sources of the Hindu undivided family;</p> <p>(ii) a person standing in a fiduciary capacity for the benefit of another</p>	
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		<p>person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 (22 of 1996) and any other person as may be notified by the Central Government for this purpose;</p> <p>(iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such property has been provided or paid out of the known sources of the individual;</p> <p>(iv) any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendent and the individual</p>	
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		<p>appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual; or</p> <p>(B) a transaction or an arrangement in respect of a property carried out or made in a fictitious name; or</p> <p>(C) a transaction or an arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership;</p> <p>(D) a transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious.</p> <p>Explanation - For the removal of doubts, it is hereby declared that benami transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), if, under any law for the time being in force, -</p>	
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		<p>(i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;</p> <p>(ii) stamp duty on such transaction or arrangement has been paid; and</p> <p>(iii) the contract has been registered;</p>	
19	Inventories	<p>Accounting Standard (AS) 2, "Valuation of Inventories" defines "Inventories" as assets:</p> <p>(a) held for sale in the ordinary course of business;</p> <p>(b) in the process of production for such sale; or</p> <p>(c) in the form of materials or supplies to be consumed in the production process or in the rendering of services.</p> <p>Indian Accounting Standard (Ind AS) 2 "Inventories" defines "Inventories" as assets:</p> <p>(a) held for sale in the ordinary course of</p>	Clause (ii)(a)

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		<p>business;</p> <p>(b) in the process of production for such sale; or</p> <p>(c) in the form of materials or supplies to be consumed in the production process or in the rendering of services.</p>	
20	Financial Institution	<p>Financial Institution as defined under clause (39) of section 2 of the Act:</p> <p>“Financial institution” includes a scheduled bank, and any other financial institution defined or notified under the Reserve Bank of India Act, 1934 (2 of 1934). Financial institution has been defined under clause (c) of Section 45I of the RBI Act, 1934 as under:</p> <p>“financial institution” means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:</p> <p>(i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;</p> <p>(ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local</p>	<p>Clause (ii)(b)</p> <p>Clause (ix)(a)</p> <p>Clause (ix)(b)</p>

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		<p>authority or other marketable securities of a like nature;</p> <p>(iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972;</p> <p>(iv) the carrying on of any class of insurance business;</p> <p>(v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;</p> <p>(vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person, but</p>	
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		<p>does not include any institution, which carries on as its principal business;</p> <p>(a) agricultural operations; or</p> <p>(aa) industrial activity; or</p> <p>(b) the purchase or sale of any goods (other than securities) or the providing of any services; or</p> <p>(c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;</p> <p>Explanation – For the purposes of this clause, “industrial activity” means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964.</p> <p>Further “non-banking institution” has been defined under clause (e) of Section</p>	
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	<p>45I of RBI Act 1934 as under:</p> <p>“non-banking institution” means a company, corporation or cooperative society.</p> <p>Further, the term “financial institution” is also referred to in the context of the definition of a non-banking financial company as defined by the RBI Act, 1934. The term “non-banking financial company” has been defined under clause (f) of Section 45I of RBI Act, 1934 as under:</p> <p>“non-banking financial company” means –</p> <ul style="list-style-type: none"><li>(i) a financial institution which is a company;</li><li>(ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;</li><li>(iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of</li></ul>	
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		the Central Government and by notification in the Official Gazette, specify.	
21	Current Assets	<p>Schedule III to the Act states that an asset shall be classified as current when it satisfies any of the following criteria:</p> <p>(a) it is expected to be realised in, or is intended for sale or consumption in, the company's normal operating cycle;</p> <p>(b) it is held primarily for the purpose of being traded;</p> <p>(c) it is expected to be realised within twelve months after the reporting date; or</p> <p>(d) it is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.</p>	Clause (ii)(b)
22	Subsidiary Company or Subsidiary	<p>Subsidiary Company or Subsidiary as defined under clause (87) of section 2 of the Act:</p> <p>"subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a</p>	<p>Clause (iii)(a)(A)</p> <p>Clause (ix)(e)</p> <p>Clause (ix)(f)</p>

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		<p>company in which the holding company:</p> <ul style="list-style-type: none"> <li>(i) controls the composition of the Board of Directors; or</li> <li>(ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies:</li> </ul> <p>Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.</p> <p>Explanation-For the purposes of this clause,-</p> <ul style="list-style-type: none"> <li>a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;</li> <li>b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if</li> </ul>	
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		<p>that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;</p> <p>c) the expression "company" includes any body corporate;</p> <p>d) layer" in relation to a holding company means its subsidiary or subsidiaries.</p>	
23	Associate Company or Associate	<p>Associate Company as defined under clause (6) of section 2 of the Act:</p> <p>"associate company" in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.</p> <p>Explanation - For the purpose of this clause:</p> <p>a) the expression "significant influence" means control of at least twenty per cent of total voting power, or control of or participation in business decisions under an agreement;</p> <p>b) the expression "joint</p>	<p>Clause (iii)(a)(A)</p> <p>Clause (ix)(e)</p> <p>Clause (ix)(f)</p>

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		venture" means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement;	
24	Free Reserves	Free Reserves as defined under clause (43) of section 2 of the Act: "free reserves" means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend. Provided that – (i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or (ii) any change in carrying amount of an asset or of a liability recognized in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value, shall not be treated as free reserves;	Clause (iv)
25	Any person in whom any of the director of the company is interested	Explanation to sub-section (2) of section 185 of the Act defines the term "any person in whom any of the director of the company is interested" as under: (a) any private company of which any such director	Clause (iv) Clause (xv)

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		<p>is a director or member;</p> <p>(b) any body corporate at a general meeting of which not less than twenty-five per cent of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or</p> <p>(c) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.</p>	
26	Relative	<p>Section 2(77) of the Companies Act, 2013 read with Rule 4 of the Companies (Specification of Definition Details) Rules, 2014 defines the term “relative”. As per the aforesaid section:</p> <p>“Relative, with reference to any person, means any one who is related to another, if–</p> <p>(i) they are members of a Hindu Undivided Family;</p> <p>(ii) they are husband and wife; or</p> <p>(iii) one person is related to the other in such</p>	Clause(i)(c)

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		<p>manner as may be prescribed”</p> <p>As per Rule 4 of the Companies (Specification of Definition Details) Rules, 2014, a person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely –</p> <ul style="list-style-type: none"> <li>(i) Father, Provided that the term “Father” includes step-father.</li> <li>(ii) Mother, Provided that the term “Mother” includes the step-mother.</li> <li>(iii) Son, Provided that the term “Son” includes the step-son.</li> <li>(iv) Son’s wife</li> <li>(v) Daughter</li> <li>(vi) Daughter’s husband</li> <li>(vii) Brother, Provided that the term “Brother” includes the step-brother;</li> <li>(viii) Sister, Provided that the term “Sister” includes the step-sister.</li> </ul>	
27	Deposit	<p>Deposit as defined under clause (31) of section 2 of the Act:</p> <p>"Deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such</p>	Clause (v)

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	<p>categories of amount as may be prescribed in consultation with the Reserve Bank of India.</p> <p>Deposits as defined under Section 45-I (bb) of the Reserve Bank of India Act, 1934:</p> <p>“Deposit” includes and shall be deemed always to have include any receipt of money by way of deposit or loan or in any other form, but does not include, -</p> <ul style="list-style-type: none"><li>(i) amounts raised by way of share capital;</li><li>(ii) amounts contributed as capital by partners of a firm;</li><li>(iii) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 ;</li><li>(iv) any amount received from, -<ul style="list-style-type: none"><li>(a) State Financial Corporation,</li><li>(b) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or</li><li>(c) any other institution that may be</li></ul></li></ul>	
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		<p>specified by the Bank in this behalf;</p> <p>(v) amounts received in the ordinary course of business, by way of—</p> <p>(a) security deposit,</p> <p>(b) dealership deposit,</p> <p>(c) earnest money, or</p> <p>(d) advance against orders for goods, properties or services;</p> <p>(vi) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and</p> <p>(vii) any amount received by way of subscriptions in respect of a chit.</p> <p>Explanation I. – “Chit” has the meaning assigned to it in clause (b) of section 2 of the Chit Funds Act, 1982 (40 of 1982).</p> <p>Explanation II. – Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this</p>	
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		<p>clause;</p> <p>Explanation III. - The amounts accepted by a co-operative society from the members or shareholders, by whatever name called, but excluding the amounts received as share capital, shall be deemed to be deposits for the purposes of this clause, if such members or shareholders are nominal or associate members, by whatever name called, who do not have full voting rights in the meetings of such co-operative society.</p>	
28	Depositor	<p>Rule 2(1)(d) of the Companies (Acceptance of Deposits) Rules, 2014 defines "Depositor" as:</p> <p>(i) any member of the company who has made a deposit with the company in accordance with the provisions of subsection (2) of section 73 of the Act, or</p> <p>(ii) any person who has made a deposit with a public company in accordance with the provisions of section 76 of the Act.</p>	Clause (v)

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29	Cost Audit Report	Cost Audit Report as defined under clause (d) of Rule 2 of Companies (Cost Records and Audit) Rules, 2014: “Cost audit report” means the duly signed cost auditor’s report on the cost records examined and cost statements which are prepared as per these rules, including attachment, annexure, qualifications or observations attached with or included in such report.	Clause (vi)
30	Cost Records	Cost records as defined under clause (e) of Rule 2 of Companies (Cost Records and Audit) Rules, 2014: “cost records” means books of account relating to utilisation of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act and these rules.	Clause (vi)
31	Income	“Income” as defined in Section 2(24) of the Income Tax Act, 1961 includes: (i) profits and gains; (ii) dividend; (iia) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an	Clause (viii)

