

DIRECTOR'S REPORT AS PER THE COMPANIES ACT, 2013

28 May 2021

Indore Chapter of WIRC-ICSI

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Disclaimer

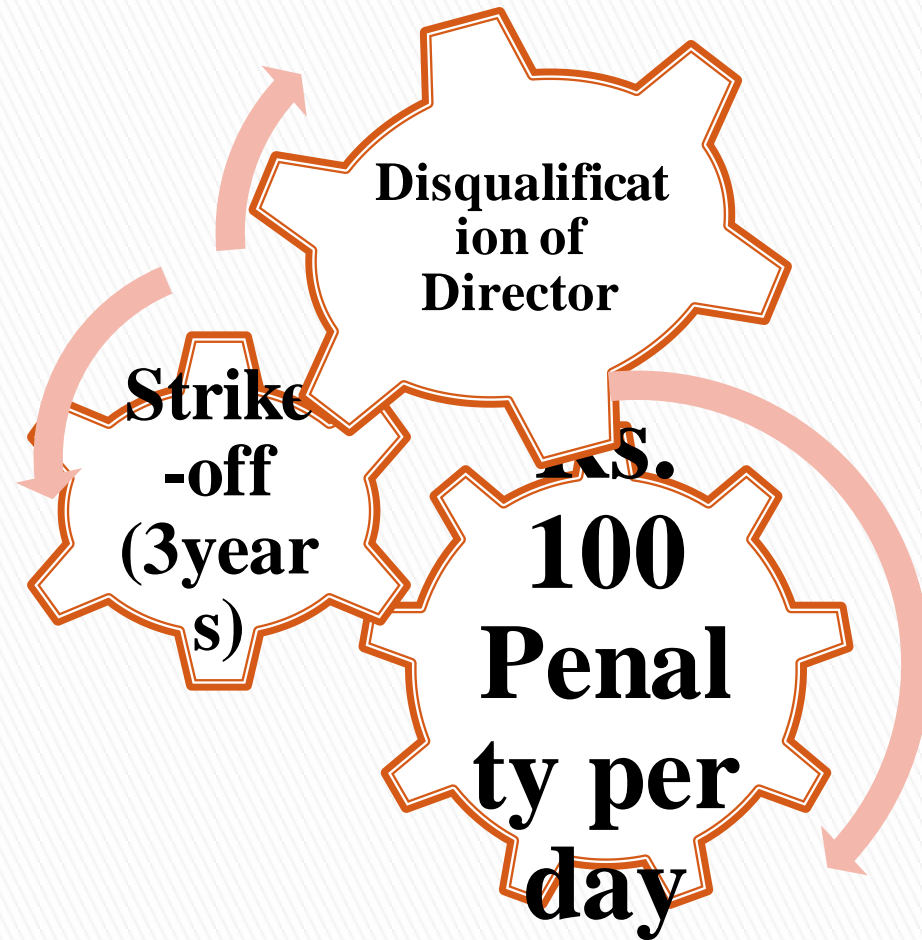
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- ▶ The Views expressed herein are of my own and not of the ICSI or MCA.
- ▶ Request to seek professional guidance for specific query before acting upon any view expressed in this material or during the presentation

Directors Report and Annual Filing under the Companies Act, 2013

**If You Think Compliance is
Expensive
Try Non-Compliance**



Consequences of Non compliances





What is annual filing and compliances

1. BS
2. AR/ MGT 8/ MR 3
3. MGT 15 for outcome of AGM
4. MGT 14 for approval of Accounts & Directors Report
5. Payment of Dividend ,if any, declared
6. Other Forms and Returns based on events
7. Transfer of unpaid and unclaimed dividend to IEPF
8. Filing of annual reporting under Regulation 30 and 31 of SAST

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2	What is the purpose of it?
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Introduction

- The Companies Act, 2013 “the Act” is dynamic act with Rules which can be changed as per requirement of economy without going through the process of Parliamentary approvals
- The Act brings more transparency, accountability , governance and safeguarding of interest of all stakeholders.
- Annual Report is to be presented by end of the year by the Board as part of greater corporate transparency.
- Although It is addressed to the members, It is an effective means of communication by the Board of to all the stakeholders be it shareholders, investors, lenders, bank, vendors, customers or regulator.

Introduction

- The Companies Act, 2013, requires the Board of Directors of every **company to attach its** report to the **financial statements** to be laid before the members at AGM. It also **mandates certain disclosures** to be made in the Board's Report.
- A **listed company** is also required to comply with certain **additional requirements as stated under the SEBI (LODR), 2015.** (**“Listing Regulations”**)
- Similarly, a company, whose securities are listed on **an overseas stock exchange**, is required to comply with additional requirements as may be specified by such stock exchange.
- There is abridged form for **One Person Company (OPC) and Small Company**

Why is Director's Report Important?

- Communication from the Company
- Image Building
- Disclosure to Regulator
- Transparency to public / investors
- MDA –a very important communication
- Corporate Governance
- BRR/ BRSR-ESG (**Environmental, Social, and Governance**)
- CSR Programs
- Any initiative taken by the Company
- Integrated Report

What is the purpose of Director's report

- Read by Investors and Analysts on Performance, Ratios, Remuneration, Future Growth of the company
- Communication collated at one place about various Awards and Achievements of the Company
- Gives insight of strategy , capability to diversify and growth
- Governance and qualifications of Auditors

How is Director's Report relevant and to whom?

- For any Due Diligence exercise
- For Performance Evaluation
- For any kind of Rating
- Details of subsidiaries

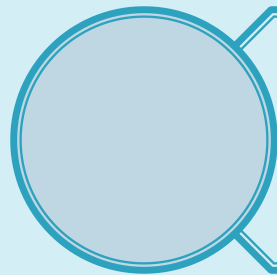


When is Director's Report placed and before whom?

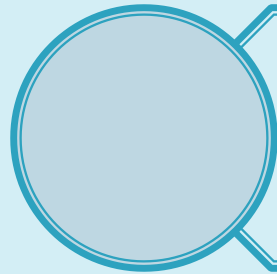
- Directors' Report gives details of entire FY and not as on 31st March alone
- The Act 2013 requires it to be attached to the financial statements to be laid before the members at the Annual General Meeting.



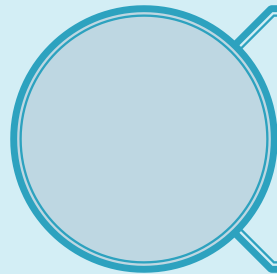
Where is Director's Report required to be filed?



