

# **CSR & SOCIAL GOVERNANCE**

**PART I - CORPORATE SOCIAL RESPONSIBILITY**

**PART II - SOCIAL GOVERNANCE**



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

**STUDY MATERIAL**

**PROFESSIONAL PROGRAMME**

**CSR  
&  
SOCIAL GOVERNANCE**

**GROUP 1**

**ELECTIVE PAPER 4.1**



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# PROFESSIONAL PROGRAMME

## CSR & SOCIAL GOVERNANCE

According to the United Nations Industrial Development Organisation, Corporate Social Responsibility (CSR) is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives (“Triple-Bottom-Line-Approach”), while at the same time addressing the expectations of shareholders and stakeholders. In this sense it is important to draw a distinction between CSR, which can be a strategic business management concept, and charity, sponsorships or philanthropy. Even though the latter can also make a valuable contribution to poverty reduction, will directly enhance the reputation of a company and strengthen its brand, the concept of CSR clearly goes beyond that.

A properly implemented CSR concept can bring along a variety of competitive advantages, such as enhanced access to capital and markets, increased sales and profits, operational cost savings, improved productivity and quality, efficient human resource base, improved brand image and reputation, enhanced customer loyalty, better decision making and risk management processes.

A social governance framework is a set of guidelines and practices that organizations can use to manage and address social issues. Social governance also contributes to the development of more sustainable and equitable societies, as companies work to address social issues and support the well-being of communities and the environment. By integrating social governance into their operations and decision-making processes, organizations can help ensure that they are contributing to a more sustainable and just world.

Key Corporate Social Responsibility and Social Governance issues are environmental management, eco-efficiency, responsible sourcing, stakeholder engagement, labour standards and working conditions, employee and community relations, social equity, gender balance, human rights and good governance.

Company Secretaryship being a professional course, the examination standards are set very high, with emphasis on knowledge of concepts, applications, procedures and case laws, for which sole reliance on the contents of this study material may not be enough. Besides, as per the Company Secretaries Regulations, 1982, students are expected to be conversant with the amendments to the laws made upto six months preceding the date of examination. The material may, therefore, be regarded as the basic material and must be read along with the original Bare Acts, Rules, Regulations, Case Law, Student Company Secretary e-bulletin and Chartered Secretary published by the Institute as well as recommended readings.

This Study Material is divided into two parts. Part-I covers Corporate Social Responsibility & Part -II covers Social Governance and based on the provisions of Companies Act, Societies Registration Act, Trusts Act, Partnership Act, SEBI Regulations etc.

The legislative changes made upto May 31, 2023 have been incorporated in the study material. In addition to Study Material students are advised to refer to the updations at the Regulator’s website, supplements relevant for the subject issued by ICSI and ICSI Journal Chartered Secretary and other publications. Specifically, **students are advised to read “Student Company Secretary” e-Journal which covers**

**regulatory and other relevant developments relating to the subject**, which is available at academic portal <https://www.icsi.edu/student-n/academic-portal/>. In the event of any doubt, students may contact the Directorate of Academics at academics@icsi.edu.

**The amendments to law made upto 31st May of the Calendar Year for December Examinations and upto 30th November of the previous Calendar Year for June Examinations shall be applicable.**

Although care has been taken in publishing this study material, yet the possibility of errors, omissions and/or discrepancies cannot be ruled out. This publication is released with an understanding that the Institute shall not be responsible for any errors, omissions and/or discrepancies or any action taken in that behalf.

**PROFESSIONAL PROGRAMME**  
**Group 1**  
**Elective Paper 4.1**  
**CSR & SOCIAL GOVERNANCE**

**SYLLABUS**

**OBJECTIVES:**

- To provide in depth and practical knowledge in Corporate Social Responsibility and Social Governance.

**Level of Knowledge :** Expert Knowledge

**PART I: CORPORATE SOCIAL RESPONSIBILITY (50 MARKS)**

1. **Corporate Social Responsibility:** Concept of CSR • Principles of CSR Corporate Social Responsibility: Indian Legislative Framework • Corporate Social Responsibility: An International Perspective
2. **CSR Policy:** CSR & Permissible Activities: A Detailed Study • CSR Policy • CSR Committee
3. **CSR Projects & Implementation Agency:** Identification • Evaluation & Monitoring • Leveraging Technology & IT Tools
4. **Social Impact Assessment & CSR Audit:** GST issues & challenges • Accounting and Taxation Aspects • Impact Measurements
5. **Guidelines on CSR:** Guidelines on CSR and Sustainability for Central Public Sector Enterprises (CPSEs) • CSR in Insurance Companies • CSR in Banking Companies
6. **CSR and Sustainable Development Goals:** CSR and Corporate Governance • CSR as Organizational Brand Building • Factors influencing CSR
7. **Impact of CSR:** Interlinkages / impact of CSR on other arms of business • Branding & Value addition • CSR Impact Assessment: Models and Approaches • CSR Impact Assessment Reporting

**PART II: SOCIAL GOVERNANCE (50 MARKS)**

8. **Social Governance:** Introduction • Company's behaviour regarding social issues includes: Employment equality, Employee health and safety and gender diversity, Product safety concerns and liability, Human rights & its development.
9. **Social Stock Exchange :** Eligibility of social enterprises • Registration • Instruments available For-Profit Social Enterprise (FPEs) • Social Impact Funds, Disclosure Requirements • Social Audit
10. **Contribution of Non-Corporate Entities (NCE) in Social Governance:** Importance of NCE in Social Governance & National Development • Types of Non-Corporate Entities • Characteristics of Non-Corporate Entities • Ownership Structure • Good Governance Initiatives in Local Governments • Regulatory Framework, Registration & Taxation aspects pertaining to Non-Corporate Entities • International aspects of Non-Corporate Entities

11. **Societies and Trusts :** Introduction • Registration • Procedure for Registration • Rules and Regulations • Society May Make Bye-laws Essential Governance Practices in the Management Committee • Essential Governance Practices in the Meetings of the Governing Council • Amendment or Alteration • Amalgamation or Division of the Society • Dissolution of Society • Registrar of Societies – Powers & Duties • Offences and Penalties • Regulatory Aspect of Trust • Governance Practices in Trust • Doctrine of Cyprès • Extinction of a Trust • Revocation of a Trust • State Cooperative Societies
12. **Partnership Firms:** Introduction • Partnership Deed • Classification of Partnership • Partnership Property • Relation of Partners to one another • Rights of Partners • Duties of Partners • Extent of Partners' Liability • Dissolution of the Firm • Registration of the Firm • Effects of Non-registration • Governance Principle of Partnership Firm • Specific Performance of Partnership Agreement
13. **Model Code for Meetings of Non-Corporate Entities:** Convening a Meeting • Frequency of Meeting • Quorum • Attendance at the Meeting • Chairman • Notice of Meetings • Agenda Item • Adjournment of Meeting • Passing of Resolution by Circulation • Modification or cancellation of resolutions/decisions • Minutes of the Meeting
14. **Financial and Non-financial Reporting of Different non-corporate Entities:** Financial Statements of Non-Corporate Entities • Applicability of accounting standards • Annual Return/Report disclosure requirements by Non-Corporate Entities under different legislations • Audit of Different Non-Corporate Entities
15. **Foreign Funding to Non-Corporate Entities:** Types of Non-Corporate Entities entitle to receive foreign grant/funds • Registration with FCRA Division of the Ministry of Home Affairs • Governance of Association received Foreign funds, Filing of Returns by Non-Corporate Entities received foreign funding
16. **Local Self Governance:** Authority under Gram Panchayat Convening a meeting, Frequency & Quorum for the Meeting of the Gram Panchayat • Minutes of the meeting of the Gram Panchayat • Inspection & Preservation of Minutes. Functions of the Secretary • Governance Practices in the Gram Panchayat • Municipal Corporation & Notified Area Council • Governance Practices in the Corporation/Council