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		<p>institution established wholly or partly for such purposes or by an association or institution referred to in clause (21) or clause (23), or by a fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) or by any university or other educational institution referred to in sub-clause (iiiad) or sub-clause (vi) or by any hospital or other institution referred to in sub-clause (iii ae) or sub-clause (via) of clause (23C) of section 10 or by an electoral trust.</p> <p>Explanation - For the purposes of this sub-clause, "trust" includes any other legal obligation;</p> <p>(iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17;</p> <p>(iiia) any special allowance or benefit, other than perquisite included under sub-clause (iii), specifically granted to the assessee to meet expenses wholly, necessarily and</p>	
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		<p>exclusively for the performance of the duties of an office or employment of profit;</p> <p>(iiib) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;</p> <p>(iv) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid;</p> <p>(iva) the value of any benefit or perquisite,</p>	
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		<p>whether convertible into money or not, obtained by any representative assessee mentioned in clause (iii) or clause (iv) of sub-section (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the "beneficiary") and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;</p> <p>(v) any sum chargeable to income-tax under clauses (ii) and (iii) of section 28 or section 41 or section 59;</p> <p>(va) any sum chargeable to income-tax under clause (iiia) of section 28;</p> <p>(vb) any sum chargeable to income-tax under clause (iiib) of section 28;</p> <p>(vc) any sum</p>	
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		<p>chargeable to income-tax under clause (iiic) of section 28;</p> <p>(vd) the value of any benefit or perquisite taxable under clause (iv) of section 28;</p> <p>(ve) any sum chargeable to income-tax under clause (v) of section 28;</p> <p>(vi) any capital gains chargeable under section 45;</p> <p>(vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule;</p> <p>(viia) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;</p> <p>(viii) [Omitted by the Finance Act, 1988, w.e.f. 1-4-1988. Original sub-clause (viii) was inserted by</p>	
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		<p>the Finance Act, 1964, w.e.f. 1-4-1964;]</p> <p>(ix) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.</p> <p>Explanation - For the purposes of this sub-clause, -</p> <p>(i) "lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;</p> <p>(ii) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;</p> <p>(x) any sum received by the assessee from his employees as contributions to any provident fund or</p>	
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		<p>superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;</p> <p>(xi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy. Explanation - For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in the Explanation to clause (10D) of section 10;</p> <p>(xii) any sum referred to in clause (va) of section 28;</p> <p>(xiiia) the fair market value of inventory referred to in clause (via) of section 28;</p> <p>(xiii) any sum referred to in clause (v) of sub-section (2) of section 56;</p> <p>(xiv) any sum referred to in clause (vi) of sub-section (2) of section 56;</p> <p>(xv) any sum of money or</p>	
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		<p>value of property referred to in clause (vii) or clause (viiia) of sub-section (2) of section 56;</p> <p>(xvi) any consideration received for issue of shares as exceeds the fair market value of the shares referred to in clause (viib) of sub-section (2) of section 56;</p> <p>(xvii) any sum of money referred to in clause (ix) of sub-section (2) of section 56;</p> <p>(xviiia) any sum of money or value of property referred to in clause (x) of sub-section (2) of section 56;</p> <p>(xviiib) any compensation or other payment referred to in clause (xi) of sub-section (2) of section 56;</p> <p>(xviii) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body</p>	
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		<p>or agency in cash or kind to the assessee other than, -</p> <p>(a) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43; or</p> <p>(b) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, as the case may be;</p>	
32	Government	<p>Section 65B(26A) of the Finance Act 1994 defines "Government" as Government means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with</p>	Clause (ix)(a)

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		article 150 of the Constitution or the rules made thereunder.	
33	Securities	<p>Securities as defined under clause (81) of section 2 of the Act:</p> <p>“Securities” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).</p> <p>Section 2(h) of the Securities Contracts (Regulation) Act, 1956 states that the term “Securities” include –</p> <ul style="list-style-type: none"> <li>i. shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate</li> <li>ia derivative</li> <li>ib units or any other instrument issued by any collective investment scheme to the investors in such schemes</li> <li>ic security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of</li> </ul>	Clause (ix)(f)

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		<p>Security Interest Act,2002</p> <p>id units or any other such instrument issued to the investors under any mutual fund scheme</p> <p>Explanation.—For the removal of doubts, it is hereby declared that "securities" shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);</p> <p>(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;</p> <p>(ii) Government securities;</p> <p>(iia) such other</p>	
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		instruments as may be declared by the Central Government to be securities; and (iii) rights or interest in securities;	
34	Public offer	Explanation to Section 23 of the Act states that for the purpose of Chapter III, the expression "Public offer" includes initial public offer or further public offer of securities to public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of prospectus.	Clause (x)(a)
35	Debt Instrument	SEBI (Issue and Listing of Debt Securities), Regulations, 2008 defines the term "debt securities". In terms of Regulation 2(1)(e) of the said regulations, it means a non-convertible debt securities which create or acknowledge indebtedness, and include debenture, bonds and such other securities of a body corporate or a trust registered with the Board as a Real Estate Investment Trust or an Infrastructure Investment Trust, or any statutory body constituted by virtue of a legislation, whether constituting a charge on the assets of the body corporate or not, but	Clause (x)(a)

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		excludes bonds issued by Government or such other bodies as may be specified by the Board, security receipts and securitized debt instruments.	
36	Private Placement	Explanation I to section 42(3) of the Act defines the term "Private placement" as any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.	Clause (x)(b)
37	Fraud	As per SA 240, the term "fraud" refers to an intentional act by one or more individuals among management, those charged with governance, employees, or third parties involving the use of deception to obtain an unjust or illegal advantage. Explanation to Section 447 of the Act defines "fraud" as 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	Clause (xi)

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		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.	
38	Nidhi	<p>Section 406(1) of the Act defines "Nidhi" or "Mutual Benefit Society" as a company which the Central Government may, by notification in the Official Gazette, declare to be a Nidhi or Mutual Benefit Society, as the case may be.</p> <p>As per Rule 3(1)(da) of Nidhi Rules, 2014, "Nidhi" means a company which has been incorporated as a nidhi with the object of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and which complies with the rules made by the central Government for regulation of such class of companies.</p>	Clause (xii)
39	Net owned funds	As per Rule 3(1)(d) of Nidhi Rules 2014, "Net Owned Funds" means the aggregate of paid up equity share capital and free reserves as reduced by accumulated losses and	Clause (xii)(a)

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		<p>intangible assets appearing in the last audited balance sheet:</p> <p>Provided that the amount representing the proceeds of issue of preference shares, shall not be included for calculating net owned funds.</p>	
40	Related Party	<p>Related party as defined under clause (76) of section 2 of the Act:</p> <p>"related party", with reference to a company, means –</p> <ul style="list-style-type: none"> <li>(i) a director or his relative;</li> <li>(ii) a key managerial personnel or his relative;</li> <li>(iii) a firm, in which a director, manager or his relative is a partner;</li> <li>(iv) a private company in which a director or manager or his relative is a member or director;</li> <li>(v) a public company in which a director or manager is a director and holds along with his relatives, more than two per cent of its paid-up share capital;</li> <li>(vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the</li> </ul>	Clause (xiii)

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		<p>advice, directions or instructions of a director or manager;</p> <p>(vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:</p> <p>Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;</p> <p>(viii) any body corporate which is –</p> <ul style="list-style-type: none"><li>A. a holding, subsidiary or an associate company of such company;</li><li>B. a subsidiary of a holding company to which it is also a subsidiary; or</li><li>C. an investing company or the venturer of the company.</li></ul> <p>Explanation - For the purpose of this clause, "the investing company or the venturer of a company" means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.</p>	
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		(ix) such other person as may be prescribed;	
41	Internal Auditor	As per section 138 of the Act, internal auditor shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.	Clause (xiv)
42	Cash or Cash equivalents	Accounting Standard (AS) 3 – “Cash Flow Statements” defines the term Cash or Cash Equivalent as under: “Cash” comprises cash on hand and demand deposits with banks. “Cash equivalents” are short term, highly liquid investments that are readily convertible into known amounts of cash and which are subject to an insignificant risk of changes in value. Indian Accounting Standard (Ind AS) 7 “Statement of Cash Flows” defines the term Cash or Cash Equivalent as under: “Cash” comprises cash on hand and demand deposits. “Cash equivalents” are short-term, highly liquid investments that are readily convertible to known amounts of cash and which	Clause (xv)

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		are subject to an insignificant risk of changes in value.	
43	Core Investment Company (CIC)	<p>As per RBI Master Direction – Core Investment Companies (Reserve Bank) Directions, 2016:</p> <p>“Core Investment Company (CIC)” is a non-banking financial company carrying on the business of acquisition of shares and securities and which satisfies the following conditions as on the date of the last audited balance sheet:</p> <p>(i) it holds not less than 90% of its net assets in the form of investment in equity shares, preference shares, bonds, debentures, debt or loans in group companies;</p> <p>(ii) its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies and units of Infrastructure Investment Trust only as sponsor constitute not less than 60% of its net assets as mentioned in clause (i)</p>	Clause (xvi)(c)

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		<p>above;</p> <p>Provided; that the exposure of such CICs towards InvITs shall be limited to their holdings as sponsors and shall not, at any point in time, exceed the minimum holding of units and tenor prescribed in this regard by SEBI (Infrastructure Investment Trusts) Regulations, 2014, as amended from time to time.</p> <p>(iii) it does not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;</p> <p>(iv) it does not carry on any other financial activity referred to in Section 45I(c) and 45I(f) of the Reserve Bank of India Act, 1934 except</p> <p>(a) investment in</p> <p>(i) bank deposits,</p> <p>(ii) money market instruments, including money market mutual funds and liquid mutual funds</p> <p>(iii) government</p>	
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		<p>securities, and</p> <p>(iv) bonds or debentures issued by group companies,</p> <p>(b) granting of loans to group companies and</p> <p>(c) issuing guarantees on behalf of group companies.</p>	
44	Financial Assets	<p>As per Indian Accounting Standard (Ind AS) 32 - Financial Instruments: Presentation, "Financial asset" is any asset that is:</p> <p>(i) cash</p> <p>(ii) an equity instrument of another entity</p> <p>(iii) a contractual right</p> <p>(i) to receive cash or another financial asset from another entity; or</p> <p>(ii) to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or</p> <p>(iv) a contract that will or may be settled in the entity's own equity instruments and is:</p> <p>(i) a non-derivative for which the entity is</p>	Clause (xix)

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		<p>or may be obliged to receive a variable number of the entity's own equity instruments.</p> <p>(ii) a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose the entity's own equity instruments do not include puttable financial instruments classified as equity instruments in accordance with paragraphs 16A and 16B, instruments that impose on the entity an obligation to deliver to another party a pro rata share of the net assets of the entity only on liquidation and are classified as equity instruments in accordance with paragraphs 16C and 16D, or instruments that</p>	
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		are contracts for the future receipt or delivery of the entity's own equity instruments.	
45	Financial Liabilities	<p>As per Indian Accounting Standard (Ind AS) 32 - Financial Instruments: Presentation, "Financial liability" is any liability that is:</p> <ul style="list-style-type: none"> <li>(i) a contractual obligation: <ul style="list-style-type: none"> <li>(i) to deliver cash or another financial asset to another entity; or</li> <li>(ii) to exchange financial assets or financial liabilities with another entity under conditions that are potentially unfavourable to the entity; or</li> </ul> </li> <li>(ii) a contract that will or may be settled in the entity's own equity instruments and is <ul style="list-style-type: none"> <li>(i) a non-derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity instruments or</li> <li>(ii) a derivative that will or may be settled other than by the exchange of a fixed amount of cash or</li> </ul> </li> </ul>	Clause (xix)