ROC/ MCA



Stock Exchanges



Bank/ FI

Disclosure Required in Board Report

Under Companies Act, 2013
(Section 134 and Rules)

Listing Regulations and SEBI (Share
Based Employee Benefits) Regulations,
2014

Any other law as applicable to the
Company (FEMA/ IRDA/ POSH)

Certain critical aspects

1. Additional Disclosures IB-Notification 24032021
2. Link of AR– Notification 05032021
3. ISIN, FII details and no Indebtness- Notification 05032021
4. New Format of MGT 7 and MGT 7A Notification 05032021
5. How to approve Report during lockdown
6. How to affix Signature (Pasted / DSC)
7. CFS- JV, Associate companies, subsidiaries – Section 2 (6)
8. Material changes and Impact- **Small company donot wish**
9. Rule 2A the Companies (Specification of Definitions details)
Second Amendment Rules, 2021 inserted vide Notification
dt 19 Feb 2021 and effective from **1st day of April, 2021**

Certain critical aspects

10. My Company is a debt listed private company.

- ▶ Secretarial Audit Report u/s 204 is required to be attached to the BOD Report.
- ▶ The definition of a listed company is amended in February, 2021 that **w.e.f. 01 April 2021**, the Company is no longer falling under the definition of the Listed Company.
- ▶ For the year 2020-21, does the Company require a Secretarial Audit and attach it to the BOD report to be approved by the date in Q1 or Q2 of 2021-22 ?

Certain critical aspects

11. Can we revise Directors Report
12. Disclosures with respect to Demat suspense account/ unclaimed suspense account as provided in Para F of Schedule V of the Listing Regulations
13. What if my company has no website/ No India specific website
14. Software used by the company to have audit trail
15. Whether small company/ Private company need RMP?

Certain critical aspects

16. CSR

On 20th May 2021 , Circular was issued by MCA stating where a company has contributed any amount to 'PM CARES Fund' on 31.03.2020 , pursuant to appeal by the Government, and **which is over and above the minimum amount as prescribed under section 135(5) of the Companies Act, 2013 ("Act") for FY 2019-20**, and such excess amount or part thereof is offset against the requirement to spend under section 135(5) for **FY 2020-21** in terms of the aforementioned appeal, then the same shall not be viewed as a violation subject to the three conditions that:

Certain critical aspects

New three conditions

1. The amount offset as such shall have factored the unspent CSR amount **for previous financial years**, if any;
2. The Chief Financial Officer shall certify that the contribution to “PM-CARES Fund” was indeed made **on 31st March 2020** in pursuance of the appeal and the same shall also be so **certified by the Statutory Auditor** of the company; and
3. Details of **such contribution** shall be disclosed separately in the Annual Report on CSR as well as in the Board’s Report for FY 2020-21 in terms of section 134 (3) (o) of the Act

Certain critical aspects

- ▶ Whether Impact Assessment is required?
 - ▶ How to fill Annexure II of CSR
 - ▶ What is Outgoing Project
 - ▶ What is to be set off or carry forward
 - ▶ Whether company requires to have CSR committee
- Refer section 135 (9) and Rule 3 (2)**
- ▶ Foreign Company & CSR Obligation
 - ▶ Section 8 Company & CSR Obligation
 - ▶ POSH Act – 10 employees- ICC- Report

17. CARO and Sch III amendment– Careful while drafting DR

Certain critical aspects

18. Remuneration to NED and ID-18 March 2021 Notfn

- ▶ section 149(9), which provides that if a company has no profits or inadequate profits, the company can **remunerate Independent Director**, in accordance with Schedule V to the Act
- ▶ Section 197 (3) was amended by stating that if in a financial year a company has no profits or its profits are inadequate, the company **can pay to its Directors including Non-Executive Director and Independent Director in accordance with Schedule V to the Act**

Certain critical aspects

18. Remuneration to NED and ID

- ▶ **Schedule V Part II of the Companies Act, 2013- Executive and Independent Director can be remunerated by loss making company or company having inadequate profits – amended on 18th March 2021**
- ▶ **As per effective capital- company can pay from Rs.12 Lac pa to Rs. 24 lakhs plus 0.01% of the effective capital in excess of Rs. 250 Crores:**

Definition of Small Company

MCA vide Notification No. CG-DL-E-01022021-224862

On **February 01, 2021** defined Small Company as a Company other than a Public Company: **(effective from April 01, 2021)**

- **Paid- up Share Capital** of the Company shall not exceed Rs. 2 Crores (instead of Rs. 50 Lakhs) and maximum of Rs. 10 Cr; and
- **Turnover** of the Company shall not exceed Rs. 20 Crores (instead of Rs. 2 Crores) and maximum of Rs. 100 Cr.



Content of Director's Report Section 134 (3)

1. Link of Annual Return MGT -7– **5th March 202i**
2. Number of Meetings of the Board;
3. Directors' Responsibility Statement;
4. Fraud other than those which are reportable to the CG
5. Statement on declaration by ID
6. NRC Policy
7. Explanations on every Qualification/Reservation/
Adverse Remark or Disclaimer made by the Auditors
8. Particulars of loans/guarantees/investments u/s 186
9. RPT

Content of Director's Report Section 134 (3)

10. State of the Company's Affairs;
11. Reserves
12. Dividend
13. Material changes and commitments between end of FY to date of the Report;
14. Conservation of Energy, Technology Absorption, Foreign Exchange Earnings and Outgo
15. Risk Management Policy/ CSR Policy
16. Annual Evaluation of the performance of the Board, its Committees and of Individual Directors

Content of Director's Report [Rule 8 of Companies (Accounts) Rule, 2014]- Not applicable to Small Company and One Person Company

- Board Report shall be prepared on **standalone financial statements** of the company and CFS Performance to be given
- Highlights of performance of **subsidiaries, associates and joint venture companies.**
- Particulars of contracts or arrangements with **Related Parties and Transaction details** in the Form AOC-2.
- Statement indicating formal **Annual Evaluation** made by the Board of its own performance and that of its committees and individual directors.(listed co + Public Co >25 Cr PUC

Content of Director's Report [Rule 8 of Companies (Accounts) Rule, 2014]- Not applicable to Small Company and One Person Company

- Details of Conservation of Energy, Technology Absorption & Foreign Exchange Earnings and Outgo
- Financial Summary or highlights
- Change in Nature of Business
- Details of Directors & KMPs changed during the FY and Opinion of Board with regard to integrity, expertise and experience of Independent Directors appointed during FY

Content of Director's Report [Rule 8 of Companies (Accounts) Rule, 2014]- Not applicable to Small Company and One Person Company

- The Statement of Opinion of **Board about ID** (Integrity, Expertise, Experience and Proficiency)
- The names of companies which have become or **ceased to be its Subsidiaries, Joint Ventures or Associate companies** during the year
- Details of **Deposits** covered under Chapter V and not in compliance with Chapter V.