# ARRANGEMENT OF STUDY LESSONS

## CSR & SOCIAL GOVERNANCE

### GROUP 1 • ELECTIVE PAPER 4.1

#### PART I – CORPORATE SOCIAL RESPONSIBILITY

**Sl. No. Lesson Title**

1. Corporate Social Responsibility
2. CSR Policy
3. CSR Projects & Implementation Agency
4. Social Impact Assessment & CSR Audit
5. Guidelines on CSR
6. CSR and Sustainable Development Goals
7. Impact of CSR

#### PART II – SOCIAL GOVERNANCE

8. Social Governance
9. Social Stock Exchange
10. Contribution of Non-Corporate Entities (NCE) in Social Governance
11. Societies and Trusts
12. Partnership Firms
13. Model Code for Meetings of Non-Corporate Entities
14. Financial and Non-financial Reporting of Different non-corporate Entities
15. Foreign Funding to Non-Corporate Entities
16. Local Self Governance



# LESSON WISE SUMMARY

## CSR & SOCIAL GOVERNANCE

### PART I – CORPORATE SOCIAL RESPONSIBILITY (50 MARKS)

#### Lesson 1 – Corporate Social Responsibility

Corporate Social Responsibility is the way companies manage their businesses to produce an overall positive impact on society through economic, environmental and social actions. Corporate social responsibility (CSR), also called corporate conscience, corporate citizenship, social performance, or sustainable responsible business/ businesses. Business depends for its survival on long term prosperity of the society. Corporate Social Responsibility is concerned with treating the stakeholders of a company or institution ethically or in a responsible manner. 'Ethically or in a responsible manner' refers to treating key stakeholders in a manner deemed acceptable according to international norms. The Corporate Social Responsibility and Corporate Governance are inextricable in today's going perception of the society. The Corporate Governance and business ethics make the concept of Corporate Social Responsibility inevitable.

This lesson covers the Concept of CSR, Principles of CSR Corporate Social Responsibility: Indian Legislative Framework, Corporate Social Responsibility: An International Perspective etc.

#### Lesson 2 – CSR Policy

Corporate social responsibility (CSR) is a proactive and synergistic business philosophy, while attention is paid to broader economic, environmental, and social issues in a balanced way. CSR Policy means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan. The approach and direction for CSR is to be recommended by the CSR Committee to the Board, and based on the same, the approach and direction is finalised by the Board of Directors. The CSR Policy is to be prepared and recommended by the CSR Committee to the Board for its approval. This process may happen simultaneously also depending upon the convenience of the Board. CSR Policy indicates the activities to be undertaken by the company in areas or subjects, specified in Schedule VII to the Act. The guiding principles to be included in the CSR Policy as contemplated in the CSR Rules appear to be macro level indicators as to the areas in which CSR projects are proposed to be undertaken, which can be articulated in the annual action plan for each financial year.

This lesson covers the CSR & Permissible Activities: A Detailed Study, CSR Policy, CSR Committee.

#### Lesson 3 – CSR Projects & Implementation Agency

Corporate Social Responsibility (CSR) is understood to be the way firms integrate social, environmental and economic concerns into their values, culture, decision making, strategy and operations in a transparent and accountable manner and thereby establish better practices within the firm, create wealth and improve society. As issues of sustainable development become more important, the question of how the business sector addresses them is also becoming an element of CSR. CSR is vital for the community, but it is also important for businesses. Employees and organizations can form a stronger bond through CSR initiatives, which can enhance morale

and make both employees and employers feel more connected to the world around them. Many businesses consider CSR to have a significant impact on their brand image, recognizing that younger customers prefer to do business with ethical companies.

This lesson covers the Identification, Evaluation & Monitoring, Leveraging Technology & IT Tools.

#### **Lesson 4 – Social Impact Assessment & CSR Audit**

Social Impact refers to net effect of the proposed project on stakeholders. This may include impact on community as whole or on individuals or upon a single family or set of families, organisations or industries as a whole. The net effect of any project upon people's life would termed as Social Impact and detailed assessment of such impact upon lives of community or individual would help the originator of CSR projects to plan and execute such projects more properly.

Every company having average CSR obligation of INR 10 Cr. or more in the 3 immediately preceding financial years, shall undertake impact assessment of their CSR projects having outlays of INR 1 Cr. or more, through an independent agency. The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR

This lesson covers the GST issues & challenges, Accounting and Taxation Aspects, Impact Measurements.

#### **Lesson 5 – Guidelines on CSR**

Every major business has an impact on the communities and societies in which it operates. It is a well acknowledged and accepted fact that an organization cannot focus only on economic outcomes and performance, without paying attention to the society at large within which it operates. It is the responsibility of the Company to get involved in the social development and societal upliftment of the community surrounding it. Corporate Social Responsibility is strongly linked to the principles of sustainable growth and development. A responsible organization should make decisions based not only on financial factors, but also on the social and environmental impact. Therefore, it is the primary responsibility of the Company to ensure its corporate values include a commitment to grow in a socially and environmentally responsible way, while contributing to the society. Guidelines on CSR should be in line with global best practices but retained focus on the domestic socio- economic requirements of our country.

This lesson covers the Guidelines on CSR and Sustainability for Central Public Sector Enterprises (CPSEs) | CSR in Insurance Companies | CSR in Banking Companies

#### **Lesson 6 – CSR and Sustainable Development Goals**

Corporate Governance as a concept has CSR embedded in it, whereby companies not only consider their profitability and growth, but also the interests of society and the environment by taking responsibility for the impact of their activities on stake holders, environment, consumers, employees, communities, and all stake holders. Other members of the public sphere. The basic premise is that when the corporations get bigger in size, apart from the economic responsibility of earning profits, there are many other responsibilities attached to them which are more non-financial/social in nature. Companies that practice good corporate governance are also those that are socially and environmentally responsible. That is to say, that unless there is good governance it is quite unlikely that there is a conscientious approach towards their social responsibility. Both Corporate Governance and CSR focus on the ethical practices in the business and the responsiveness of an organisation towards its stakeholders and the environment in which it operates.

This lesson covers the CSR and Corporate Governance, CSR as Organizational Brand Building and Factors influencing CSR.

## Lesson 7 – Impact of CSR

Impact assessments help funders, grant-makers, and companies to understand and evaluate the impact of their social investments in programmes and projects on their target beneficiaries or society. The findings of an assessment also help funders and companies to make evidence-based decisions in implementation and identify hurdles, allowing for programme continuity, scale, sustainability, efficiency, etc. Communicating the impact of CSR activities of the organisation to the perspective stakeholder is imperative and essential to create brand value and to assist the businesses to garner customer loyalties. Many companies view CSR as an integral part of their brand image, believing that customers will be more likely to do business with brands that they perceive to be more ethical.

This lesson covers the Interlinkages / impact of CSR on other arms of business, Branding & Value addition, CSR Impact Assessment: Models and Approaches, CSR Impact Assessment Reporting

## PART II: SOCIAL GOVERNANCE (50 MARKS)

### Lesson 8 – Social Governance

The aim of social governance is to ensure that all members of society have access to basic needs, rights, and opportunities. This includes addressing issues such as poverty, inequality, discrimination, social exclusion, and environmental degradation, among others. Social governance involves engaging citizens and communities in decision-making processes, promoting innovation and collaboration, and using data and evidence to inform policy and decision-making. The guiding ethic of social governance is human affinity by which we understand that as humans we share one humanity and live on one earth and that our values, our decisions and our choices affect others, not only those near to us, but also in our world of globalized trade, those who are far away and often unprotected by the laws and regulations of our own land. It requires solidarity, fairness and responsibility. Through accountability and audit, we address our responsibility to others and the environment. Through responsibility, we give meaning to human life.