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		<p>another financial asset for a fixed number of the entity's own equity instruments. For this purpose, rights, options or warrants to acquire a fixed number of the entity's own equity instruments for a fixed amount of any currency are equity instruments if the entity offers the rights, options or warrants pro rata to all of its existing owners of the same class of its own non derivative equity instruments. Apart from the aforesaid, the equity conversion option embedded in a convertible bond denominated in foreign currency to acquire a fixed number of the entity's own equity instruments is an equity instrument if the exercise price is fixed in any currency. Also, for these purposes the entity's own equity instruments do not include puttable</p>	
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		<p>financial instruments that are classified as equity instruments in accordance with paragraphs 16A and 16B, instruments that impose on the entity an obligation to deliver to another party a pro rata share of the net assets of the entity only on liquidation and are classified as equity instruments in accordance with paragraphs 16C and 16D, or instruments that are contracts for the future receipt or delivery of the entity's own equity instruments.</p>	
46	Material Uncertainty	<p>Paragraph A21 of SA 570(Revised), "Going Concern" defines the phrase "material uncertainty" as the uncertainties related to events or conditions which may cast significant doubt on the entity's ability to continue as a going concern that should be disclosed in the financial statements.</p>	Clause (xix)

## Appendix IV

### List of Important Sections /Rules/ Regulations / Statutes

Section 2(13), (31), (39), (42), (43), (62), (64), (68), (69), (76), (81) and (85) of Companies Act, 2013
Section 8 of Companies Act, 2013
Section 23 of Companies Act, 2013
Sections 42 and 62 of Companies Act, 2013
Sections 73 to 76 of Companies Act, 2013
Section 135 of Companies Act, 2013
Section 138 of Companies Act, 2013
Section 143 of Companies Act, 2013
Section 148 of Companies Act, 2013
Sections 177 and 188 of Companies Act, 2013
Sections 179, 180 and 187 of Companies Act, 2013
Sections 185 and 186 of Companies Act, 2013
Section 189 of Companies Act, 2013
Section 192 of Companies Act, 2013
Section 247 of Companies Act, 2013
Section 447 of Companies Act, 2013
Section 469 of Companies Act, 2013
Rules 12 and 13 of the Companies (Audit and Auditors) Rules, 2014
Rules 2, 7 and 8 of the Companies (Registered Valuers and Valuation) Rules, 2017
Rules 9, 11, 12 and 13 of the Companies (Meeting of Board and its Powers) Rules, 2014

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Rule 2(1)(c) of the Companies (Acceptance of Deposits) Rules, 2014
Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014
Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014
Rule 13 of the Companies (Accounts) Rules, 2014
Section 2(77) of Companies Act 2013 read with Rule 4 of the Companies (Specification of Definition Details) Rules, 2014
Division I, II and III of Schedule III to the Companies Act 2013
Section 5 of Banking Regulation Act, 1949
Section 45-I of Reserve Bank of India Act, 1934
Sub-clauses (i) to (xviii) of clause (c) of Section 2 of the Industrial Development Bank of India Act, 1964
Section 3(26) of General Clauses Act, 1897 “immovable property”
Section 2 (8), (9), (10), (19) and (26) of Prohibition of Benami Property Transactions Act, 1988
Section 24(1) of Prohibition of Benami Property Transactions Act, 1988
Section 53A of the Transfer of Property Act, 1882
Regulations 34(3) and 53(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
Schedule V to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
Section 12 of the Securities and Exchange Board of India Act, 1992
Regulation 46(2)(e) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
Section 61 of the Customs Act, 1962

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Section 154, Section 264 of the Income Tax Act, 1961
The Direct Tax 'Vivad se Vishwas, Act, 2020', Sabka Vishwas – (Legacy Dispute Resolution) Scheme, 2019
Section 158B of the Income Tax Act, 1961
Section 2(h) of the Securities Contracts (Regulation) Act, 1956

## Appendix V

### An Illustrative Checklist on the Companies (Auditor's Report) Order, 2020

Clause No.	Particulars	Remarks	Working Paper Reference
<b>3(i)(a)(A)</b>	<b>Whether the company is maintaining proper records showing full particulars, including quantitative details and situation of Property, Plant and Equipment;</b>		
(a)	Whether records of Property, Plant and Equipment are maintained showing the following particulars:		
	<ul style="list-style-type: none"> <li>(i) Sufficient description (distinctive numbers, purchase agreement, documents, records and registration references, etc.) of the asset to make identification possible.</li> <li>(ii) Classification, that is, the head under which it is shown in the accounts, e.g., plant and machinery, office equipment, etc. component-wise, as applicable.</li> <li>(iii) Location/situation.</li> <li>(iv) Quantity, i.e., number of units.</li> <li>(v) Original cost.</li> <li>(vi) Year of purchase.</li> <li>(vii) Date of put to use.</li> <li>(viii) Residual value.</li> <li>(ix) Adjustment for revaluation or for any increase or decrease in cost, e.g., on revaluation of foreign exchange liabilities.</li> <li>(x) Date of revaluation, if any.</li> </ul>		

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	<p>(xi) Rate and basis of depreciation, useful life, particulars regarding impairment.</p> <p>(xii) Depreciation and impairment for the current year.</p> <p>(xiii) Accumulated depreciation and impairment loss.</p> <p>(xiv) Particulars regarding sale, discarding, demolition, destruction etc.</p> <p>(xv) Particulars of Property, Plant and Equipment that have been retired from active use and held for disposal.</p> <p>(xvi) Particulars of Property, Plant and Equipment that have been fully depreciated or impaired.</p>		
(b)	Whether aggregate original cost, depreciation to date and impairment loss, if any, as per the register/records agrees with General Ledger balances? If not, note the disagreements in respect of each class of assets.		
	Conclusion:		
<b>3(i)(a)(B)</b>	<b>Whether the company is maintaining proper records showing full particulars of intangible assets;</b>		
(a)	Whether records of intangible assets are maintained showing the following particulars:		
	(i) Sufficient description (distinctive numbers, purchase agreement, documents, records and registration references, etc.) of the intangible asset to make		

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	<p>identification possible along with bifurcation as per:</p> <ul style="list-style-type: none"> <li>• Self-generated intangible assets to the extent permitted by relevant accounting standards</li> <li>• Acquired intangible assets</li> </ul> <p>(ii) Classification, that is, the head under which it is shown in the accounts, e.g.,</p> <ul style="list-style-type: none"> <li>• Customer-based intangible assets,</li> <li>• marketing-based intangible asset,</li> <li>• contract based intangible asset,</li> <li>• artistic-based intangible assets,</li> <li>• technology-based intangible assets etc. as applicable.</li> </ul> <p>(iii) Location/situation.</p> <p>(iv) Quantity, i.e., number of units.</p> <p>(v) Original cost.</p> <p>(vi) Year of purchase.</p> <p>(vii) date of put to use.</p> <p>(viii) residual value.</p> <p>(ix) Adjustment for revaluation or for any increase or decrease in cost, e.g., on revaluation of foreign exchange liabilities.</p> <p>(x) Date of revaluation, if any.</p> <p>(xi) Rate and basis of amortization, useful life, particulars regarding amortisation and impairment of intangible assets.</p>		
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	<p>(xii) Amortisation and impairment for the current year.</p> <p>(xiii) Accumulated amortisation and impairment loss and / or reversal of impairment loss.</p> <p>(xiv) Particulars regarding retirement, sale, disposal, cessation etc. (e.g., termination of a license / permit or scrapping of a software)</p> <p>(xv) Particulars of intangible assets that have been retired / derecognized from active use and held for disposal.</p> <p>(xvi) Particulars of intangible assets that have been fully amortised or impaired.</p> <p>(xvii) Particulars of any specific legislation which is applicable to intangible assets (e.g. Copyright Act 1957, Patents Act 1970, Information Technology Act 2000, Designs Act 2000 etc.)</p> <p>(xviii) Whether aggregate original cost, amortisation to date and impairment loss, if any, as per the register/records agrees with General Ledger balances? If not, note the disagreements in respect of each class of intangible assets.</p>		
	<p>Conclusion:</p>		

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<b>3(i)(b)</b>	<b>Whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;</b>		
(a)	<p>(i) Whether Property Plant and Equipment (PPE) were physically verified at any time during the year or earlier years according to a phased program?</p> <p>(ii) What is the periodicity of physical verification of PPE and whether the same is reasonable?</p> <p>(iii) Whether PPE physically verified, agreed/ reconciled with book figures? If not, auditor is to note the discrepancies against each class of assets in terms of value, and state how the discrepancies have been dealt with.</p> <p>(iv) Instructions to officials for carrying out physical verification to include procedures, timing, competency of team members, count sheets/tags, formats etc.</p>		
(b)	The auditor may physically verify few items from the PPE register & vice versa.		
(c)	<p>Whether management representation is obtained confirming that:</p> <ul style="list-style-type: none"> <li>• items of PPE are physically</li> </ul>		

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	<p>verified by the company in accordance with the policy of the company.</p> <ul style="list-style-type: none"> <li>• periodicity of the physical verification of PPE.</li> <li>• details of the material discrepancies noticed during the physical verification of PPE.</li> <li>• if no discrepancies were noted during physical verification, the same should be clearly mentioned.</li> </ul>														
	Conclusion:														
3(i)(c)	<p><b>Whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below:-</b></p>														
	<table border="1"> <thead> <tr> <th>Description of property</th> <th>Gross carrying value</th> <th>Held in name of</th> <th>Whether promoter, director or their relative or employee</th> <th>Period held –indicate range, where appropriate</th> <th>Reason for not being held in name of company*</th> </tr> </thead> <tbody> <tr> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>*also indicate if in dispute</td> </tr> </tbody> </table>	Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held –indicate range, where appropriate	Reason for not being held in name of company*	-	-	-	-	-	*also indicate if in dispute		
	Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held –indicate range, where appropriate	Reason for not being held in name of company*									
-	-	-	-	-	*also indicate if in dispute										
(a)	<p>Does the company have any immovable properties (e.g. land and buildings)?</p> <p>Has the company identified the land and building on the basis of Property, Plant and Equipment register?</p>														
(b)	Whether the title deeds of these immovable properties (other than														