Content of Director's Report [Rule 8 of Companies (Accounts) Rule, 2014]- Not applicable to Small Company and One Person Company

- Details of significant and material Orders passed by the Regulators or Courts or Tribunals impacting the going concern status & company's operation in future
- Details in respect of adequacy of Internal Financial Controls with reference to the Financial Statements
- Disclosure whether maintenance of Cost Records is required



Content of Director's Report [Rule 8 of Companies (Accounts) Rule, 2014]- Not applicable to Small Company and One Person Company

- Statement that Company has complied with provisions relating to the constitution of Internal Complaints Committee under **POSH,2013**

Notification 24 March 2021

- ▶ Details of application made or any proceeding pending under the **Insolvency and Bankruptcy Code, 2016** during the year along with their status as at the end of the financial year.
- ▶ Details of difference between amount of **valuation done** at the time of **One Time Settlement (OTS)** and the valuation done **while taking loan from Banks or Financial Institutions** along with the reasons thereof.

Content of Director's Report [Rule 8A of Companies (Accounts) Rule, 2014]- Applicable to Small Company and One Person Company

Board Report of OPC and Small Company– Abridged form

- On the basis of Standalone Financial Statements
- Web Address where Annual Return u/s 92 has been placed
- Number of meetings of the Board
- Director's Responsibility Statement
- Fraud
- Explanations on every Qualification/Reservation/Adverse Remark or Disclaimer made by the Auditor in his report;
- Financial Summary and Highlights

Content of Director's Report [Rule 8A of Companies (Accounts) Rule, 2014]- Applicable to Small Company and One Person Company

- Material changes between end of FY to date of the Report;
- Details of Directors who were appointed /resigned in the FY
- Details or Significant and Material Orders passed by the Regulators or Courts or Tribunals impacting the going concern status and Company's operations in future.
- Particulars of contracts or arrangements with related parties in the Form AOC- 2.

Detailed Discussion on content of Director's Report **(SS-4 and Guidance Note of ICSI)**

SS-4 and Guidance Note issued by ICSI

- The SS-4 lays down the aspects of general information to be stated in the Report and facilitate uniformity in disclosures.
- The Guidance Note on Report of the Board of Directors issued by the ICSI, sets out the explanations, procedures and practical aspects in respect of the provisions contained in SS-4 to facilitate compliance thereof by the stakeholders.
- The Guidance Note aims in facilitating appropriate disclosure in a simplified and structured manner by adding the best practices therein.

1. Financial Summary and Highlights

The financial summary and highlights thereof should be accompanied by the macro-economic, geo-political, financial, industry specific as well as any company specific information affecting the business of the company and the market in which it operates, along with the industry performance vis-à-vis the company's performance.

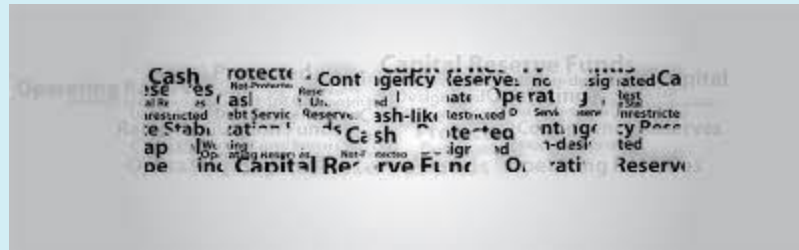
In case of a listed company which has listed its specified securities, the business highlights should also be reported, to the extent possible, as per the segment reporting requirements.

In case of an unlisted company, the financial summary in the Report may be disclosed segment wise.

Affect due to Covid 19 Pandemic

2. Amount to be carried to Reserves

If amount is transferred to Reserves then mentioned the same and even if no amount is transferred to Reserves the same to be mentioned in report.



3. Dividend [Section 134(3)(k)]

- Amount of Dividend per share, percentage and Dividend Distribution Tax (after 01.04.2020 no DDT by company) thereon is to be mentioned.
- Amount of and percentage of Interim dividend declared and Dividend Distribution Tax (after 01.04.2020 no DDT by company) thereon.
- A Statement on compliance with Dividend Distribution Policy.
- Payment of Dividend from Reserves.
- In case no dividend has been Recommended by the Board, a statement to that effect shall be made.

4. State of Company's Affairs [Section 134 (3)(i)]

The state of affairs of the company shall include the following information –

- Segment-wise position of business and its operations;
- Change in status of the company;
- Key Business Developments;
- Change in the FY;



4. State of Company's Affairs [Section 134 (3)(i)]

- Capital Expenditure programs;
- Details and status of Acquisition, Merger, Expansion, Modernization and Diversification;
- Developments, Acquisition and/or Assignment of material Intellectual Property Rights;
- Any other Material Event having an impact on the Affairs of the Company.

5. Change in Nature of Business [Rule 8(5)(iii)]

- New business or Discontinued/Sold/Disposed off any of its existing businesses or hived off any segment or division during the year
- Details of significant changes in the nature of business carried on by its Subsidiaries
- (if the impact of such changes is >10% of the consolidated Turnover or consolidated Net Worth of the holding company).
- **Due to Covid many changes**

6. Material changes and commitments affecting the financial position [Section 134(3)(I)]

- Material changes / events, if any occurring after Balance sheet date till the date of Report
- Remedial action taken against the same
- Effect of such changes and commitments
- An estimate of financial impact.
- If estimate cannot be made, a statement to that effect be made.
- **Due to Covid many changes**
- **Small Company may not like to give all the details as confidential matters and not to give details to competitors**

7. Details of voluntary Revision of Financial Statement [Section 131 (1)]

- Pursuant to the Order of Tribunal (NCLT) such revision to be made.
- Reason for such voluntary revision of financial statement to be given in the Board Report of relevant FY when the revision is being made
- Reason should include the financial impact due to such revision of financial statement.
- Revised financial statement or report shall not be prepared or filed more than once in a FY.

8. General Information

- Overview of the Industry and Changes during last year;
- **External, Environment and Economic** outlook;
- Induction of **Strategic and Financial Partners** during the year;
- In case of a company, which has delisted its equity shares, during the year or till the date of the Report, the particulars of delisting activity giving details like price offered pursuant to delisting offer, offer period of delisting, number of shares tendered and accepted, total consideration paid and the holding of the Promoters in the company post delisting.