This lesson covers the Introduction, Company's behaviour regarding social issues includes: Employment equality, Employee health and safety and gender diversity, Product safety concerns and liability, Human rights & its development.

### Lesson 9 – Social Stock Exchange

Social Enterprises (SE) are commonly known as Non-Governmental Organisation who acts as a bridge between the government and the society. Government initiative, if not found to be sufficient, SEs play a significant role in assigning various issues to the government. Non-Governmental Organisations (NGOs) play an important role in community development by assisting communities in developing their social, capital, and human resources; enhancing knowledge and skills; encouraging people to take part in activities; and acting as a link between communities and systems. The Central Government vide notification made it mandatory that only listed Non-Profit Organisations will be allowed to raise funds through Zero Coupon Zero Principal and the security shall be registered in the Social Stock Exchanges segment of a Stock Exchange in accordance with regulations made by SEBI.

Accordingly, a new chapter (Chapter IX–A), comprising Regulations 91A to 91F is already introduced by SEBI by amending the SEBI (LODR) Regulations 2015 and lays down the framework for SSEs effective from 25th July, 2022. On the same day SEBI has also notified the amendment of the SEBI (ICDR) Regulations (Third Amendment) 2022 and a separate chapter (Chapter X-A) is introduced exclusively for the purpose of Social Stock Exchanges. The said regulations mainly deal with the eligibility criteria of SEs to be listed, avenues available for SEs to raise fund, procedure for issuing securities for raising funds, Disclosure and Reporting of information and other obligations as may be discharged by SEs.

This lesson covers the Eligibility of social enterprises, Registration, Instruments available For-Profit Social Enterprise (FPEs), Social Impact Funds, Disclosure Requirements and Social Audit.

### **Lesson 10 – Contribution of Non-Corporate Entities (NCE) in Social Governance**

Non-corporate entity means that an entity has not been registered to be classified as a corporation. This means that it cannot have the benefits of being a corporation such as limited liability. A non-corporate entity is a legal entity that does not go through a formal incorporation process, does not meet the legal requirements for a corporation, such as the number of shareholders required etc. These include sole proprietorships, partnerships and other unincorporated entities. Corporate entities which are duly incorporated and registered following the due process of law have separate identity distinct from its members.

This lesson covers the Importance of NCE in Social Governance & National Development, Types of Non-Corporate Entities | Characteristics of Non-Corporate Entities, Ownership Structure, Good Governance Initiatives in Local Governments, Regulatory Framework, Registration & Taxation aspects pertaining to Non-Corporate Entities.

### **Lesson 11 – Societies and Trusts**

The concept of societies is not new to India. In ancient period, societies were the breeding ground for like-minded intellectuals to discuss important developments in the fields of arts, sciences, or for recreational purposes. In India, societies existed in the form of religious or charitable conventions dispensing relief to the needy. Generally a need is felt to set up an institution of non-commercial nature for promotion of numerous charitable activities like education, art, religion, culture, music, social welfare, sports etc. Associations, clubs or societies are formed to help these purposes as they work on non-profit basis. To legalise such organisations, the Societies Registration Act, 1860 was enacted. The Societies Registration Act, 1860 is a pre-independence era legislation that envisaged the incorporation, management and dissolution of societies incorporated under the said Act.

The concept of 'trust' relates to the ancient times. When the properties were dedicated for charitable, pious, religious, social welfare, educational, medical purposes. Now a days, it has gained a greater significance for various tax exemptions made available to a trust which is treated as a separate legal entity. The Trust laws came to India via English Trust law which stipulates dual ownership of trust property i.e., legal title vests with the trustee while equitable title vests with the beneficiary. On this basis, Indian Trusts Act 1882 was enacted.

This lesson covers the Procedure for Registration of Society, Society May Make Bye-laws, Alteration or Amalgamation or Division of the Society, Dissolution of Society, Governance Practices in Trust and Doctrine of Cypres etc.

### **Lesson 12 – Partnership Firms**

Likewise, companies which are regulated by Companies Act, 2013, the other form of business is partnership which is regulated by Indian Partnership Act, 1932. The partnership is considered as the convenient way to start a business. Suppose one wants to open a bookshop in the locality. There are various things that are required to start and run the business which may not be feasible to arrange all alone. These may include resources from money to place to management. In that case, the idea may be spoken to friends and relatives who may agree to run the bookshop by contributing a certain amount of money and other things required. So all of them join hands together to become the owners and agree to share profits and losses. The agreement of partnership may

be oral but to avoid future disputes it is always advisable to have it in writing. The mutual rights and obligations of partners must be discussed in detail and should be put into writing in the shape of a 'Partnership Deed', before the partnership is actually started. Thus, the written document which contains the mutual rights and obligations of partners is known as partnership deed.

This lesson covers Partnership Deed, Classification of Partnership, Rights of Partners, Duties & Liability of Partners, Specific Performance of Partnership Agreement.

### **Lesson 13 – Model Code for Meetings of Non-Corporate Entities**

Non-corporate Entities may be incorporated in the form of society, trust, club, welfare association, civic bodies etc. Usually the Governing Body/Council of Non-corporate Entities comprises of members chosen from among the members of such entities or in some cases, nominee appointed by the Government. The affairs of Non-corporate Entities are managed by the Governing Body/Council by taking appropriate decisions at its meeting. To achieve the objectives of any entity, the effective decision making is inevitable and the same equally applies to Non-corporate Entities. The legal principles and procedures with respect to Non-corporate Entities are laid down in the respective laws applicable to such entities or enshrined in their Bye-laws. In addition to applicable legal requirements, Model Code provides essential governance practices in convening and conducting the Meetings of the Governing Council/ Management Committee of such entities and aims to harmonise the prevalent diverse practices. Model code seeks to prescribe a set of principles for convening and conducting Meetings of the Governing Council/ Management Committee of Non-corporate Entities and matters related thereto.

This lesson covers the Convening a Meeting, Frequency of Meeting, Quorum, Notice of Meetings, Passing of Resolution by Circulation and Minutes of the Meeting of Non-Corporate Entities.

### **Lesson 14 – Financial and Non-financial Reporting of Different non-corporate Entities**

Besides Financial Reporting, non-corporate entities such as Partnership Firms whether Registered Partnership Firms or Unregistered Partnership Firms, Society registered under any law for the time being in force, Trust (private or public) registered or unregistered under any law for the time being in force. are also required to submit non-financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.

This lesson covers the Financial Statements of Non-Corporate Entities, Applicability of accounting standards, Annual Return/Report disclosure requirements by Non-Corporate Entities under different legislations.

### **Lesson 15 – Foreign Funding to Non-Corporate Entities**

Foreign Contribution (Regulation) Act (FCRA) is the law that governs foreign funding in India. FCRA has the primary objective of regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations, with a view to ensuring that Parliamentary and political associations, academic and other institutions as well as individuals working in important areas of national life may function in a manner consistent with the values of a sovereign democratic republic. The Act prohibits acceptance of foreign contribution by election candidates, journalists, public servants, members of the legislature, and political parties or their office bearers and allows Associations having definite cultural, economic, educational religious or social programme to accept such contributions after complying with certain requirements.

This lesson covers the types of Non-Corporate Entities entitle to receive foreign grant/funds and Registration with FCRA Division of the Ministry of Home Affairs and Filing of Returns by Non-Corporate Entities received foreign funding.