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	<p>properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) are in the name of the company?</p> <p>Whether the details as per title deeds reconcile with the details in PPE register, if not, is there any material difference to be reported here.</p>		
(c)	<p>Has the management provided details of immovable properties not held in company's name (for example, location, description, and reasons for not being held in the company's name?</p>		
	<p>(i) In case the title deeds are lost, assess whether the certified copies of such documents are available with the company and what actions have been taken by the management in this regard?</p> <p>(ii) In case the title deeds are mortgaged with the lenders, assess if the confirmation from the lenders is obtained for the same.</p> <p>(iii) In case any litigations / dispute are pending with respect to title of the immovable properties, the auditor is to document and report the details of such litigations and the forum where they are pending.</p> <p>(iv) The discrepancies observed should be reported in the CARO report as under:</p>		

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	<p>In case the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) are not held in the name of the company, the auditor has to obtain information and details on the following:</p> <ul style="list-style-type: none"> <li>• Description of the property( with details of location, area, details of land records/municipal records)</li> <li>• Gross carrying value as in the financial statements.</li> <li>• Held in the name of whom (name of party).</li> <li>• Whether such properties are held in the name of promoter, director or their relative or employee.</li> <li>• The period for which such properties are held in the name of promoter, director or their relative or employee.</li> <li>• Reason for not being held in the name of the company.</li> <li>• Details of dispute, if any.</li> </ul> <p>Auditor may carry out suitable substantive test, external confirmation, and obtain necessary management representation for the purpose of reporting under this clause.</p>		
	<p>Conclusion:</p>		

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<b>3(i)(d)</b>	<b>Whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;</b>		
(a)	Whether revaluation of Property, Plant and Equipment (including right of use assets) or Intangible Assets has been carried out?		
(b)	What is the frequency of revaluation usually carried out by the company?		
(c)	In case the company during the year has revalued its PPE or intangible assets or both, then whether the revaluation is based on the valuation by a Registered Valuer as set out in Section 247 of the Companies Act 2013 read with the Companies (Registered Valuers and Valuation Rules) 2017.		
(d)	In case a single item of PPE is revalued, whether the entire class of PPE to which that item belongs has been revalued.		
(e)	Date of revaluation carried out by the company.		
(f)	Name of the Registered Valuer or firm who carried out the valuation exercise, place and date of Valuation Report (The auditor may also retain a copy of the Valuation Report carried out by such Registered Valuer).		
(g)	Membership / Licence Number of the Registered Valuer (Registered		

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	Valuer are to be registered with Insolvency & Bankruptcy Board of India).		
(h)	If change is 10% or more in the aggregate of the net carrying value of each class of PPE or intangible assets, auditor to specify the amount of change and whether this change is a result of upward or downward revaluation.		
	Conclusion:		
<b>3(i)(e)</b>	<b>Whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;</b>		
	For the purpose of reporting under this Clause, the term 'Property' shall cover the Definition as per the Prohibition of Benami Property Transactions Act, 1988.		
(a)	Whether proceedings have been initiated under Section 24(1) of the Prohibition of Benami Property Transactions Act, 1988 by the Initiating Officer (IO) and/ or any proceedings being pending against the Company before the Initiating Officer/ Adjudicating Authority/ Appellate Tribunal/ High Court/ Supreme Court during any of the preceding financial years.		
(b)	Whether, in case of any proceedings initiated or pending against the company, appropriate disclosures are made in the financial statements. The term 'Appropriate disclosures' shall, inter alia include:		

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	<ul style="list-style-type: none"> <li>• nature of property,</li> <li>• carrying value of the property in the books of account,</li> <li>• status of proceedings before the relevant authority,</li> <li>• consequential impact on the financial statements and/ or the liability that may arise in case the proceedings are decided against the Company.</li> </ul>		
(c)	Whether the liability is required to be disclosed as “Contingent liabilities” or whether provisions are required to be made in the financial statements.		
(d)	For the purpose of ascertaining whether any proceedings are initiated or are pending:		
	Whether Management Representation letter is obtained by the auditor under SA 580 in respect of necessary inquiries made with management?		
	Whether review is carried out by the auditor regarding ‘legal fees / expenses’ in the profit and loss account to ascertain whether any expenses have been actually incurred by the Company in respect of a proceeding under Prohibition of Benami Property Transactions Act 1988?		
	Whether the auditor reviewed the minutes of meetings of the Board of Directors, Audit Committee, Risk Management Committee, other secretarial records to verify whether any reference to proceedings against the Company under the		

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	Prohibition of Benami Property Transactions Act 1988 has been made?		
	Conclusion:		
<b>3(ii)(a)</b>	<b>Whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;</b>		
(a)	Has the management physically verified the inventory, as defined in AS 2/Ind AS 2? Inventory normally includes- <ul style="list-style-type: none"> <li>• Raw materials and Components</li> <li>• Packing materials</li> <li>• Maintenance supplies</li> <li>• Work in progress</li> <li>• Finished Goods</li> <li>• Stores and Spares</li> <li>• Consumables and Loose tools</li> </ul>		
(b)	Whether evidence of physical verification has been seen and reasonableness of periodicity of physical verification evaluated by verifying following:		
	<ul style="list-style-type: none"> <li>• written instructions issued by the management.</li> <li>• duly authenticated physical verification sheets.</li> <li>• duly authenticated summary sheets/ consolidation sheet.</li> <li>• internal memo, etc., regarding</li> </ul>		

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	<p>issues arising on physical verification.</p> <ul style="list-style-type: none"> <li>• any other documents evidencing physical verification.</li> </ul>		
(c)	Whether the original physical verification sheets have been reviewed and selected items traced into the final inventories? (including the more valuable ones as per ABC classification)		
(d)	Whether the comparison of final inventories with stock has been done? Whether records and other corroborative evidence, e.g. inventory statements submitted to banks?		
(e)	In case of continuous stock taking method, whether management:		
	<ul style="list-style-type: none"> <li>(i) maintains adequate and up-to-date stock records;</li> <li>(ii) has established adequate procedures for physical verification of inventories, so that in the normal circumstances, the programme of physical verification will cover all material items of inventory at least once during the year; and</li> <li>(iii) checks/examines thoroughly and corrects all material differences between the book records and the physical counts.</li> </ul>		
(f)	Whether stock register is updated and value of inventory extracted from it tally with the books of account.		

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(g)	<p>Whether any discrepancies of 10% or more in aggregate for each class of inventory were noticed (in terms of value) in the stock records/register as compared to books of account?</p> <p>If yes, how the same have been dealt with in the books of account as well as in the stock records?</p> <p>In case discrepancy cannot be determined, state this fact.</p>		
	Conclusion:		
<b>3(ii)(b)</b>	<p><b>Whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;</b></p>		
(a)	<p>Whether the company has availed/taken working capital limits from banks/financial institutions during the year on the basis of security of current assets.</p>		
(b)	<p>Whether the sanctioned working capital limits have been checked from the sanction letter issued to the company by banks/financial institutions.</p>		
(c)	<p>Whether at any point of time during the year, the sanctioned limit (including fresh sanction, limits renewed and due for renewal) exceeds Rs. 5 crores.</p>		
(d)	<p>Whether fund based and non-fund based working capital limits have been examined by the auditor for determining the limit of Rs. 5 crores.</p>		

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(e)	Whether the register of charges and relevant documents has been examined for charge created on the current assets.		
(f)	<p>Whether the company files returns/statements with the banks/financial institutions; if so, whether a list of the same has been taken on record by the auditor.</p> <p>An illustrative list of documents which should be examined by the auditor in this regard are -</p> <ul style="list-style-type: none"> <li>i. stock statements</li> <li>ii. book debt statements</li> <li>iii. credit monitoring arrangement reports</li> <li>iv. statement on ageing analysis of debtors/other receivables</li> <li>v. report/statement of other financial information submitted to the lenders</li> </ul>		
(g)	Whether the terms of sanction expressed in the agreements/other documents and other information relevant to reporting under this clause has been taken on record by the auditor.		
(h)	<p>Where the company files quarterly returns/statements, whether the same has been taken on record by the auditor and compared with the books of account.</p> <p>During comparison, the following parameters may be considered -</p> <ul style="list-style-type: none"> <li>i. quantity and value of stocks</li> <li>ii. amount of debtors/creditors</li> <li>iii. ageing analysis of debtors etc.</li> </ul>		

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(i)	Whether any discrepancy arose during such comparison and a list of the same is made by the auditor.		
(j)	Whether the auditor holds discussion with the management for the reasons and details of such discrepancies; whether the auditor is satisfied with the same; obtain management representation wherever necessary.		
(k)	Whether the auditor using his professional judgement and considering the impact of the same on the financial statements has dealt with the above discrepancies in his report; and has reported the same in such manner that is understandable to the users of the financial statements.		
	Conclusion		
<b>3(iii)(a)</b>	<p><b>Whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so,</b></p> <p><b>(a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate -</b></p> <p><b>(A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;</b></p> <p><b>(B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;</b></p>		

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(a)	Has the company made an investment, granted any loans/advances in nature of loans (Secured or Unsecured), provided guarantee/security to companies, firms, limited liability partnerships or any other parties?		
(b)	Where the company has granted any loans/advances in nature of loans to parties and squared off during the year, obtain details of such transactions.		
	Conclusion:		
<b>3(iii)(b)</b>	<b>Whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in nature of loans and guarantees provided are not prejudicial to the company's interest;</b>		
(a)	<p>Whether the terms of the investments, loans/advances in nature of loans, guarantee/security are prima facie prejudicial to interest of the company, due consideration to be given to the factors mentioned below:</p> <ul style="list-style-type: none"> <li>• terms &amp; condition of the loans/advances in nature of loans like terms and period of repayment, rate of interest, restrictive covenants etc.,</li> <li>• company's financial standing, its ability to lend, invest, provide guarantee/security and terms thereof,</li> <li>• borrower's financial standing,</li> <li>• the nature of the security,</li> <li>• prevailing rate of interest etc.</li> </ul>		

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(b)	Whether compliance with applicable law has been ensured (this would assist in identification of whether terms are prejudicial to the interest of the company).		
	Conclusion:		
<b>3(iii)(c)</b>	<b>In respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;</b>		
(a)	Whether the schedule of repayment of principal and payment of interest has been stipulated in the loan/advances in nature of loan agreements / mutually agreed letter of arrangement at the time of sanction?		
(b)	Whether repayment of principal amount and interest thereon are received regularly on the due date or immediately thereafter?		
(c)	If not, the fact and details should be obtained.		
	Conclusion:		
<b>3(iii)(d)</b>	<b>If the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;</b>		
(a)	Whether list of overdue amount has been prepared & recorded and reasonable steps taken for recovery of amount of loan which is overdue for more than ninety days?		