9. Capital and Debt Structure

Following changes in the capital structure of the Company during the year should be reported in the Board Report:

- Change in the Authorized/Issued/Subscribed/Paid-up capital;
- Reclassification or Sub-division of Authorized Share Capital;
- Reduction of share capital or Buy -back of Shares;
- Change in the capital structure resulting from Restructuring;
- Change in Voting Rights.

9.1 Issue of Shares or Other Convertible Securities

Issuance of any equity shares or preference shares or any securities which carry a right or **option to convert** such securities into shares, the disclosure shall include the following:

- **Date of issue and allotment;**
- **Method of allotment** (QIP, FPO, ADRs, GDRs, rights issue, bonus issue, preferential issue, private placement, conversion of securities, etc.);
- **Issue price** and/ or conversion price;

9.1 Issue of Shares or other Convertible Securities

- Number of shares allotted or to be allotted in case the **right or option is exercised** by all the holders of such securities;
- Number of shares or securities allotted to the **promoter group** (including shares represented by Depository Receipts);
- in case, shares or securities are issued for **consideration other than cash**, a confirmation that price was determined on the basis of a Valuation Report of Registered Valuer.

9.1 Issue of Shares or other Convertible Securities

In case the shares or securities are issued for consideration other than cash, a statement confirming the following should be included in the Report:

- the **price** was on the basis of a Valuation Report of RV
- the **Valuation Report** was given by RV appointed by the Audit Committee or Board
- all other **provisions of section 247 of the Act** and Rules made thereunder have been duly complied with.

9.2 Issue of Equity Shares with Differential Voting Rights

- Total number of shares allotted with differential voting rights;
- Details of the differential rights relating to voting rights and dividend;
- Percentage of the shares with differential rights to the total post issue equity share capital;

9.2 Issue of Equity Shares with Differential Voting Rights

- **Price** at which shares with differential rights have been issued;
- Particulars of **Promoters, Directors or Key Managerial Personnel** to whom shares with differential rights have been issued;
- **Change in Control**, if any, in the company consequent to the issue of equity shares with DVR shares

9.2 Issue of Equity Shares with Differential Voting Rights

- **Diluted EPS** (Earnings Per Share) pursuant to the issue of each class of shares, calculated in accordance with the applicable AS;
- **Pre and Post issue shareholding pattern** along with voting rights in the prescribed format.



9.3 Issue of Sweat Equity Shares

- Class of **Directors or Employees** to whom sweat equity shares were issued;
- **Class of shares** issued as sweat equity shares;
- **Reasons or justification** for the issue;
- **Principal terms and conditions** for the issue, including pricing formula;

9.3 Issue of Sweat Equity Shares

- **Total number of shares** arising as a result of the issue ;
- **Number of sweat equity shares** issued to the Directors, Key Managerial Personnel or other employees showing separately the number of such shares issued to them, if any, for **consideration other than cash** and the names of allottees holding 1% or more of the issued share capital;

9.3 Issue of Sweat Equity Shares

- **Percentage of the sweat equity shares to the total post issued and paid up share capital;**
- **Consideration, including consideration other than cash, received or benefit accrued to the company from the issue ;**
- **Diluted Earnings Per Share** pursuant to the issue.

Director's Report



9.4 Details of Employees Stock Options

- Options granted;
- Options Vested;
- Options exercised;
- Total No. of shares arising as a result of exercise of options;
- Options lapsed;
- the exercise price;
- Variation in terms of options;
- Money realized by exercise of options;



9.4 Details of Employees Stock Options

- Total number of options in force;
- employee wise details of options granted to:
 - (i) **Key Managerial Personnel;**
 - (ii) Any **other Employee** who receives a grant of options in any one year of options amounting to **five percent or more of total options** granted during that year;
 - (iii) Identified employees who were granted options, during any one year, equal to or exceeding **one percent of the issued capital**, excluding outstanding warrants and conversions, of the company at the time of grant

9.4 Details of Employees Stock Options

In case of a company whose shares are listed:

(i) any **material change** to the scheme and whether such scheme is in compliance with the SEBI (Share Based Employee Benefits) Regulations, 2014;

(ii) **web-link of disclosures** made on the website of the company, as required under SEBI (Share Based Employee Benefits) Regulations, 2014.

9.5 Shares held in trust for the benefit of employees where the voting rights are not exercised directly by the employees

- Names of the employees **who have not exercised** the voting rights directly;
- **Reasons for not voting** directly;
- Name of the person **who is exercising such voting rights**;
- Number of shares **held by or in favour of such employees** and the percentage of such shares to the total paid up share capital of the company;

9.5 Shares held in trust for the benefit of employees where the voting rights are not exercised directly by the employees

- **Date of the General Meeting** in which such voting power was exercised;
- **Resolutions** on which votes have been cast by persons holding such voting power;
- **Percentage of such voting power** to the total voting power on each resolution;
- Whether the votes were cast **in favour of or against** the resolution.

9.6 Issue of Debentures, Bonds and any Non-Convertible Securities

- Date of **Issue and allotment** of the securities;
- **Number** of securities;
- Whether the issue of the securities was by way of **preferential allotment, private placement or public issue**;
- Brief details of the **Debt Restructuring** pursuant to which the securities are issued;

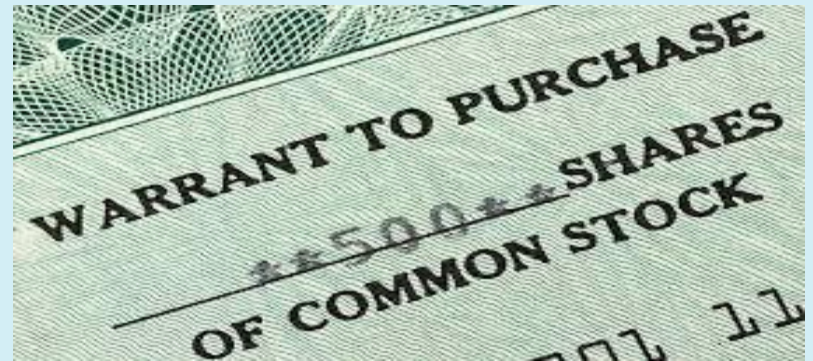
9.6 Issue of Debentures, Bonds and any Non-Convertible Securities

- Issue price;
- Coupon rate;
- Maturity date;
- Amount raised.