## **Lesson 16 – Local Self Governance**

The concept of local self-government is not new to our country and there is mention of community assemblies in the Vedic texts. The present structure of Local Self Government institutions took shape in 1688 when the British established a Municipal Corporation at Madras which was followed by creation of similar bodies at Bombay and Calcutta (1726). Finally in 1992, after synthesising important features of the earlier exercises on this subject, Government drafted and introduced the 73rd and 74th Amendments Bill in Parliament which were passed in 1993. These introduced new Parts IX and IXA in the Indian Constitution containing Articles 243 to 243ZG. Part IX of the Constitution provides for among other things, Gram Sabha in a village or group of villages; constitution of Panchayats.

The Model Governance Code for Meetings of the Gram Panchayats seeks to prescribe a set of principles for convening and conducting Meetings of Gram Panchayats and matters related thereto. The principles enunciated in this Model Code for Meetings of the Gram Panchayats are equally applicable to meetings of Standing Committees, unless otherwise stated herein or otherwise stipulated by any other applicable laws, Guidelines, Rules or Regulations.

This lesson covers the Authority under Gram Panchayat Convening a meeting, Frequency & Quorum for the Meeting of the Gram Panchayat, Minutes of the meeting of the Gram Panchayat and Governance Practices in the Corporation/Council etc.

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**PART I**

**CORPORATE SOCIAL  
RESPONSIBILITY**





## KEY CONCEPTS

- Corporate Social Responsibility ■ CSR Policy ■ CSR Committee ■ Ongoing Project ■ Administrative Overheads

## Learning Objectives

### To understand:

- Concept of CSR
- Principles of CSR
- Significance of CSR
- CSR: Indian Legislative Framework
- CSR: International Perspective

## Lesson Outline

- Introduction
- Ancient History
- Applicability of CSR
- United Nation Global Compact
- International Organization for Standardization
- CSR in Singapore
- CSR in South Africa
- CSR in United Kingdom
- ASEAN CSR Network
- CSR in Egypt
- Lesson Round-Up
- Test Yourself
- References



## REGULATORY FRAMEWORK

- Companies Act, 2013
- Companies (Corporate Social Responsibility Policy) Rules, 2014

## INTRODUCTION

Economic growth is possible only through consumption of inputs available in the environment and society. The harnessing of natural resources has a direct impact on the economy, the environment and society at large. Corporate Social Responsibility (CSR) is a concept whereby organizations serve the interests of society by taking responsibility for the impact of their activities on customers, employees, shareholders, communities and the environment in all aspects of their operations. Corporate social responsibility is not about just giving randomly but about bringing benefits to all the stakeholders, including customers, employees and community at large.

Corporate Social Responsibility is the way companies manage their businesses to produce an overall positive impact on society through economic, environmental and social actions. Corporate social responsibility (CSR), also called corporate conscience, corporate citizenship, social performance, or sustainable responsible business/ businesses. Business depends for its survival on long term prosperity of the society.

CSR has been defined by different people giving it a varied dimension. According to Michel Hopkins “Corporate Social Responsibility is concerned with treating the stakeholders of a company or institution ethically or in a responsible manner. ‘Ethically or in a responsible manner’ refers to treating key stakeholders in a manner deemed acceptable according to international norms.”

European Union has defined CSR thus “A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.” According to Business for Social Responsibility (BSR) “Corporate social responsibility is operating a business in a manner which meets or excels the ethical, legal, commercial and public expectations that a society has from the business.”

The Corporate Social Responsibility and Corporate Governance are inextricable in today’s going perception of the society. The Corporate Governance and business ethics make the concept of Corporate Social Responsibility inevitable. As Winston Churchill once said “With great power comes great responsibility”, social responsibility cannot be avoided.

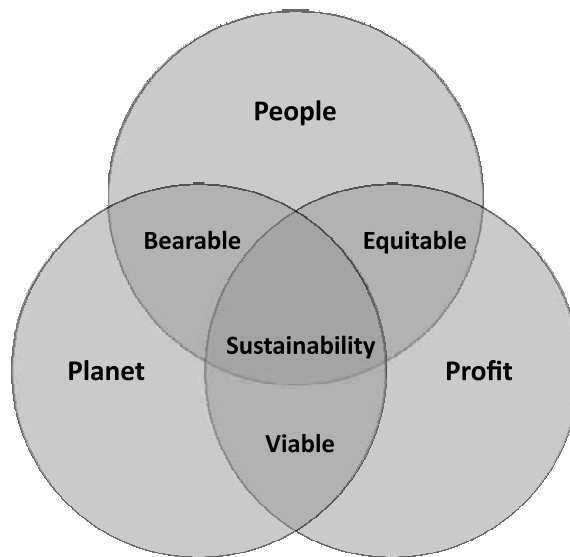
Corporate Social Responsibility is an important business strategy because, to some extent a consumer wants to buy products from companies he trusts, a supplier wants to form business partnership with companies he can rely on, an employee want to work for a company he respects, other concerns want to establish business contacts with companies seeking feasible solutions and innovations in areas of common concern.

Corporate social responsibility is basically a new business strategy to reduce investment risks and maximise profits by taking all the key stake- holders into confidence. The proponents of this perspective often include corporate social responsibility in their advertising and social marketing initiatives. It is a tool to increase the reputation of the company in the eyes of society.

It is certainly a business approach that creates a long term consumer and employee value by not only creating a ‘green strategy’ on natural environment but also considering every dimension of how a business operates in social, cultural and environment. The company should meet the needs of its all stakeholders (consumer, employees, shareholder, clients and other related persons) without sacrificing the ability to meet the needs of the future stakeholders.

### Triple Bottom Line

Corporate Social Responsibility (CSR) is the responsibility of an organization for the impacts of its decisions and activities on society, the environment and its own prosperity, known as the “triple bottom line” (TBL) of people, planet, and profit. The three together are often referred to as ‘the three pillars’ of the business entity. In 1997 Briton John Elkington introduced the term (TBL) which is based on the premise that business entities have more to do than make just profits for the owners of the capital. Here People (human capital) refers to the Society where the business conducts its operations, Planet (natural capital) refers to the sustainable environment practices and Profit is shared by all concerned.



#### Significance of CSR to sustainability of business:

The CSR is important to the corporate to sustain in the environment and thus has the following significance:

- (i) Reduction in operative cost: corporate social responsibility helps companies in reduction in operating cost, this may include recycling, water conservation, energy efficiency etc..
- (ii) Increased Sales and Customer Loyalty: The customers also recognize those companies which are socially responsible. This results in increased sales and content customers.
- (iii) Higher productivity and Quality: Company as an essential of its triple bottom line, focuses on improving the working conditions of it employees, people in its supply/distribution chain, which helps in increased productivity with better quality
- (iv) Access to Capital: The companies with strong CSR have increased access to capital that might not otherwise have been available. Even the lending institutions are cautious and are considering this as an important parameter of granting loans.
- (v) Boost in Brand Image and Reputation: CSR is an essential brand building tool used by companies to enhance its reputation amongst the stakeholders.

#### Historical Background of CSR

The concept of CSR is not new in India. The concept can be traced back to times immemorial, our *Vedas* say - man can live individually but can survive only collectively. Hence the challenge is to form a progressive community by balancing the interests of individuals and that of the society. To meet this, we need to develop a value system where people accept modest sacrifices for the common good. A value system is the protocol for behaviour that enhances

the trust, confidence and commitment of members of the community. It goes beyond the domain of legality. It includes putting the community interests ahead of our own. Thus our collective survival and progress is predicated on sound values. Philosophers like Kautilya emphasized on ethical practices and principles while conducting business. In that period, Kings had an obligation towards society and merchants displayed their own business responsibility by building places of worship, education and various forms to charity for the needy. Although the core function of business was to create wealth for society and was based on an economic structure, the business community with their rulers believed in the philosophy of “*Sarva loka hitam*” which means “the well-being of all stakeholders”. Indian Scriptures have at several places mentioned the importance of sharing one’s earning with the deprived sections of society. There are different ways through which a firm can exert positive social change in society and collaborate with partners who have the explicit power to trigger such change.