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(b)	<p>Following documents may be seen for verification of reasonableness of steps taken by the company for recovery of principal and accrued interest on loan granted:</p> <ul style="list-style-type: none"> <li>• Facts of each case including amounts involved</li> <li>• Issue of reminder</li> <li>• Sending of advocates or solicitor's notice</li> <li>• Obtaining enhanced security</li> </ul> <p>In absence of legal steps whether auditor is satisfied that reasonable steps have been taken.</p>		
(c)	<p>Obtain management representation regarding steps that have been taken for recovery of total amount overdue for more than ninety days.</p>		
	<p>Conclusion:</p>		
<b>3(iii)(e)</b>	<p><b>Whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];</b></p>		
(a)	<p>Examine whether in respect of loans overdue, fresh loans were granted/extension made/renewal done to settle the overdues of existing loans given to the same parties.</p>		
	<p>Conclusion:</p>		

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3(iii)(f)	<b>Whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;</b>		
(a)	Examine whether there are instances of loans/advances in nature of loans <i>vis-a-vis</i> total loans/advances in nature of loans. Further, consider portion of such loans/advances in nature of loans granted to promoters under section 2(69) and related parties under section 2(76) of the Companies Act 2013.		
(b)	Check the mathematical accuracy of aggregate amount and percentage that needs to be reported upon.		
	Conclusion:		
3(iv)	<b>In respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;</b>		
(a)	Where company has given loans to directors etc.:		
	(i) Whether any loans given directly or indirectly to directors or any person in whom any of the director of the company is interested, or given any guarantee or provided any security in connection with any loan taken by directors or such other person?		
	(ii) Whether any of the transaction is attracting the provisions of section 185?		

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	(iii) Whether any of such transactions are covered under the exceptions provided under section 185? If so, obtain the relevant evidence ensuring such exemption.		
(b)	Where company has made loan/investment:		
	(i) Obtain the details of loans given and investment made by the company including opening balances. Also obtain the details regarding guarantee given or security provided by the company.		
	(ii) Whether the company has made investment through more than two layers of investment companies?		
	(iii) Whether the company has exceeded the limit of sixty per cent of its paid-up share capital, free reserves and securities premium account or one hundred per cent of its free reserves and securities premium account, whichever is more?		
	(iv) If the limit exceeded, whether prior approval by means of a special resolution passed at a general meeting has been obtained?		
	(v) Whether the rate of interest charged is more or at par to the rates specified in sub-section (7) of section 186 of the Act, if not, the reasons thereof.		
	Conclusion:		

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3(v)	In respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;		
(a)	If the company has accepted deposits or amounts which are deemed to be deposits from the public, state whether:		
	<p>(i) The directives issued by the Reserve Bank of India have been complied with and also that:</p> <p>(ii) The provisions of Sections 73 to 76 of the Companies Act, 2013 or any other relevant provisions of the Companies Act, 2013 and the rules framed thereunder have been complied with.</p> <p>(iii) List out contraventions, if any.</p>		
(b)	Where an order has been passed by the Company Law Board or National Company Law Tribunal or Reserve Bank of India or any Court or any other Tribunal in respect of above, examine the steps taken by the company to comply with the order, and if not, report briefly stating therein the nature of contravention and the fact that company has not complied with the order.		
	Conclusion:		

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<b>3(vi)</b>	<b>Whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act and whether such accounts and records have been so made and maintained;</b>		
(a)	Whether cost records have been prescribed for the company under section 148(1) of the Companies Act, 2013?		
(b)	If so verify whether proper cost accounts and records are made and maintained by the Company as specified- Obtain Form CRA-A.		
	Conclusion:		
<b>3(vii)(a)</b>	<b>Whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;</b>		
(a)	Whether a list of statutory dues which company is required to deposit regularly has been obtained.		
	Note: Any sum, which is to be regularly paid to an appropriate authority under a statute (whether Central, State or Local or Foreign) applicable to the company, should be considered as a "statutory due".		
(b)	In case where there are no arrears on the balance sheet date but the company has been irregular during the year in depositing the statutory dues, the fact should be stated.		

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(c)	Whether the Company has been generally regular in depositing statutory dues or otherwise, indicate the same.		
	Note: A matter is disputed where there is a positive evidence or action on the part of the company to show that it has not accepted the demand for payment of tax or duty, e.g., where it has gone into appeal.		
(d)	Whether penalty and/or interest levied under the respective law is included under amounts payable?		
(e)	Ensure that disclosure is restricted to the actual arrears and should not include the amounts which have not fallen due for deposit and have been shown as arrears at the balance sheet date.		
(f)	Whether the information about arrears of outstanding statutory dues is provided in the format: <ul style="list-style-type: none"> <li>• Name of the Statute</li> <li>• Nature of the dues</li> <li>• Amount (Rs.)</li> <li>• Period to which amount relates</li> <li>• Due date</li> <li>• Date of Payment</li> </ul>		
(g)	Whether a written representation with reference to the date of the balance sheet obtained from the management: <ul style="list-style-type: none"> <li>• specifying the cases and the amounts considered disputed;</li> <li>• containing a list of the cases and the amounts in respect of the statutory dues which are</li> </ul>		

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	<p>undisputed and have remained outstanding for a period of more than six months from the date they became payable;</p> <ul style="list-style-type: none"> <li>• containing a statement as to the completeness of the information provided by the management.</li> </ul>		
(h)	Whether any register of significant laws with which the company has to comply within its particular industry and a record of complaints in respect of non-compliance been maintained?		
	Conclusion:		
<b>3(vii)(b)</b>	<b>Where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (a mere representation to the concerned Department shall not be treated as a dispute);</b>		
(a)	Review internal audit report, minutes of the meeting of the Board of Directors and audit committee.		
(b)	<p>Ensure that information about arrears of disputed statutory dues is provided in the format:</p> <ul style="list-style-type: none"> <li>• Name of the Statute</li> <li>• Nature of the dues</li> <li>• Amount (Rs.)</li> <li>• Period to which the amount relates</li> <li>• Forum where dispute is pending</li> </ul>		
(c)	Ensure that disclosure is restricted to the amounts which have not been deposited on account of any dispute, irrespective of the treatment of such disputed amount in accounts.		

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(d)	In case, the company has made the deposit under protest, the fact of such deposit having been made under protest should be stated under this clause.		
	Conclusion:		
<b>3(viii)</b>	<b>Whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;</b>		
(a)	Whether financial statements have been obtained and listing of sources of income been obtained.		
(b)	Whether details of any proceedings/assessment made during the financial year under audit obtained.		
(c)	Whether written representation with reference to the year under audit obtained from the management: <ul style="list-style-type: none"> <li>• specifying the income which are not recorded in the books of account and have been disclosed/surrendered by the assessee during the year.</li> <li>• containing a year wise listing of amount disclosed/ surrendered.</li> <li>• containing reasons for non-disclosure earlier and source of income.</li> <li>• containing impact of such unrecorded transactions on the financial statements.</li> <li>• containing statement as to completeness of the information provided by the management.</li> </ul>		
	Conclusion:		

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<b>3(ix)(a)</b>	<b>Whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below:</b>					
	Nature of borrowing including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
		* lender wise details to be provided in case of defaults to banks, financial institutions and Government.				
(a)	Whether all defaults committed during the year and number of days of default are reported irrespective of that these defaults have been rectified at the balance sheet date?					
(b)	Whether all defaults existing at the balance sheet date are reported irrespective of when those defaults have occurred?					
(c)	In case of defaults to banks, financial institutions, and government, whether lender wise details reported?					
(d)	If application of re-schedulement of loan has been made whether the fact has been stated. Where reschedulement has been approved subsequent to balance sheet date, whether defaults reported?					

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(e)	Whether the disputes between the company and the lender on various issues give rise to disclaimer stating the fact there is a dispute between the company and the lender and accordingly the auditor is unable to determine whether there is a default in repayment of dues to the lender concerned?		
	Conclusion:		
<b>3(ix)(b)</b>	<b>Whether the company is a declared wilful defaulter by any bank or financial institution or other lender;</b>		
(a)	Whether the company has defaulted in repayment of loans and/ or payment of interest?		
(b)	Does the auditor's procedures-confirmation from lender or research of information in public domain indicate that the company has been declared a willful defaulter?		
(c)	Enquire from the management if the company has been declared a willful defaulter by any lender as at the date of the balance sheet or on the date of signing of audit report.		
(d)	Has the company received any show-cause notice in accordance with RBI Circular dated July 1, 2014 on Wilful Defaulters?		
	Conclusion:		
<b>3(ix)(c)</b>	<b>Whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;</b>		
(a)	Whether the company has taken any term loan?		