9.7 Issue of Warrants

- Date of issue and allotment of warrants;
- Number of warrants;
- Issue price;



Whether the issue of warrants was by way of **preferential allotment, private placement, public issue;**

9.7 Issue of Warrants

- Maturity date;
- Amount raised, specifically stating as to whether twenty five percent of the consideration has been collected upfront from the holders of the warrants;
- Terms and conditions of warrants including conversion terms.

10. Credit Rating of Securities

- Credit rating obtained in respect of various securities;
- Name of the credit rating agency;
- Date on which the credit rating was obtained;
- Revision in the credit rating;



10. Credit Rating of Securities

- Reasons provided by the rating agency for a **downward revision**, if any.
- As per the Listing Regulations, listed companies are required to disclose in the **Corporate Governance Report a list of all credit ratings obtained by the company** along with any revisions thereto during the relevant financial year.
- In case a company obtains the credit rating but has not used / using the same, the **reasons thereof should** be mentioned in the Report.

11. Investor Education and Protection Fund

- Details of the transfer to the IEPF made during the year as per the mentioned below:
 - (i) Amount of unclaimed/ unpaid dividend and the corresponding shares;
 - (ii) Redemption amount of preference shares;
 - (iii) Amount of matured deposits, for companies other than banking companies, along with interest accrued thereon;

11. Investor Education and Protection Fund

- (iv) Amount of **matured debentures** along with interest accrued thereon;
- (v) Application money received for allotment of any securities **and due for refund along with interest accrued;**
- (vi) Sale proceeds of **fractional shares** arising out of issuance of bonus shares, merger and amalgamation;
- (vii) Details of the resultant benefits arising out of shares already transferred to the IEPF;

11. Investor Education and Protection Fund

- Year wise amount of unpaid/unclaimed dividend lying in the **unpaid account up to the Year** and the corresponding shares, which are liable to be transferred to the IEPF, and the due dates for such transfer;
- the amount of **Donation, if any, given by the company to the IEPF;**
- such other **amounts transferred to the IEPF**, if any, during the year.

The **web-addresses of the company, IEPF Authority** and other website specified by the Government, where the details of unpaid and unclaimed amounts lying with the company is uploaded, should also be disclosed in the Report.

12. Directors and Key Managerial Personnel [Rule 8 (5)(iii) of Companies (Accounts) Rules, 2014]

- Names of the persons who have been appointed / ceased to be Directors including Independent Directors and/or Key Managerial Personnel of the company:
 - (i) During the year;
 - (ii) After the end of the year and up to the date of the Report;
- Mode of such appointment/cessation;

12. Directors and Key Managerial Personnel [Rule 8 (5)(iii) of Companies (Accounts) Rules, 2014]

- Names of the Directors retiring by rotation at the ensuing AGM and whether or not they offer themselves for re-appointment.
- In case the company operates in a **specific sector** where approval of any regulatory authority is required before the appointment of a Director/ Key Managerial Personnel, the Report shall also state whether the company has obtained the approval of such regulatory authority.
- **(Telecom/ IRDA/ Banking Companies/ HFC)**

13. Board and Committee Meeting [Section 134 (3)(b)]

- The **number of Board Meetings held** during the year and the dates of the Board Meeting along with the details of Board meetings attended by each of the Director should be mentioned in the Director's Report.
- **Composition of Committees** of the Company and the number of meetings held during the year along with the dates of the Committee Meetings and details of Members attending the Committee Meeting should be disclosed.

14. Recommendation of Audit Committee [Section 177 (8)]

- As per Section 177 (8) of Companies Act, 2013, the Board Report should disclose the **composition of the Audit Committee** and where the Board has not accepted any recommendation of the Audit Committee, the same shall be disclosed in such Report along with the reasons.



15. Company's Policy on Directors' Appointment and Remuneration [Section 134 (3)]

- Every Listed Company and every Other Public Company having
 - Paid up capital of **Rs.100 crores** or more or
 - having aggregate, outstanding loans or borrowings or debentures or deposits exceeding **Rs. 50 Crores**should disclose company's policy on Directors' appointment and remuneration and the criteria for determining qualifications, positive attributes and independence of a Director.
- Where the policy is available on the **website of the company**, it would be sufficient to disclose salient features of such policy, any change therein and the web-link at which the complete policy is available.

16. Board Evaluation [Section 134 (3)]

- The Report of every listed company and public companies having paid up share capital of Rs.25 crore or more shall include a statement indicating the **manner in which formal annual evaluation of the performance of the Board**, its Committees and of Individual Directors has been made.



17. Internal Financial Control [Rule 8(5) of Companies (Accounts) Rules, 2014]

- The Board Report should contain details in respect of adequacy of **internal financial controls** with reference to the financial statements.

18. Disclosures relating to Associate Companies, Joint Ventures and Subsidiaries [Rule 8(5)(vi) of Companies (Accounts) Rules, 2014]

- Report on **performance and financial position** of the subsidiaries, associates and joint ventures.
- Companies which **have become or ceased** to be subsidiaries, associates and joint ventures.
- Listed company need to give name of its **material subsidiary** and provide details as per the Listing Regulations and

The Board Report should also disclose the manner of cessation of subsidiary, associate or joint venture of the company.

For the purpose of harmonising disclosures with Annual Return, the information mentioned in AOC-1 should be as per the Act.

19. Deposits [Rule 8(5)(v) of Companies (Accounts) Rules, 2014]

- Details of **Deposits accepted**;
- **Deposits remaining unpaid or unclaimed** as at the end of the year;
- Whether any **default in repayment** of deposits or payment of interest thereon during the year;
- Details of **Deposits which are not in compliance** with requirement of the Act;

19. Deposits [Rule 8(5)(v) of Companies (Accounts) Rules, 2014]

- Details of **Order given** by the National Company Law Tribunal (NCLT)/The National Company Law Appellate Tribunal (NCLAT);
- In case of a private company, details of amount received from a person who at the time of the receipt of the amount was a **Director of the company or relative of the Director of the company.**



20. Particulars of Loans, Guarantees and Investment [Sec 134 (3)(g)]

- **Particulars** of the loans given, investments made, guarantees given or securities provided during the year and the **purpose** for which the loans / guarantees / securities are **proposed to be utilised** by the recipient of such loan / guarantee / security.
- ▶ To facilitate **uniformity in disclosures** and to avoid repetition of information, the Standard provides that the company should disclose such particulars in the **notes to the financial statement and a reference thereof should be given in the Report.**

21. Cost Records

- If provisions of **Cost Record applicable** on the company have to give details in directors report that Company has maintained proper records and account of the same as required under the act.