Vedas suggest that peace, order, security and justice were regarded as the fundamental aims of the state. Welfare of the public was clearly regarded as the chief aim of the state. Literature on politics describes the promotion of *dharm*a (moral law), *karma* (pleasure) and *artha* (wealth).

The concept of corporate social responsibility generally, agreed by the historians, emerged in the 1930s to 1940s and became formalized in 1953 with the publication of book named ‘Social Responsibilities of the Businessman’ by Howard Bowen. However, the term CSR became only popular in the 1990s. According to the World Business Council for Sustainable Development, 1999 “Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to the economic development while improving the quality of life of the workforce and their families as well as of the local community and the society at large.”

**Developments On Corporate Social Responsibility in India**

2007	2009	2010	2011	2012	2014
Adoption Of Inclusive Growth-11Th Five Year Plan	Voluntary Guidelines On Corporate Social Responsibility, 2009	Parliamentary Standing Committee On Finance-21St Report On Companies Bill, 2009	National Voluntary Guidelines(NVGs) On Social, Environmental & Economic Responsibilities Of Business, 2011	Business Responsibilities Reporting	Mandatory Provision Of CSR Under Section 135 Of The Companies Act, 2013 Coming Into Effect From 01/04/2014

Source : [csr.gov.in](http://csr.gov.in)

Mandatory provisions of CSR under section 135 of the Companies act, 2013 became effective from 01.04.2014.

The importance of inclusive growth is widely recognized as an essential part of India’s quest for development. It reiterates our firm commitment to include those sections of the society in the growth process, which had hitherto remained excluded from the mainstream of development. In line with this national endeavor, Corporate Social Responsibility (CSR) was conceived as an instrument for integrating social, environmental and human development concerns in the entire value chain of corporate business. Ministry of Corporate Affairs had issued ‘Voluntary Guidelines on Corporate Social Responsibility, 2009’ as a first step towards mainstreaming the concept of Business Responsibilities. This was further refined subsequently, as ‘National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011’.

The National Voluntary Guidelines (NVGs) on Social, Environmental and Economic Responsibilities of Business released by the Ministry of Corporate Affairs (MCA) in July 2011, is essentially a set of nine principles that offer

Indian businesses an understanding and approach to inculcate responsible business conduct. However, taking into account the national and international developments in the arena of sustainable business since 2011, the NVGs have been updated and released as 'National Guidelines on Responsible Business Conduct' (NGRBC) in March 2019 to reveal alignments with the United Nations Guiding Principles on Business & Human Rights (UNGPs), UN Sustainable Development Goals (SDGs), Paris Agreement on Climate change etc. The NGRBC provides a framework for the companies to grow in an inclusive and sustainable manner while addressing the concerns of stakeholders.

The 21st Report of the Parliamentary Standing Committee on Finance is one of the prime movers for bringing the CSR provisions within the statute. It was observed by the Standing Committee, that annual statutory disclosures on CSR required to be made by the companies under the Act would be a sufficient check on non-compliance. Section 135(4) of the Companies Act 2013 mandates every company qualifying under Section 135(1) to make a statutory disclosure of CSR in its Annual Report of the Board. Rule 8 of the Companies (Corporate Social Responsibility Policy), Rules, 2014 prescribes the format in which such disclosure is to be made.

### CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY

CSR emerges from different sociological settings of each era to influence the way businesses adopt a more considerate and responsible behavior. Earlier businesses used to conduct these activities through especially dedicated charities. Later on the concept developed to welfare programs and activities in the nature of social responsibility. The concept of CSR has evolved during the last few decades from simple philanthropic activities to integrating the interest of the business with that of the community which is being served by such business. By exhibiting socially, environmentally and ethically responsible behavior in governance of its operations, business can generate value and long term sustainability for itself while making positive contribution towards the betterment of the society. CSR is a concept whereby companies not only to consider their profitability and growth, but also interests of society and the environment by taking responsibility for the impact of their activities on the society, environment and communities in which they operate. CSR aims to fulfill expectations that society has from business and it is viewed as a comprehensive set of social policies, practices and programs that are integrated throughout the business operations. The concept of CSR has evolved over the years and it is now used as a strategy and a business opportunity to earn stakeholders' goodwill.

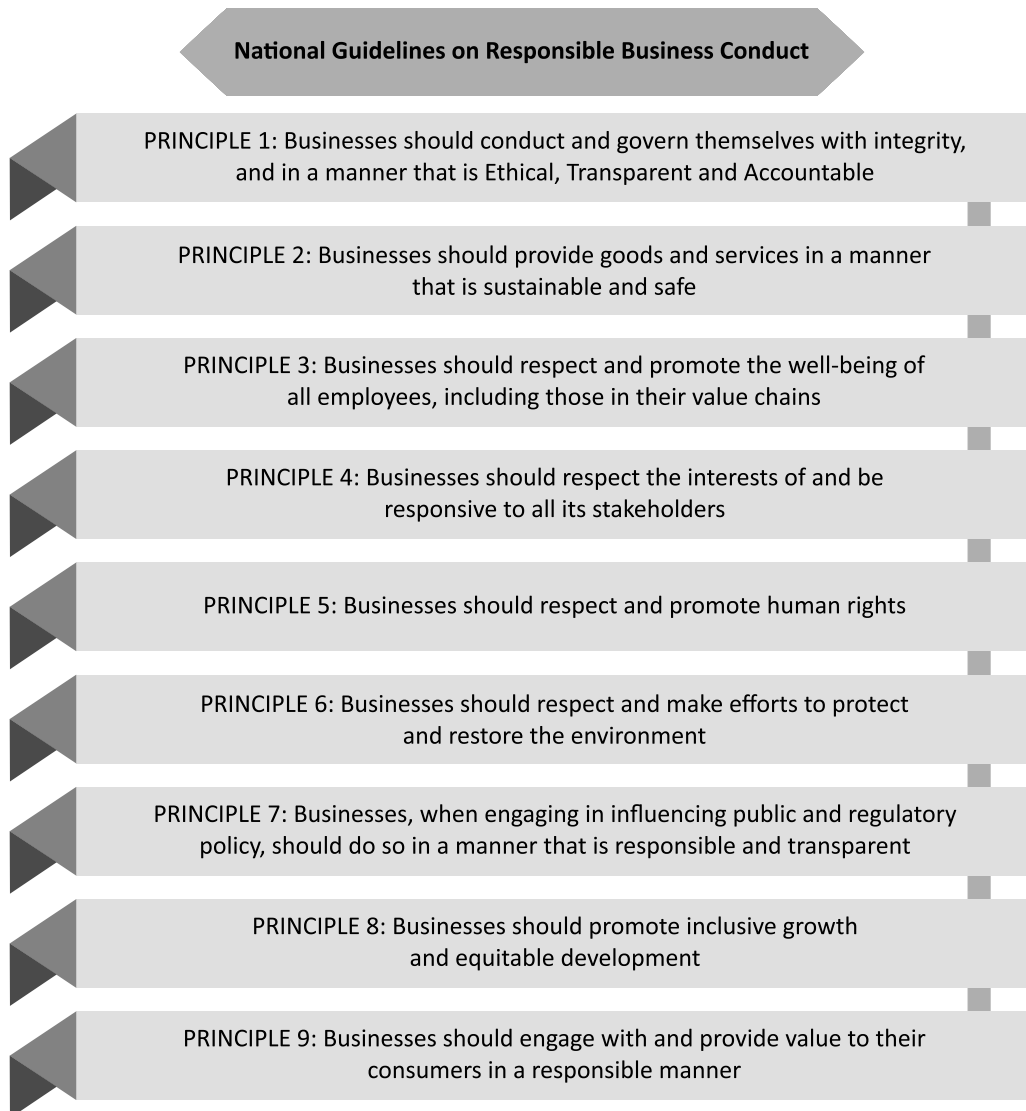
### PRINCIPLES OF CSR

In 2009, the Ministry of Corporate Affairs (MCA), Government of India issued the 'Voluntary Guidelines on Corporate Social Responsibility' as a precursor towards mainstreaming the concept of business responsibility. In June 2011, the United Nations Human Rights Council (UNHRC) adopted the United Nations Guiding Principles on Business and Human Rights (UNGPs) which India has endorsed.