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(b)	Examine the terms and conditions subject to which the company has obtained the term loans including purpose for which term loans were sanctioned.		
(c)	Compare the purpose for which term loans were sanctioned with the actual utilisation of the loans and obtain sufficient appropriate audit evidence regarding the utilisation of the amounts raised.		
(d)	In case, during a construction phase surplus funds were temporarily invested, however, subsequently the same are utilised for the stated objectives, mention the fact that the funds were temporarily used for the purpose other than for which the loan was sanctioned but were ultimately utilised for the stated end-use.		
(e)	Where the Company has taken general purpose loans, whether these have been utilized for purposes considered as diversion by RBI Circular dated July 1, 2014 on Wilful Defaulters.		
(f)	Whether the fund flow statement has been reviewed where one to one correlation was not possible.		
(g)	Whether term loans taken were not applied for stated purpose during the year for any reason? If yes, mention the facts and amount. Also disclose the fact about utilization of term loan of earlier year in current year.		
	Conclusion:		

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<b>3(ix)(d)</b>	<b>Whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated;</b>		
(a)	Whether movement of funds of company can be examined and verified and such movement also be supported by relevant documentation, direct relationship between particular funds and an asset from the balance sheet can be ascertained.		
(b)	Whether trail is available to show that movement of source and application of funds and a direct relationship between them? If not, determine movement and application of funds on an overall basis.		
(c)	Whether funds raised on short term basis have been applied for long-term requirements of the company?		
	Conclusion:		
<b>3(ix)(e)</b>	<b>Whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of transactions and the amount in each case;</b>		
(a)	Whether the company has incurred expenses on behalf of its subsidiaries, joint ventures or associates or has paid amounts to others on behalf of its subsidiaries, joint ventures or associates?		
(b)	Has the company granted loans or advances to subsidiaries, joint ventures or associates?		
(c)	Whether there is prima facie any evidence of diversion of borrowed		

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	funds to subsidiaries, joint ventures, associates based on examination of terms and conditions of borrowed funds?		
(d)	Based on review of the cash flow statement, whether the company has net positive cash flows in excess of amounts granted as loans/ advances or amounts spent to meet the obligations of its subsidiaries, joint ventures or associates?		
	Conclusion:		
<b>3(ix)(f)</b>	<b>Whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;</b>		
(a)	Whether the company has raised any loans during the year from any lender?		
(b)	Whether the terms and conditions of loan agreement specify the security against loans raised during the year?		
(c)	Whether any charge has been created in respect of any investment of the company in subsidiaries, joint ventures or associate companies?		
(d)	Based on (b) and (c) above, whether any loan raised during the year has been so raised on the pledge of securities held in subsidiaries, joint ventures or associate companies?		
(e)	Whether the company has defaulted in repayment of such loans (principal or interest or both)?		
	Conclusion:		

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<b>3(x)(a)</b>	<b>Whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;</b>		
(a)	Whether the company raised money by way of initial public offer or further public offer of equity shares, convertible securities or debt securities?		
(b)	Examine the terms and conditions stated in the offer document subject to which the company has raised the above mentioned money.		
(c)	Whether the end use of the money raised (as mentioned above) is capable of being determined? If not state the fact.		
(d)	Whether the said end-use of money disclosed in the financial statements by way of a Note is significantly different from the actual end use? If so, state the fact.		
(e)	Examine the various documents submitted to SEBI, offer document and also examine the report of board of directors, if available, to find out whether funds raised have been utilized for the purpose for which they were raised.		
(f)	Whether a representation from the management has been obtained as to the completeness of the disclosures with regard to the end-use of moneys raised by initial public offer and further public offer?		

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(g)	Whether the fund flow statement has been reviewed where one to one correlation is not possible.		
(h)	In case the moneys raised have not been applied during the year, mention the fact that the moneys raised during the year have not been utilised.		
(i)	In case during a construction phase surplus funds were temporarily invested, however, subsequently the same are utilised for the stated objectives, mention the fact that the funds were temporarily used for the purpose other than for which they were raised but were ultimately utilised for the stated end-use.		
(j)	Whether funds raised/obtained were not applied for stated purpose during the year for any reason? If yes, mention the facts and amount. Also disclose the fact about utilization of funds raised during earlier year in current year.		
(k)	If, for any reason, the auditor is not able to verify the end-use of money raised, the fact that he is not able to comment upon the disclosure along with the reasons which resulted in the inability should be stated.		
(l)	Consider the implications of non-compliances above also in the auditor's report on the financial statements.		
	Note: Reporting under this Clause is required also in instances where the amounts have been raised in earlier year(s) and is being utilized during the current year.		
	Conclusion:		

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<b>3(x)(b)</b>	<b>Whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;</b>		
(a)	Has the Company made any preferential allotment or private placement of shares or fully convertible debentures during the year?		
(b)	Obtain a statement containing the specific terms of offer for private placement, including purpose for which funds were raised, and the details of subsequent application-amounts, dates and the purpose.		
(c)	Ascertain whether the offer and allotment of securities referred in (a) above are in compliance with the requirements of section 42 and section 62 of the Act.		
(d)	Based on the understanding so gained, perform a reasonable test check of compliance with the requirements of the Act.		
(e)	Whether the fund flow statement has been reviewed where one to one correlation is not possible.		
(f)	In case the moneys raised have not been applied during the year, mention the fact that the moneys raised during the year have not been utilised.		
(g)	In case during a construction phase surplus funds were temporarily		

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	invested, however, subsequently the same are utilised for the stated objectives, mention the fact that the funds were temporarily used for the purpose other than for which they were raised but were ultimately utilised for the stated end-use.		
(h)	Whether funds raised/obtained were not applied for stated purpose during the year for any reason? If yes, mention the facts and amount. Also disclose the fact about utilization of funds raised during earlier year in current year.		
(i)	If, for any reason, the auditor is not able to verify the end-use of money raised, the fact that he is not able to comment upon the disclosure along with the reasons which resulted in the inability should be stated.		
(j)	Consider the implications of non-compliances above also in the auditor's report on the financial statements.		
	Note: Reporting under this Clause is required also in instances where the amounts have been raised in earlier year(s) and is being utilized during the current year.		
	Conclusion:		
<b>3(xi)(a)</b>	<b>Whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;</b>		
(a)	Has SA 240 been complied with? (Attach the checklist for compliance of SA 240 with this checklist also).		

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(b)	Examine the following to ascertain whether any fraud has been reported or noticed by the management:		
	<ul style="list-style-type: none"> <li>• the reports of the internal audit.</li> <li>• the auditor should enquire from the management about any frauds by the company or any fraud on the company that it has noticed or that have been reported to it.</li> <li>• discuss the matter with other employees including officers of the company.</li> <li>• examine the minutes book of the board meeting, audit committee etc., of the company in this regard.</li> </ul>		
(c)	Where any fraud by the company or any fraud on the company has been noticed or reported, determine the nature and amount of frauds and disclose the same. Obtain management representation to this effect.		
	Conclusion:		
<b>(xi)(b)</b>	<b>Whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;</b>		
(a)	Whether any fraud has been reported by the auditor during the year and upto the date of issuance of auditor's report under section 143(12) in Form ADT 4, the same should be reported under this clause.		
	Conclusion:		

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<b>3(xi)(c)</b>	<b>Whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;</b>		
(a)	Check as to whether the company has an ethics/whistle blower/hotline process with adequate procedures to handle anonymous complaints (received from inside and outside the company), and to accept confidential submission of concerns about questionable accounting, internal control, or auditing matters.		
(b)	Evaluate whether whistle blower complaints are investigated and resolved by the company in a timely manner.		
(c)	In case of a listed company, examine whether vigil mechanism has been established in accordance with the requirements of the Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. In case of unlisted (public or private) companies, examine whether vigil mechanism has been established in accordance with the requirements of the Companies Act, 2013. For other companies, examine whether companies have established a vigil mechanism/whistle blower mechanism on a voluntary basis.		
(d)	Obtain from the management all whistle blower complaints received through such vigil mechanism/hotline process and review the whistle blower complaints.		

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(e)	Enquire from the management about investigation of all such whistle blower complaints received and the findings, if any.		
(f)	Consider when whistle-blower complaint is received or have been identified, during the course of the audit, whether fraud assessment done in accordance with Guidance Note on Reporting on Fraud under Section 143(12) of the Companies Act, 2013 issued by ICAI.		
(g)	Obtain written representation from the Board/ Audit Committee, management for completeness of such whistle blower complaints received by the company.		
	Conclusion:		
<b>3(xii)</b>	<p><b>(a) Whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1: 20 to meet out the liability;</b></p> <p><b>(b) Whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;</b></p> <p><b>(c) Whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;</b></p>		
(a)	Is the Company a Nidhi Company?		
	Assess if the Company is registered as a Nidhi Company as per provisions of Section 406 of the Companies Act 2013 or Section 620A of the Companies Act, 1956.		
(b)	Check compliance with the following: a) Whether the net owned funds to deposits ratio is more than		

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	<p>1:20 to meet out the liability as on the date of balance sheet?</p> <p>b) Examine whether the Nidhi Company is maintaining ten per cent unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability.</p>		
(c)	<p>Whether the calculation of net owned funds is done as per Rule 3(1)(d) of Nidhi Rules 2014 which includes equity share capital and free reserves as reduced by accumulated losses and intangible assets appearing in the last audited balance sheet.</p> <p>Assess if the proceeds of issue of preference shares have been included in the net owned funds.</p> <p>Ensure that ratio is computed by using the figures of net owned funds and deposit liability computed in accordance with as stated under this clause.</p>		
(d)	<p>Examine the terms and conditions stated in the documents relating to taking of deposits, subject to which the company has raised the deposits, with regard to the amount and due dates of payments of deposits as well as the interest thereon.</p>		
(e)	<p>Whether all defaults relating to the payment of interest on deposits or repayment of deposits, which existed at any time during the year including those relating to any earlier period and also including</p>		

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	those which have been made good during the accounting period, are reported irrespective of the period when those defaults had occurred or the fact that those defaults have been made good subsequently during the accounting period.		
(f)	If the default of repayment of deposit or the payment of interest on deposits has been made good during the accounting period, whether the fact has been stated.		
(g)	Whether the disputes between the company and the depositor on issues relating to repayment of deposit or interest thereon, give rise to disclaimer stating the fact there is a dispute between the company and the depositor and the auditor is unable to determine whether there is a default in repayment of the deposit or interest thereon, to the depositor concerned.		
	Conclusion:		
<b>3(xiii)</b>	<b>Whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the Financial Statements etc., as required by the applicable accounting standards;</b>		
(a)	Obtain a statement containing details of transactions with related parties.		
	Obtain a list of companies, firms or other parties, the particulars of which are required to be entered in the register maintained under section 189 of the Act. <i>Please refer the note below</i>		

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	<p>Obtain declarations made by the directors in Form MBP-1 i.e., general notice received from a director under Rule 9(1) of the Companies (Meetings of Board and Power) Rules, 2014.</p> <p>Verify the entries made in the register under section 189 with such statement from management and declarations received from directors.</p> <p>Assess the additions/ deletions to such list for appropriateness based on relevant declarations.</p>		
(b)	Obtain understanding of requirements of section 177 and 188 of the Act in relation to related party transactions.		
(c)	Perform reasonable check to ascertain completeness and accuracy of details in the statement.		
(d)	Ascertain the system and procedures of the company to ensure compliance with the provisions of section 177 and 188 of the Act including the assessment of identification of related parties and whether the transaction is at arm's length and basis of such conclusion.		
(e)	Based on the understanding so gained, perform a reasonable test check of compliance with the aforesaid requirements of the Act.		
(f)	Examine minutes of meetings of the audit committee and agreements underlying related party transactions to ascertain audit		