22. Conservation of Energy, Technology Absorption, Foreign Exchange Earnings and Outgo [Section 134 (3)(m)]

The Board Report shall disclose about the following:

- **Conservation of Energy**

Impact on the conservation of energy, Company utilization of alternative source, the capital investment on energy conservation types of equipment.

- **Technology Absorption**

Research and development expenditure, Advantages of product improvement, cost reduction , product development or impact substitution.

22. Conservation of Energy, Technology Absorption, Foreign Exchange Earnings and Outgo [Section 134 (3)(m)]

- **Foreign Exchange Earnings and Outgo**

Terms of actual inflows during the year and the Foreign exchange outgo during the year in terms of actual outflows.



23. Risk Management Policy [Sec 134 (3)(n)]

A statement indicating the development and implementation of a **Risk Management Policy (RMP)** for the company. Such statement shall, inter alia, disclose:

- various elements of risk which, in the opinion of the Board, may threaten the existence of the company and
- strategy to mitigate such risks.

24. Details of Establishment of Vigil Mechanism

- The Directors and employees to report their genuine concerns about **unethical behavior, actual or suspected fraud** or violation of the company's code of conduct;
- Providing adequate **safeguards against victimization**;
- Providing **direct access to the higher levels** of supervisors and/or to the Chairman of the Audit Committee, in appropriate or exceptional cases.
- **Web-link of the Vigil Mechanism** shall also be disclosed in the Report.

25. Material Orders of Judicial Bodies/ Regulators [Rule 8 (5)(vii) of Companies (Accounts) Rule, 2014]

Details of significant and material orders passed by any Regulator, Court, Tribunal, Statutory and quasi-judicial body, impacting the going concern status of the company and its future operations shall be disclosed.

Auditors:

- i. Details of the Statutory Auditors are to be disclosed.
- ii. Explanations in response to Auditor's qualifications are to be mentioned. **Even statement to be mentioned if there is no qualification in the Report.** **Matter of Emphasis** is it qualification

▪ **Secretarial Audit Report:**

Secretarial Audit Report is to be annexed if applicable.

26. Compliance with Secretarial Standard

- The Report shall include a statement on compliance of applicable **Secretarial Standards** and other Secretarial Standards voluntarily adopted by the company.
- In case if a certain portion of applicable Secretarial Standards is not adhered, the **same should be highlighted** in the Report along with the **reasons for not** complying with the same.



SECRETARIAL STANDARD

27. FAILURE TO IMPLEMENT ANY CORPORATE ACTION (SS-4)

SS-4 provides as a matter of good corporate governance practice,

-That if a company has failed to complete or implement any **Corporate Action** within the specified time limit, the Report should disclose **the fact and the reasons** for such failure.

-Corporate Action means buy back of securities, payment of dividend declared, mergers and de-mergers, delisting, split and issue of any securities.

-Even the Report to include any **cancellation of the Corporate Action** announced by the Company.

28. Annual Return [Section 134 (3)(a)]

- A copy of the **Annual Return** shall be placed on the website of the company, if any, and the **web-link of such annual return** shall be disclosed in the Report.
- No Company now **required** to attach the extract of Annual return in **Form MGT-9**.
- As per the amendment on March 05, 2021, the Central Government has prescribe abridged form of annual return for **“One Person Company, Small Company and such other class or classes of companies as may be prescribed”**.

29. Other Disclosures as per SS-4

- A statement, wherever applicable, that the **consolidated financial statement** is also being presented in addition to the standalone financial statement of the company.
- **Key initiatives** with respect to Stakeholder relationship, Customer relationship, Environment, Sustainability, Health and Safety.
- **Reasons for delay**, if any, in holding the annual general meeting.

Disclosures under Listing Regulations

Statement of deviation or variation with certain terms or use of funds of a public issue, rights issue, preferential issue

- a. Statement indicating **deviations in the use of proceeds** from the objects stated in the Offer document or Explanatory Statement to the Notice for the General Meeting;
- b. Statement indicating **category wise variation** between the projected utilization of funds made by the Company in its Offer document or Explanatory Statement to the Notice for the General Meeting and the actual utilization of funds.

Disclosures under Listing Regulations

Management Discussion and Analysis Report

- a. Industry structure and developments;
- b. Opportunities and threats;
- c. Segment wise and product wise performance;
- d. Outlook;
- e. Risks and concerns;
- f. Internal Control systems and their adequacy;
- g. Operational and financial performance
- h. Material developments in human resources / industrial relations, including number of people employed;

Disclosures under Listing Regulations

- i. Details of significant changes (i.e. change of 25% or more as compared to the immediately previous financial year) in **key financial ratios**

 - j. Details of any change in Return on Net Worth as compared to the immediately previous financial year along with a detailed explanation
-
- **Certificate on Compliance of conditions of Corporate Governance**

 - **Suspension of Trading**

Business Responsibility Report- BRR

From FY 2022-23 it will be BRS

- Applicable mandatorily for the **top 500 (Now 1000) listed entities** based on market capitalization, describing the initiatives taken by them from an Environmental, Social and Governance (ESG) perspective, in the format as specified by the SEBI
- Provided that other listed companies may include Business Responsibility Reporting (BRR) on a **voluntary basis** in the format as specified.
- **SEBI Notification 05 May 2021 BRSR format on 10 May 2021**

SEBI (Share Based Employee Benefits) Regulations, 2014

- **Regulation 14**

The Board of Directors of the company shall disclose the details of the scheme being implemented, as specified by SEBI in this regard.

- **SEBI Circular dated June 16, 2015 -Disclosure by Board of Directors in their report:**

1. Any **material change** in the scheme and whether the scheme is in compliance with the regulations.

2. The details as prescribed in Regulation 14 shall be disclosed on the company's website and a **web-link thereto** shall be provided in the Board Report.

Corporate Insolvency Resolution Process Initiated Under The Insolvency And Bankruptcy Code, 2016

- Details of any application filed for CIRP (Corporate Insolvency Resolution Process) by a financial or operational creditor or by the company itself under the Insolvency and Bankruptcy Code , 2016 before the NCLT;
- Status of such application;
- For such company, Board Report can be signed by IRP/ RP or he can authorize Directors or officials of the Company to do the same.

Foreign Exchange Management (Non-debt Instruments) Rules, 2019

- **Rule 23- Downstream Investment**

The first level Indian Company making **Downstream Investment** shall be responsible for ensuring compliance with the provisions of Rule 23 of FEMA (NDI) Rules, 2019 for the Downstream Investment made by it at second level and so on and so forth.