Accordingly, MCA released a set of new guidelines in 2011 titled as National Voluntary Guidelines on the Social, Environmental and Economic Responsibilities of Business (NVGs). These guidelines were expected to provide guidance to businesses on what constitutes responsible business conduct.

In NGRBC, the nine thematic pillars of business responsibility are referred to as principles. Each principle is introduced as a statement and followed by a brief description of the essential aspects of the principle. A plain reading of each principle and brief description provides a clear idea of the essential spirit and intent of the principle. Each principle is accompanied by a set of requirements and actions that are essential to the operationalisation of the principle, referred to as the core elements. All principles of the NGRBC are equally important, inter-related, interdependent and non-divisible, and businesses should adopt them to demonstrate their commitment to being a responsible business, and accrue the full benefits of sustainable business strategies.

While the highest governance structure, in the case of companies and corporations is the Board, the responsibility for adoption of the NGRBC in proprietorships, partnerships, and other types of business is assumed in the present context to rest with the owner/s, partner/s, and/or, any other body responsible for the highest level of decision-making and governance functions in the business.



### CSR in Indian Legislation

Though the legislature over a period of time has tried to address the basic responsibilities of a corporate towards its employees and environment by enacting various labour and environmental laws, the introduction of CSR provisions under the Act is a significant legislative effort undertaken to involve corporates as partners in the social development process of the country and in strengthening the social responsibility of businesses.

Companies Act, 2013 is a legislation which officially embarked on one of the world's largest experiments of introducing the concept of CSR as a mandatory provision. CSR is an important and progressive concept for socio economic development. The inclusion of CSR is an attempt by the Government to engage businesses with the national development agenda. With the introduction of CSR provisions in the Act, there is a statutory responsibility on the corporates to take initiatives towards social, environmental and economic obligations.

***The Corporate Social Responsibility concept in India is governed by Section 135 of the Companies Act, 2013 ('Act'), Schedule VII of the Act and Companies (CSR Policy) Rules, 2014 wherein the criteria has been provided for assessing the CSR eligibility of a company, Implementation and Reporting of their CSR Policies.***

***The detailed provisions are explained below:***

### **Corporate Social Responsibility**

As per Rule 2(d) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 "Corporate Social Responsibility" means the activities undertaken by a company in pursuance of its statutory obligation laid down in section 135 of the Act in accordance with the provisions contained in CSR Rules, but shall not include the following, namely: -

- (i) activities undertaken in pursuance of normal course of business of the company:  
 Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that –
  - (a) such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act;
  - (b) details of such activity shall be disclosed separately in the annual report on CSR included in the Board's Report.
- (ii) any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level;
- (iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;
- (iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019;
- (v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;
- (vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India.

Section 135(1) of the Companies Act, 2013 provides that 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 consisting of three or more Directors, out of which at least one director shall be an independent director.

It may be noted that where a company is not required to appoint an independent director under section 149(4), it shall have in its Corporate Social Responsibility Committee two or more Directors.

#### ***CSR provisions applicable to companies which fulfill any of the following criteria during the immediately preceding financial year:***

- (i) Net worth of Rs. 500 crore or more; or
- (ii) Turnover of Rs. 1000 crore or more; or
- (iii) Net profit of Rs. 5 crore or more.

*Every such company is required to constitute a CSR committee of the Board.*

**Whether CSR provisions apply to a company that has not completed the period of three financial years since its incorporation?**

Yes. If the company has not completed three financial years since its incorporation, but it satisfies any of the criteria mentioned in section 135(1), the CSR provisions including spending of at least two per cent of the average net profits made during immediately preceding financial year(s) are applicable.

**Example:** Company A is incorporated during FY 2018-19, and as per eligibility criteria the company is covered under section 135(1) for FY 2020-21. The CSR spending obligation under section 135(5) for Company A would be at least two per cent of the average net profits of the company made during FY 2018-19 and FY 2019-20.

According to Section 135(2) of the Act, the Board's report under Section 134(3) shall disclose the composition of the Corporate Social Responsibility Committee.

Section 135(3) states that 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.

Section 135(4) provides that the Board of every company referred to section 135(1) shall —

- (a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and
- (b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

As per Section 135(5) of the Act, the Board of every company referred to in section 135(1), 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.

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, 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.

Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.

*Explanation.* – For the purposes of this section “net profit” shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.

Section 135(6) provides that any amount remaining unspent under section 135(5), 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.

As per Section 135(7), if a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.

According to Section 135(8), the Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.

Section 135(9) states that where the amount to be spent by a company under section 135(5) does not exceed fifty lakh rupees, the requirement under section 135 (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.

As per Rule 3 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, every company including its holding or subsidiary, and a foreign company defined under of section 2(42) of the Act having its branch office or project office in India, which fulfills the criteria specified in section 135(1) of the Act shall comply with the provisions of section 135 of the Act and CSR Rules:

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

Provided further that a company having any amount in its Unspent Corporate Social Responsibility Account as per section 135(6) shall constitute a CSR Committee and comply with the provisions contained in sub-sections (2) to (6) of the section 135.

It may be noted that CSR Rules requires compliance of CSR provisions by holding and subsidiary companies, as well as by foreign companies having branches or project offices in India, which fulfill the criteria specified under section 135(1) of the Act.

**Whether a holding or subsidiary of a company fulfilling the criteria under section 135(1) has to comply with the provisions of section 135, even if the holding or subsidiary itself does not fulfil the criteria?**

No, the compliance with CSR requirements is specific to each company. A holding or subsidiary of a company is not required to comply with the CSR provisions unless the holding or subsidiary itself fulfils the eligibility criteria prescribed under section 135(1) stated above.

**Example:** Company A is covered under the criteria mentioned in section 135(1). Company B is holding company of company A. If Company B by itself does not satisfy any of the criteria mentioned in section 135(1), Company B is not required to comply with the provisions of section 135.



### CSR Implementation

Rule 4(1) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 provides that the Board shall ensure that the CSR activities are undertaken by the company itself or through, –

- (a) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, established by the company, either singly or along with any other company; or
- (b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or
- (c) any entity established under an Act of Parliament or a State legislature; or
- (d) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

*Explanation.* - For the purpose of clause (c), the term “entity” shall mean a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the Act.

According to Rule 4(2)(a) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, every entity, covered under sub-rule (1), who intends to undertake any CSR activity, shall register itself with the Central Government by filing the form CSR-1 electronically with the Registrar, with effect from the 01<sup>st</sup> day of April 2021.

Provided that the provisions of this sub-rule shall not affect the CSR projects or programmes approved prior to the 01<sup>st</sup> day of April 2021.

- (b) Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.
- (c) On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically.

A company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.

A company may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programmes in accordance with these rules.

The Board of a company shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and the Chief Financial Officer or the person responsible for financial management shall certify to the effect.

In case of ongoing project, the Board of a Company shall monitor the implementation of the project with reference to the approved timelines and yearwise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

### CSR Committee

Rule 5(1) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 provides that the companies mentioned in the rule 3 shall constitute CSR Committee as under: -

- (i) a company covered under subsection (1) of section 135 which is not required to appoint an independent

director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director;

- (ii) a private company having only two directors on its Board shall constitute its CSR Committee with two such directors;
- (iii) with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 of the Act and another person shall be nominated by the foreign company.