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	committee approval for the transactions.		
(g)	Examine the minutes of Board meetings to ascertain whether requisite approvals of Board is obtained for certain related party transactions as required under section 188 of the Act.		
(h)	Where shareholders' approval is required, check whether the requisite approvals have been obtained as required under Section 188 of the Act.		
(i)	Examine whether related party disclosures are made in the financial statements as per the requirements of AS 18 or Ind AS 24 as may be applicable.		
(j)	Examine whether disclosure related to contracts or arrangements with related parties as mandated by section 188 are made in Board's report.		
	Including the assessment of identification of related parties and whether the transaction is at arm's length and basis of such conclusion.		
(k)	Consider the implications of non-compliances above also in the auditor's opinion on the financial statements.		
	Note: There cannot be a common list in respect of related party transactions. The scope of Ind AS 24 is wider and some persons need to be additionally identified than those mentioned in Section 2(76), Section 2(77) of Companies Act,		

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	<p>2013 e.g. Close members, Dependents of a relative.</p> <p>Two separate lists are required since some parties are “related” as per Section 188 read with definitions and Rule 4 of Companies (Specification of Definition Details) Rules, 2014 whereas may or may not be “related party” on application of Ind AS.</p>		
	Conclusion:		
<b>3(xiv)(a)</b>	<b>Whether the company has an internal audit system commensurate with the size and nature of its business;</b>		
	Have you considered the following factors to determine whether the internal audit system is commensurate with the size of the company and nature of its business:		
(a)	Is there an internal audit system in the Company? (Mere internal check should not be considered as internal audit).		
(b)	Whether the company has appointed internal auditor in compliance with section 138 of the Act and applicable rules?		
(c)	Has the internal audit been conducted by a separate internal audit department or by external professional firm?		
(d)	Is the internal audit department sufficient in size and properly manned to perform the internal audit function?		
(e)	Is the head of the internal audit department a qualified professional?		

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(f)	Is internal audit department independent of the accounting department?		
(g)	To whom the internal audit department is responsible?		
(h)	In case of listed companies, whether provisions of SEBI LODR Regulations have been complied with and whether the head of internal audit is present in the audit committee meeting?		
(i)	Whether the internal auditor has adequate technical assistance to discharge his functions?		
(j)	Do the Internal Auditors have questionnaires or guide manual?		
(k)	Whether internal audit work is carried out according to a plan and programme and, if so what are the areas covered in this year?		
(l)	Whether adequate files and records are maintained by the Internal Auditors?		
(m)	Do the internal auditors' reports give: <ul style="list-style-type: none"> <li>• Conclusions on the audit?</li> <li>• Exceptions to the accounts and records?</li> <li>• Recommendations on the internal control and procedures?</li> </ul>		
(n)	With respect to the internal auditors' reports: <ul style="list-style-type: none"> <li>• are they sent to an appropriate operating official?</li> <li>• is corrective/ remedial action initiated?</li> </ul>		

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	<ul style="list-style-type: none"> <li>• do internal auditors follow up to see that appropriate action is taken?</li> <li>• do the files indicate that appropriate action was taken?</li> </ul>		
	Conclusion:		
<b>3(xiv)(b)</b>	<b>Whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;</b>		
(a)	Whether all the reports of the internal auditors covering upto the end of the financial year under audit are made available sufficiently in advance?		
(b)	Whether management has taken appropriate action to ensure that all observations/findings in relation to control deficiencies having financial impact are remediated?		
(c)	Whether to reassess the nature, timing and extent of the audit procedures based on the observations noted by the internal auditor?		
(d)	Whether the control deficiency identified is a significant deviation or material weakness?		
(e)	If, for any reason, all or some of the internal audit reports are not available, or do not adequately address the plan and scope required, appropriate disclosure shall be made under this clause.		
(f)	Implications of control deficiencies / non-compliances above shall be considered in the auditor's report on the financial statements.		
	Conclusion:		

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<b>3(xv)</b>	<b>Whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;</b>		
(a)	Obtain a statement containing list of directors of the company, its holding company, subsidiary and associate companies and persons connected with the directors.		
(b)	<p>Scrutinise the following books of account, records and documents which could provide source of such audit evidence to the auditor as to the existence of such non-cash transactions as well as persons connected with the Directors:</p> <p>(i) Form No. MBP 1, Notice of Interest by Director, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014.</p> <p>(ii) Form No. MBP 2, Register of Loans, Guarantee, Security and Acquisition Made by the Company, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014.</p> <p>(iii) Form No. MBP 4, Register of Contracts with Related Party and Contracts and Bodies etc. in which Directors are Interested, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014.</p> <p>(iv) Movements in the Property, Plant and Equipment Register.</p> <p>(v) Minutes book of the General Meeting, Meetings of Directors and Audit Committee Meetings.</p>		

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	(vi) Report on Annual General Meeting pursuant to Companies (Management and Administration) Rules, 2014.		
(c)	Obtain a statement from management containing transactions between the Company and director(s) referred to above.		
(d)	Perform reasonable check to ascertain non-cash transactions.		
(e)	Obtain understanding of requirements of section 192 of the Act.		
(f)	Based on the understanding so gained, perform a reasonable test check of compliance with the aforesaid requirements of the Act.		
(g)	Consider the implications of non-compliances above also in the auditor's opinion on the financial statements.		
(h)	Obtain management representation letter about the nature of transactions executed by the company with Directors and companies in which directors are interested.		
(i)	Go through business related internet sites like moneycontrol.com to understand about any transactions which are required to be considered for reporting under this clause.		
(j)	Go through the BSE/ NSE websites (in case of listed companies) for the information reported by the company to the stock exchanges.		
	Conclusion:		

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<b>3(xvi)(a)</b>	<b>Whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;</b>		
(a)	Examine whether the company is registered with Reserve Bank of India under Section 45-IA of the Reserve Bank of India Act 1934.		
(b)	If registered obtain a copy of the registration certificate issued by Reserve Bank of India and verify the validity of the certificate.  (As an additional measure the RBI's website can be referred to ascertain whether the name of the company is included in the list of registered companies)		
(c)	If the company is not registered with Reserve Bank of India, examine the financial statements of the Company and assess whether the company has Financial Activity as the Principal Business.  Note: Financial activity as principal business is when a company's financial assets constitute more than 50 per cent of the total assets and income from financial assets constitutes more than 50 per cent of the gross income.		
(d)	If the company has Financial Activity as the Principal Business, examine whether the company has applied to Reserve Bank of India for registration.		

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(e)	If the company has Financial Activity as the Principal Business and has applied to RBI for registration examine whether the company has complied with the requirements of Net Owned Funds and other requirements of registration.		
(f)	If the company has Financial Activity as the Principal Business and has not applied to RBI for registration examine the reasons and record the same for suitable reporting under this clause.		
(g)	Examine the steps taken by the company to comply with requirements of the RBI Act, 1934 with respect to registration as a NBFC. Also examine the correspondence and documents filed with the RBI, minutes of the Board meeting.		
(h)	Consider the implications of non-compliances above also in the auditor's opinion on the financial statements.		
	Conclusion:		
<b>3(xvi)(b)</b>	<b>Whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;</b>		
(a)	Examine the Financial Statements and other relevant records/information to ascertain whether the Company is conducting any Non-Banking Financial or Housing Finance activities.		

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(b)	If the company is conducting any Non-Banking Financial or Housing Finance Activities, ascertain whether the company is registered with RBI or has the company made an application before the relevant authorities for the registration.		
(c)	If the company has carried on the activity of Non-Banking Financial or Housing Finance activities and has neither obtained a registration nor applied for registration, ascertain the reasons for the same.		
(d)	If the company is required to get registered and has not taken suitable steps to do so, ascertain the impact if any on the opinion on the financial statements.		
	Conclusion:		
<b>3(xvi)(c)</b>	<b>Whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;</b>		
(a)	Examine the financial statements and other information/records maintained by the Company to ascertain whether the company is carrying on the business of acquisition of shares and securities.		
(b)	If the company is carrying on the business of acquisition of shares and securities ascertain the following: i. it holds not less than 90% of its net assets in the form of investment in equity shares,		

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	<p>preference shares, bonds, debentures, debt or loans in group companies</p> <p>ii. its investments in the equity shares (including instruments compulsorily convertible into equity shares within a period not exceeding 10 years from the date of issue) in group companies and units of Infrastructure Investment Trust only as sponsor constitute not less than 60% of its net assets as mentioned in clause (i) above</p> <p>iii. it does not trade in its investments in shares, bonds, debentures, debt or loans in group companies except through block sale for the purpose of dilution or disinvestment;</p> <p>iv. it does not carry on any other financial activity referred to in Section 45I(c) and 45I (f) of the Reserve Bank of India Act, 1934 except as provided [refer RBI Master Direction on Core Investment Companies (Reserve Bank) Directions 2016]</p>		
(c)	<p>If the company satisfies the conditions mentioned above ascertain whether it is a Systematically Important Core Investment Company (CIC-ND-SI)</p> <p>A CIC-ND-SI is a Core Investment company which has total assets of more than Rs.100 Crores (either</p>		

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	individually or along with other CICs in the Group) and which raises or holds public funds.		
(d)	If the company is a CIC-ND-SI ascertain whether the company has made an application to the RBI for registration.		
(e)	<p>If the company meets the definition of CIC and does not have total assets exceeding Rs. 100 Crores (along with other CICs in the Group), examine the following:</p> <p>(i) The Company does not has access to Public Funds</p> <p>(ii) Obtain a copy of the Board Resolution stating that it will not in the future access public funds</p> <p>(iii) The company or other CIC in the group does not have overseas investment in the Financial Sector.</p> <p>(iv) If the company has provided guarantee on behalf of the entities in the Group, obtain a confirmation from the company that it will be able to meet the obligation thereunder without access to public funds. (This confirmation needs to be validated based on the information and explanations available on record)</p>		
(f)	If the company is not in compliance with any of the conditions mentioned in the previous point, ascertain whether the company has taken adequate measure to obtain registration with RBI.		