Such first level company shall obtain a certificate to this effect from its **Statutory Auditor** on an annual basis and such **compliance of these rules** shall be mentioned in the **Director's Report** in the Annual Report of the Indian company

Disclosures Pertaining to the Sexual Harassment Of Women at the Workplace

- a statement that the Company has complied with the provision relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- the details of number of cases filed and disposed off
- The same is required under the provisions of Rule 8(5)(a) of the Companies (Accounts) Rules, 2014.

Disclosures Pertaining to the Sexual Harassment Of Women at the Workplace

The Listed Company should disclose the following in their **Corporate Governance Report**:

- No. of complaints **pending** at the beginning of the year;
- No. of complaints **filed** during the year;
- No. of complaints **disposed off** during the year;
- No. of Complaints **pending** as at the end of the year.

The above disclosure is as per the provisions of Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Director's Responsibility Statement [Section 134 (5)]

Director's Responsibility Statement– **Six Parameters**

1. Accounting Standard
2. Accounting Policy
3. Proper and sufficient care
4. Accounts are on Going Concern basis
5. Adequate Internal Financial Control (Listed Company only)
6. System is adequate and operating effectively



Particulars of Contracts and Arrangements with Related Party [Sec 188]

- **RPT not at arm's length basis;**
- **Material RPT which are at arm's length basis;**
- RPT which are not in the OCB (ordinary course of business) and **justification for entering into such contract.**
- ▶ Such disclosure in the prescribed form AOC-2 to be annexed

Particulars of Contracts and Arrangements with Related Party [Sec 188]

- ▶ The expression '**material**' as a matter of practice has been differently applied by the listed and unlisted companies.
- ▶ **Listed companies** apply the thresholds of material related party transactions as stated in Explanation to Regulation 23(1) or Regulation 23(1A) of the Listing Regulation
- ▶ **Unlisted companies** apply the thresholds mentioned in Rule 15(3) of the Companies (Meetings of Board and its Powers) Rules, 2014.
- ▶ In **AOC-2** is only with respect to contracts or arrangements provided U/s 188 (1) of the Act.

Particulars of Contracts and Arrangements with Related Party [Sec 188]

AOC-2 to be filled carefully

1. *Name of the related party & nature of relationship*
2. *Nature of contracts/arrangements/transaction*
3. *Duration of the contracts/ arrangements/ transaction*
4. ***Salient terms of the contracts or arrangements or transaction including the value, if any***
5. *Date of approval by the Board*
6. *Amount paid as advances, if any*

Corporate Social Responsibility (CSR)

Board Report should the **Composition of CSR Committee Annexure** to Board Report relating to CSR to include:

- a. Brief Outline of **CSR Policy**;
- b. Composition of **CSR Committee, number of meetings** held during the FY;
- c. **Web- link** where composition of CSR committee, policy & projects approved are disclosed;
- d. Details of **Impact Assessment Report** of CSR Project, if applicable and Report to attach
- e. Amount spent on **Impact Assessment**;
- f. Details of amount available for **set-off**;
- g. CSR amount **spent/ unspent** for the FY;
- h. Details of CSR amount spent against **Ongoing Projects** and Other Than Ongoing Projects for the Financial Year;

Corporate Social Responsibility (CSR)

- i. Amount spent on **Administrative Overheads**;
- j. Details relating to acquisition or creation of **Capital Asset** through CSR spent in the Financial Year;
- k. Reasons, if company **fail to spend** CSR obligations;
- l. Prescribed **CSR expenditure**;
- m. A **Responsibility statement from the CSR Committee** that the implementation and monitoring of the CSR Policy is in compliance with the CSR objectives and policy of the company.

Independent Directors [Section 149 (10)]

The disclosure shall include the following:

- The **Appointment of Independent Directors** shall be disclosed in the Report. And **justification** for choosing the proposed appointees for appointment as Independent Directors; and
- In case of **Re-appointment** after completion of the first term, the **rationale** for such re-appointment.

Independent Directors [Section 149 (10)]

1. **Declaration** by Independent Directors
2. **Statement** on compliance of **Code of Conduct**.
3. If the company has formulated a **Code of Conduct for Directors and Senior Management Personnel**, the Report shall also include a statement on compliance of such Code.



Frauds Reported by Auditor [Section 134 (3)]

Details of frauds reported by the Auditor (Statutory Auditor, Secretarial Auditor or Cost Auditor) to the Audit Committee/ Board, as the case may be:

- **Nature of fraud** with Description;
- **Approximate Amount** involved;
- **Parties involved**, if remedial action not taken;
- **Remedial action** taken to prevent occurrence of such frauds in future.

If no fraud is reported by the Auditor, a statement to this effect shall be given in the Report.

Various Policies by Public and Listed Company

- Corporate Social Responsibility (CSR) Policy
- Whistle Blower Policy
- Policy for formal Annual Evaluation by the Board of its own performance, that of its committees and individual directors
- Risk Management Policy
- Policy for determining 'material' subsidiaries of the Company
- Policy on materiality of Related Party Transactions (RPT) and dealing with RPT

Various Policies by Public and Listed Company

- Code of Conduct for Directors and Senior Management
- Code of Conduct for Prevention of Insider Trading for 'designated employees'
- Code of Practices and Procedures for fair disclosure of unpublished price sensitive information
- Code of Conduct to Regulate, Monitor and Report Trading by Insiders
- Policy for Prevention of Sexual Harassment at Workplace

Various Policies by Public and Listed Company

- Policy on Board Diversity
- Policy on Directors' Appointment and Remuneration of the Directors, KMP and other employees including criteria for determining Qualifications, Positive Attributes, Independence of a Director and other matters.
- Plans for orderly **succession for appointments** to the Board and to Senior Management
- Device proper Systems to ensure compliance with the provisions of all **Applicable Laws** to the company

Approval of the Board Report

- Section 179 (3) of the Companies Act, 2013 provides that the **Board of Directors** of a company shall approve the Financial Statement and the Board Report on behalf of the company by means of **Resolutions passed at Board Meeting and not by Circulation.**
- If requisite quorum is present through **physical presence** of directors, any other director may participate through video conferencing or other audio visual means in Board Meeting for approval of Financials and Board Report. However due to Pandemic MCA has relaxed this provision **upto 30 June 2021** **and it can be approved by Board in meeting through VC.**

Signatures on Directors Report - Section 134 (6)

Section 134(6)

The Board's Report and any annexures thereto shall be signed by:

- its **chairperson** of the company if he is authorised by the Board and
- where he is not so authorised, shall be signed by at **least two Directors, one of whom shall be a Managing Director**, or
- by the Director where there is one director in OPC.