It may be noted that as per Rule 3 of the Companies (Corporate Social Responsibility Policy) Rules, 2014, every company including its holding or subsidiary, and a foreign company defined under of section 2(42) of the Act having its branch office or project office in India, which fulfills the criteria specified in section 135(1) of the Act shall comply with the provisions of section 135 of the Act and CSR Rules:

Rule 5(2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 states that CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR policy, which shall include the following, namely: -

- (a) the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act;
- (b) the manner of execution of such projects or programmes as specified in sub-rule (1) of rule 4;
- (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;
- (d) monitoring and reporting mechanism for the projects or programmes; and
- (e) details of need and impact assessment, if any, for the projects undertaken by the company:

Provided that Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.

#### **What is the composition of the CSR Committee?**

The composition of the CSR Committee for various categories of companies is as under:

- **Listed companies** - Three or more directors, out of which at least one shall be an independent director.
- **Unlisted public companies** - Three or more directors, out of which at least one shall be an independent director. However, if there is no requirement of having an independent director in the company, two or more directors.
- **Private companies** - Two or more directors. No independent directors are required as mentioned in the proviso under section 135(1).
- **Foreign company** - At least two persons out of which: (a) one shall be as specified under clause (d) of subsection (1) of section 380 of the Act, and (b) another shall be nominated by the foreign company.

Where the amount required to be spent by a company on CSR does not exceed fifty lakh rupees, the requirement for constitution of the CSR Committee is not mandatory and the functions of the CSR Committee, in such cases, shall be discharged by the Board of Directors of the company.

### CSR Expenditure

According to Rule 7 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 the board shall ensure that the administrative overheads shall not exceed five percent of total CSR expenditure of the company for the financial year.

Any surplus arising out of the CSR activities shall not form part of the business profit of a company and shall be ploughed back into the same project or shall be transferred to the Unspent CSR Account and spent in pursuance of CSR policy and annual action plan of the company or transfer such surplus amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

Where a company spends an amount in excess of requirement provided under sub-section (5) of section 135, such excess amount may be set off against the requirement to spend under sub-section (5) of section 135 up to immediate succeeding three financial years subject to the conditions that –

- (i) the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of sub-rule (2) of this rule.
- (ii) the Board of the company shall pass a resolution to that effect.

The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by -

- (a) a company established under section 8 of the Act, or a Registered Public Trust or Registered Society, having charitable objects and CSR Registration Number under sub-rule (2) of rule 4; or
- (b) beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or
- (c) a public authority.

It may be noted that any capital asset created by a company prior to the commencement of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, shall within a period of one hundred and eighty days from such commencement comply with the requirement of this rule, which may be extended by a further period of not more than ninety days with the approval of the Board based on reasonable justification.

### CSR Reporting

Rule 8 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 states that Board's Report of a company covered under CSR Rules pertaining to any financial year shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

As per Rule 8(2), in case of a foreign company, the balance sheet filed under clause (b) of sub-section (1) of section 381 of the Act, shall contain an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

According to Rule 8(3)(a), every company having average CSR obligation of ten crore rupees or more in pursuance of subsection (5) of section 135 of the Act, in the three immediately preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.

- (b) The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.
- (c) A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed two per cent of the total CSR expenditure for that financial year or fifty lakh rupees, <sup>3</sup>[whichever is higher.

## CSR: AN INTERNATIONAL PERSPECTIVE

The Corporate Social Responsibility is not only extended to India but it has a worldwide accepted concept. There are other countries that also follow the concept of Corporate Social Responsibility in their country in their own way. The international perspective to Corporate Social Responsibility to other countries like Singapore, Malaysia, South Africa and UK that practices CSR are discussed hereunder.

In the international level many countries come and meet for discussion on many other different matters. One of the matters is Social Responsibility for which conventions are held globally. The selected standards, codes and guidelines at the global level are as follows:

### Sustainable Development Goals

The 2030 Agenda for Sustainable Development, with 17 Sustainable Development Goals (SDG) at its core, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are the 17 Sustainable Development Goals (SDGs), which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

The 17 Sustainable Development Goals are as under:

1. No Poverty
2. Zero Hunger
3. Good Health and Well-Being
4. Quality Education
5. Gender Equality
6. Clean Water and Sanitation
7. Affordable and Clean Energy
8. Decent Work and Economic Growth
9. Industry, Innovation and Infrastructure
10. Reduced Inequalities
11. Sustainable Cities and Communities
12. Responsible Consumption and Production.
13. Climate Action
14. Life Below Water
15. Life on Land
16. Peace, Justice and Strong Institutions
17. Partnerships for the Goals

As the name Corporate Social Responsibility indicates, enterprises focus both on the pursuit of monetary interests and productive relationships with stakeholders as well as show a concern for the environment and overall economy as well. A company will take responsibility to promote positive growth in society, and mainly focus on their individual “enterprise” as compared to the “global” goals of Sustainable Development Goals.

## United Nations Global Compact

The United Nations had initiated in 2000 a Global Compact to encourage the businesses to adopt sustainable and social responsibility policies and to report on their implementation. This is a framework based on the Principles in the areas of Human Rights, Labour, Environment and Anti-Corruption. Under the Global Compact the companies are brought into through the cities program with UN Agencies. There are 193 United Nations Member States in the United Nations.

The UN Global Compact is the world's largest corporate citizenship initiative with two objectives: "Mainstream the ten principles in business activities around the world" and "Catalyse actions in support of broader UN goals". The UN Global Compact was announced by then UN Secretary-General Kofi Annan in an address to the World Economic Forum on January 31, 1999, and was officially launched at UN Headquarters in New York on July 26, 2000.

*The Following are the Ten Principles which are recommended by the United Nations Global Compact:*

### **Human Rights:**

*Principle 1:* Businesses should support and respect the protection of internationally proclaimed human rights; and

*Principle 2:* make sure that they are not complicit in human rights abuses.

### **Labour Standard:**

*Principle 3:* Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

*Principle 4:* The elimination of all forms of forced and compulsory labour;

*Principle 5:* the effective abolition of child labour; and

*Principle 6:* the elimination of discrimination in respect of employment and occupation.

### **Environment:**

*Principle 7:* Businesses should support a precautionary approach to environmental challenges;

*Principle 8:* undertake initiatives to promote greater environmental responsibility and

*Principle 9:* encourage the development and diffusion of environmentally friendly technologies.

### **Anti-Corruption:**

*Principle 10:* Businesses should work against corruption in all its forms, including extortion and bribery.

## International Organization for Standardization

ISO (International Organization for Standardization) is an independent, non-governmental body made up with the members of the National Standard Bodies around the world. In 1947, ISO officially comes into existence and its Secretariat is in Geneva, Switzerland. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges.

International Standards give world-class specifications for products, services and good practice, to ensure quality, safety and efficiency. And because they are developed through global consensus, they help to break down barriers to international trade. ISO standards are internationally agreed by experts. It could be about making a product, managing a process, delivering a service or supplying materials – standards cover a huge range of activities. Standards are the distilled wisdom of people with expertise in their subject matter and who

know the needs of the organizations they represent – people such as manufacturers, sellers, buyers, customers, trade associations, users or regulators.

### **ISO 26000: Social Responsibility**

For businesses and organizations committed to operating in a socially responsible way, there's ISO 26000. It provides guidance to those who recognize that respect for society and environment is a critical success factor. As well as being the "right thing" to do, application of ISO 26000 is increasingly viewed as a way of assessing an organization's commitment to sustainability and its overall performance.

ISO 26000 provides guidance on how businesses and organizations can operate in an ethical and transparent way that contributes to sustainable development while taking into account the expectations of stakeholders, applicable laws and international norms of behavior.