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(g)	If the company has not complied with any of the conditions of exempted CIC but continues to carry on the business without obtaining registration with RBI, examine the impact of the same on the opinion on the financial statements.		
(h)	In the case of Core Investment Companies classified as CIC-ND-SI examine whether (i) The adjusted net worth is not less than 30% of its aggregate risk weighted assets. (ii) The outside liabilities at no point of time exceeded 2.5 times its adjusted net worth.		
	Conclusion:		
<b>3(xvi)(d)</b>	<b>Whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group;</b>		
(a)	Obtain a list of all the entities in the Group along with the representation from management about the CIC in the group (including CICs exempt from registration and CICs not registered) and completeness thereof. (As an additional measure the auditor can corroborate this list of CICs with the list of registered CICs available in the RBI website.)		
(b)	Obtain a copy of the registration certificates of CIC-ND-SI in the Group.		
(c)	Obtain a Management Representation for the CICs exempt from the registration that it continues to be a CIC not requiring registration and has fulfilled the conditions thereof.		

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(d)	In case the auditor is required to communicate to the Component Auditors of other entities in the Group by way of Group Audit Instructions, ensure that compliance of the Directions of RBI with respect to Core Investment Companies is included as part of the Instructions.		
	Conclusion:		
<b>3(xvii)</b>	<b>Whether the Company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses;</b>		
(a)	Whether the cash losses have been computed by the auditor as per guidance given in Paragraph 80 of this Guidance Note?		
(b)	Whether the company has incurred cash losses in current year?		
(c)	Whether the company has incurred cash losses in the immediately preceding financial year?		
(d)	Whether effect of qualifications in audit report on cash losses considered? In case qualification is not capable of being quantified, whether the fact is stated in the audit report?		
	Conclusion:		
<b>3(xviii)</b>	<b>Whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;</b>		
(a)	Check whether the appointment is proposed to fill a casual vacancy in the office of statutory auditor under		

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	section 140(2) of Companies Act 2013.		
(b)	Examine the previous report (audit/review) issued by the outgoing auditor to assess whether any modification was included by the outgoing auditor.		
(c)	Seek copy of Form ADT-3 / Annexure A (in case of listed company) and copy of letter of resignation from the management/outgoing auditor.		
(d)	Communicate with outgoing auditor as required under ICAI Code of Ethics, while communicating seek necessary clarification if required in context of audit report/review report issued by outgoing auditor.		
(e)	Consider the implications of non-compliances considered by outgoing auditor in his audit/review report on audit procedures.		
	Conclusion:		
<b>3(xix)</b>	<b>On the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;</b>		
(a)	Whether the management has made a detailed assessment and concluded on going concern based on such assessment?		

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(b)	Whether any disclosure as per AS 1 or Ind AS 1 has been made with regard to the going concern in the financial statements?		
(c)	Whether sufficient appropriate audit evidence has been obtained w.r.t. going concern in accordance with SA 570(Revised) to conclude that no material uncertainty exists about the entity's ability to continue as a going concern?		
(d)	Whether main audit report contains a paragraph on 'Material uncertainty related to going concern' or 'key audit matter on going concern indicators'?		
(e)	Where the going concern assumption has been considered appropriate due to support letters provided by the holding company, but the company may not be able to meet its liabilities falling due within a period of one year from the balance sheet date, has the auditor evaluated whether the holding company has the ability to discharge the financial liabilities of the company as and when they fall due. Has the fact been reported?		
(f)	Whether the test of existence of material uncertainty has been made as on a date close to audit report with respect to the liabilities existing at the date of balance sheet considering the subsequent period transactions between the date of balance sheet and the date of audit report.		

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(g)	Whether the necessary financial ratios along with the detailed working, necessary to frame report under this clause have been obtained as on the date of balance sheet and also on a date near to the date of audit report?		
(h)	Whether the details of liabilities existing at the date of balance sheet along with their expected dates of payments as well as evidence in respect thereto have been obtained to identify those falling due within one year from the balance sheet date.		
(i)	Whether the ageing and expected dates of realization of financial assets and payment of financial liabilities have been obtained from the management along with the necessary evidence.		
(j)	Where companies like Non-Banking Financial Companies/ Housing Finance Companies are required to disclose their asset liability maturity (ALM) pattern in the financial statements, whether due consideration to the information furnished in the ALM disclosure has been considered.		
(k)	Whether the audit procedures in accordance with SA 560 "Subsequent Events" have been carried out to obtain sufficient appropriate audit evidence in respect of events requiring adjustment of, or disclosure in the financial statements.		

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(l)	Whether the status about the subsequent payments of liabilities those existed at the date of balance sheet as on the date nearer to audit report, have been obtained to capture any material deviation.		
(m)	For the liabilities existing as on the date of balance sheet, which remains unpaid as on the date of audit report or date nearer to audit report, whether the detailed cash flow along with necessary evidence has been obtained ensuring that the liabilities falling due within a period of one year from the balance sheet date shall be duly discharged. Obtain the necessary evidence in the form of the management plan supported with related documentary evidence justifying the capability to pay off the liabilities as and when they fall due for payment within one year from the balance sheet date.		
(n)	Where the company has given commitments or guarantees on behalf of other entities including its subsidiaries, joint ventures and associates, whether the auditor has evaluated the financial position and plans of those entities to determine whether there would be an outflow of resources from the company which may impair its ability to meet its own liabilities as and when they fall due.		
(o)	Whether other information accompanying the financial statements including the Director's Report, Management Discussion		

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	and Analysis forming part of the Annual Report of the company have been obtained and analyzed.		
(p)	Whether the plans of the Board of Directors as well as management plans necessary to frame the audit assessment and audit opinion have been obtained along with relevant evidence?		
(q)	Whether the documentation considered by the Board of Directors related to review of liability position for those payable within one year from the date of balance sheet and corresponding payment plans has been obtained?		
(r)	Whether management representation along with sufficient details and evidence has been obtained regarding the ageing and expected dates of realization of financial assets including trade receivables as well as the payment of financial liabilities including payables and statutory liabilities etc.		
(s)	Whether management representation containing all material events and transactions post balance sheet date but before the date of audit report which could impact the paying capacity of the company and are in the knowledge of the management and the Board have been obtained.		
	Conclusion:		

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<b>3(xx)(a)</b>	<b>Whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;</b>		
(a)	Whether the provisions of Section 135 of the Act are applicable to the company?		
	Note: In case answer to the above is no, clause 3(xx)(a) and 3(xx)(b) are not applicable to the company.		
(b)	Examine the various documents such as board approval of CSR policy, agenda and minutes of meetings of CSR Committee, the workings for calculating amount required to be spent etc. to find out the amount proposed to be spent on projects identified as per Schedule VII to the Act.		
(c)	Whether a representation from the management has been obtained as to the amount spent in respect of projects other than ongoing projects?		
(d)	Whether quantum of expenditure mentioned in (c) has been verified with appropriate supporting documents?		
(e)	Whether the amount spent is in accordance with the CSR policy of the company and in accordance with provisions of the Act?		
(f)	Whether amount unspent in respect of other than ongoing projects has been transferred to a fund specified in Schedule VII to the act within a		

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	period of six months of the expiry of the financial year?		
(g)	<p>Whether the information about amount unspent is provided in the format:</p> <ul style="list-style-type: none"> <li>• Relevant financial year</li> <li>• Amount identified for spending on CSR activities for “other than Ongoing Projects”</li> <li>• Unspent amount of above</li> <li>• Amount Transferred to Fund specified in Schedule VII to the Act</li> <li>• Due date of transfer to the specified fund</li> <li>• Actual date of transfer to the specified fund</li> <li>• Number of days of delay, if any</li> </ul>		
(h)	Whether the company has recorded a provision as at the balance sheet date to the extent necessary?		
	Note: The non-compliance, if any, of above clause in respect of earlier financial year(s), will have to be reported under this clause.		
	Conclusion:		
<b>3(xx)(b)</b>	<b>Whether any amount remaining unspent under section (5) of section 135 of Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with provision of sub section (6) of section 135 of the said Act;</b>		
(a)	Examine the various documents such as board approval of CSR policy, agenda and minutes of meetings of CSR Committee, the workings for calculating amount		

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	required to be spent etc. to find out the amount proposed to be spent on projects identified as per Schedule VII to the Act.		
(b)	Whether a representation from the management has been obtained as to the amount spent in respect of the ongoing projects formulated in pursuance of its CSR Policy?		
(c)	Whether quantum of expenditure mentioned in (b) has been verified with appropriate supporting documents?		
(d)	Whether the amount spent is in accordance with the CSR policy of the company and in accordance with provisions of the Act?		
(e)	Whether the company has any amount unspent in relation to ongoing projects as at the end of the financial year?		
(f)	Whether any unspent amount as specified in (e) above has been transferred by the company within thirty days from the end of the financial year to a special account earmarked for CSR activity to be opened for this purpose?		
(g)	Whether the information about non-transfer of amount unspent in respect of ongoing projects is provided in the format: <ul style="list-style-type: none"> <li>• Relevant financial year</li> <li>• Amount identified for spending on CSR activities for "Ongoing Projects"</li> </ul>		

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	<ul style="list-style-type: none"> <li>• Unspent amount of above</li> <li>• Amount Transferred to special account under section 135(6)</li> <li>• Due date of transfer to the account</li> <li>• Actual date of transfer to the account</li> <li>• Number of days of delay, if any</li> </ul>		
(h)	Whether the company has recorded a provision as at the balance sheet date to the extent necessary? Also whether the company has disclosed unspent amounts as commitments in the contingent liabilities and commitments section of the financial statements in accordance with the requirements of Schedule III to the Companies Act, 2013?		
	Note: The non-compliance, if any, of above clause in respect of earlier financial year(s), will have to be reported under this clause		
	Conclusion:		
<b>3(xxi)</b>	<b>Whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.</b>		
	1. Whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements?		

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(a)	Obtain the list of companies (holding company/subsidiary/associate/joint venture) included in the consolidated financial statements.		
(b)	For companies included in the consolidated financial statements, has the principal auditor received CARO reports of such companies from the management of the company? If no, whether the principal auditor has mentioned appropriate remarks under this clause mentioning the details of such companies?		
(c)	Examine the CARO reports obtained from the management/component auditors or available with the principal auditor for respective companies and assess whether the observations and comments as given in the respective CARO reports are in the nature of qualifications or adverse remarks.		
	2. Indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks		
	Conclusion:		