Directors Report to be attached to Financial Statements -Section 134(7)

Section 134(7)

- Financial Statement shall be issued, circulated or published along with Board Report referred to in Section 134(3)



Penalty Section 134 (8)

If a Company is in default
= Penalty of Rs.3 Lacs

and

Every officer of the Company who is in default
= Penalty of Rs.50,000/-

Annexures to the Board Report

- Particulars of prescribed contracts / arrangements with related parties in Form AOC-2
- Prescribed particulars of Remuneration of Directors and Employees.
- Secretarial Audit Report for the relevant year in Form MR-3.
- Secretarial Audit Report of Material unlisted Subsidiaries Companies
- Annual Report on CSR activities with Impact Assessment Report , if applicable
- BRR/ BRSR
- Auditors' certificate on Corporate Governance in case of companies which have listed their specified securities.

Annexures to the Board Report

- Dividend Distribution Policy in case of companies which have listed their specified securities.
- Company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters.
- Prescribed details of conservation of energy, research and development, technology absorption, foreign exchange earnings and outgo.
- ESOP details

Form MGT-7 and MGT-7A

On March 05, 2021, MCA amended Companies (Management and Administration) Rules, 2014 wherein Rule 11 has been substituted as follows:

- Every Company shall file Annual Return in **revised Format of Form MGT-7** from the Financial Year 2020-21 onwards.
- One Person Company (OPC) and Small Company shall file Annual Return in new Format of Form MGT-7A from the Financial Year 2020-21 onwards.

Major changes in Form MGT-7

- **ISIN of the equity shares** of the Company to be mentioned at the end of the Table of Share Capital, Debentures and other Securities of the Company.

- **Names, addresses, countries of incorporation, registration and percentage of shareholding** held by **Foreign Institutional Investors (FII)** to be given at the end of the Table of share holding pattern-Public/other than promoters.

- **Two additional points** have been inserted in certification of Form MGT-7
 - a) the company has **not issued any securities to the public**; and
 - b) the total Number of members are **not exceeding 200** and as such the company is private limited company

Broadly the work of CS -Pre –AGM

- ▶ Obtain written consent from the Auditors
- ▶ Obtain written consent from Scrutinizer
- ▶ Bank account for Dividend
- ▶ Notice of AGM +Directors Report+ MDA+ CG Report, Investor Information, Chairman's Letter – On website
- ▶ Intimate Stock Exchange about BM date for approval of annual accounts
- ▶ Hold the Board Meeting to decide the date, time, place and agenda for the Annual General Meeting
- ▶ Obtain Email of all members
- ▶ Intimation to Stock Exchanges
- ▶ News Paper Notice
- ▶ Keep all documents ready for e-inspection , if requested

Broadly the work of CS -Pre –AGM

- ▶ Record Date
- ▶ Dedicated Phone Line and e-mail for AGM thru VC
- ▶ Inform Auditors to attend Annual General Meeting
- ▶ Question-Answers to be kept ready
- ▶ Chairman's opening remarks Presentation form CEO to be kept ready
- ▶ Receive all Board Resolutions u/s 113 of the Act
- ▶ Remote E-Voting and e-voting at the AGM
- ▶ Proper system for hosting meeting

Policies and Codes-as per CA 2013

Policy or code	Website
Corporate Social Responsibility Policy	On Website if any
Whistle Blower Policy (vigil mechanism)	On Website if any
Risk Management Policy	NA
Policy on Directors' appointment and remuneration of the Directors, KMP and other employees	On Website if any
Policy for Prevention of Sexual Harassment at Workplace (As per Prevention, Prohibition and Redressal) Act, 2013)	NA

Policies and Codes-as per SEBI (LODR) Reg, 2015

Policy or code	Website requirement
Preservation of Documents	NA
Policy for determining 'Material Subsidiary'	Disseminate on Website
details of establishment of vigil mechanism/ Whistle Blower policy	Disseminate on Website
Code of Conduct for Board of Directors and senior management	NA
criteria of making payments to ID & NED if the same has not been disclosed in Annual Report	
Policy on Materiality of Related Party Transactions and on dealing with RPT	Disseminate on Website

Policies and Codes-as per SEBI (LODR) Reg, 2015


Policy or code	Website requirement
Policy on Disclosure of material events or information	NA
Archival Policy	Disseminate on Website
Dividend Distribution Policy	Disseminate on Website
Policy for remuneration to Directors, Key Managerial Personnel and other employees	NA
Criteria for Performance Evaluation of Independent Director and the Board of Directors	NA
Policy on Board Diversity	NA
Familiarization programmes imparted to Independent Directors	Disseminate on Website

Policies and Codes-as per PIT Regulation

Policy or Code	Website requirement
Code of practices and procedures for fair disclosure of unpublished price sensitive information	Disseminate on Website
Code of Conduct to Regulate, Monitor and Report trading by Insiders	NA

Normal process/ steps for Annual compliances

Board Meeting for Approval of
Financial Statement and Directors
Report



Dispatch of Annual Report , Remote
e-voting and convening of AGM



Conducting AGM and Post AGM
Compliances

Annual Report

- ▶ Chairman's Letter
 - ▶ Notice of AGM
 - ▶ Auditors Report
 - ▶ Directors Report with Secretarial Report MR3
 - ▶ Management Discussion and Analysis (MDA)
 - ▶ Business Responsibility Report/ BRSR
 - ▶ Corporate Governance Report
 - ▶ Standalone Financial Statement with BS, PL ,Schedules and Cash Flow Statement
 - ▶ Consolidated Financial Statement with BS, P&L, Schedules and Cash Flow Statement
 - ▶ Route Map to the AGM , Attendance Slip, Proxy Form.(**Not in VC**)
- (For CFS as per Schedule III, the company is required to give CFS of all subsidiaries, associates and Joint ventures (whether Indian or Foreign))



Board meeting for approval of Annual Report

Notice of the BM

- ▶ Notice of the Board Meeting is to be circulated atleast **7 days prior** to the date of meeting with detailed agenda and all relevant documents like draft Financials, draft Directors Report and draft Notice convening AGM by hand or by speed post or by registered post or by e-mail or by any other electronic means as per SS-1.
- ▶ In case the company sends the Agenda and Notes on Agenda by speed post or by registered post, an additional two days shall be added for the service of Agenda and Notes on Agenda

Thank You!!
Any Q /A

CONTACT US



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