In terms of ISO 26000, the following are the 7 core subjects that socially responsible organizations should address in their policies:

1. *Organizational governance* – Practicing Organization accountability and transparency at all levels; leadership promotes responsibility
2. *Human rights* – treating all individuals with respect; making special efforts to help members of vulnerable groups
3. *Labour practices* – providing just, safe and healthy conditions for workers; engaging in two-way discussions to address workers' concerns
4. *Environment* – identifying and improving environmental impacts of your operations, including resource use and waste disposal
5. *Fair operating practices* – respecting the law; practicing accountability and treating all partners fairly, including suppliers
6. *Consumer issues* – providing healthy and safe products, giving accurate information, and promoting sustainable consumption
7. Community involvement and development being involved as a good neighbour for the betterment of local community.

### **ISO standards help meet the Sustainable Development Goals (SDGs)**

The SDGs represent an ambitious plan to enhance peace and prosperity, eradicate poverty and protect the planet. They are recognized globally as essential to the future sustainability of our world. This plan of action calls on the contribution from all elements of society, including local and national governments, business, industry and individuals. To be successful, the process requires consensus, collaboration and innovation.

ISO has published more than 22 000 International Standards and related documents that represent globally recognized guidelines and frameworks based on international collaboration. Built around consensus, they provide a solid base on which innovation can thrive and are essential tools to help governments, industry and consumers contribute to the achievement of every one of the SDGs. For each Goal, ISO has identified the standards that make the most significant contribution. With ISO standards covering almost every subject imaginable, from technical solutions to systems that organize processes and procedures, there are numerous ISO standards that correspond to each of the SDGs.

### **Global Reporting Initiative**

The Global Reporting Initiative (GRI) is a large multi-stakeholder network of thousands of experts, in dozens of countries worldwide, who participate in GRI's working groups and governance bodies, use the GRI Guidelines

to report, access information in GRI-based reports, or contribute to develop the Reporting Framework in other ways – both formally and informally.

The Sustainability Reporting Guidelines developed by the Global Reporting Initiative (GRI), the Netherlands, is a significant system that integrates sustainability issues in to a frame of reporting.

The Global Reporting Initiative (GRI) aims to make reporting on economic, environmental and social performance as routine and comparable as financial reporting in all organizations. The idea for developing a framework for sustainability reporting was conceived in 1997, with the draft GRI Sustainability Reporting Guidelines released in 1999. Initially twenty organizations based their sustainability reports on the guidelines. In 2006, more than 850 organizations worldwide released sustainability reports based on the GRI Sustainability Reporting Framework and Guidelines.

The framework has been continually revised over the years, the Fourth generation of Sustainability Guidelines; the GRI G4 Sustainability Guidelines were released in May, 2013. The GRI Reporting Framework Principles are divided into two parts: Principles for defining report content and Principles for defining report quality.

*Principles for defining report content:* The Principles for Defining Report Content describe the process to be applied to identify what content the report should cover by considering the organization's activities, impacts, and the substantive expectations and interests of its stakeholders. These principles are used in connection to define the report content. The principles to define the report content are the following:

*Stakeholder Inclusiveness:* stakeholders are those persons who are directly and indirectly connected to the business of the organization and includes shareholders, employees, suppliers and other who has interest in the working of the business. It is the responsibility of the organization to identify, explain and respond to the expectations and interest of the stakeholders.

*Sustainability Context:* The principle is that the organization should represent the report in wider context of sustainability. The underlying question is that how an organization contributes, or aims to contribute in the future, to the improvement or deterioration of economic, environmental and social conditions, developments, and trends at the local, regional or global level. Reports should therefore seek to present performance in relation to broader concepts of sustainability. This involves discussing the performance of the organization in the context of the limits and demands placed on environmental or social resources at the sector, local, regional, or global level.

*Materiality:* Materiality means that the information in a report should cover topics and indicators that reflect the organization's significant economic, social and environmental impacts and that too substantially influence the assessments and decisions of stakeholders. There are wide range of topics that organization deals with and some relevant topics are those which reasonably consider for reflecting the organization's social, economic and environment impacts or influence the stakeholders decisions.

*Completeness:* The report should include coverage of material aspects and their boundaries, sufficient to reflect significant economic, environmental and social impacts, and to enable stakeholders to assess the organization's performance in the reporting period. Completeness primarily encompasses the dimensions of scope, boundary, and time. The concept of completeness may also be used to refer to practices in information collection and whether the presentation of information is reasonable and appropriate.

*Principles for Defining Report Quality:* The Principles for Defining Report Quality guide choices on ensuring the quality of information in the sustainability report, including its proper presentation. The quality of the information is important to enable stakeholders to make sound and reasonable assessments of performance, and take appropriate actions. These principles reflect the quality of information in the report. All these principles are fundamental to achieve the transparency. The quality of the information is important to enable stakeholders

to make sound and reasonable assessments of performance, and take appropriate actions. The following are the principles:

*Balance:* The report should reflect positive and negative aspects of the organization's performance to enable a reasoned assessment of overall performance. The overall presentation of the report's content should provide an unbiased picture of the organization's performance. The report should avoid selections, omissions, or presentation formats that are reasonably likely to unduly or inappropriately influence a decision or judgment by the report reader.

*Comparability:* The organization should select, compile and report information consistently. The reported information should be presented in a manner that enables stakeholders to analyze changes in the organization's performance over time, and that could support analysis relative to other organizations. Comparability is necessary for evaluating performance. Stakeholders using the report should be able to compare information reported on economic, environmental and social performance against the organizations past performance, its objectives, and, to the degree possible, against the performance of other organizations.

*Accuracy:* The reported information should be sufficiently accurate and detailed for stakeholders to assess the organization's performance. Responses to economic, environmental and social DMA and Indicators can be expressed in many different ways, ranging from qualitative responses to detailed quantitative measurements. The characteristics that determine accuracy vary according to the nature of the information and the user of the information.

*Timeliness:* The organization should report on a regular schedule so that information is available in time for stakeholders to make informed decisions. The usefulness of information is closely tied to whether the timing of its disclosure to stakeholders enables them to effectively integrate it into their decision-making. The timing of release refers both to the regularity of reporting as well as its proximity to the actual events described in the report.

*Clarity:* The organization should make information available in a manner that is understandable and accessible to stakeholders using the report. Information should be presented in a manner that is comprehensive to stakeholders who have a reasonable understanding of the organization and its activities.

*Reliability:* The organization should gather, record, compile, analyze and disclose information and processes used in the preparation of a report in a way that they can be subject to examination and that establishes the quality and materiality of the information. Stakeholders should have confidence that a report can be checked to establish the veracity of its contents and the extent to which it has appropriately applied Reporting Principles.

The GRI reporting Framework also defines the following General Standard Disclosures:

- Strategy and Analysis
- Organizational Profile
- Identified Material Aspects and Boundaries
- Stakeholder Engagement
- Report Profile
- Governance
- Ethics and Integrity

*Specific Standard Disclosures are:*

- Disclosures on Management Approach
- Indicators



## ASEAN CSR Network

### **ASEAN CSR Network -CSR Policy Statement**

The ASEAN has adopted the Roadmap for ASEAN Community 2009 - 2015 which contains blueprints for an ASEAN Socio - Cultural Community, with its strategic objectives to “ensure that Corporate Social Responsibility (CSR) is incorporated in the corporate agenda and to contribute towards sustainable socio - economic development in ASEAN Member States.” The ASEAN CSR Network, launched on 11 January 2011, aims to provide opportunities for networking and exchange, to be a venue for discussing and addressing regional issues and concerns, and to be advocate and capacity builder for acceptance of international norms of CSR behaviour. It also seeks to serve as a centralised repository of all the information gathered and provide easy access to participating organisations and partners in the region.

ASEAN CSR Network -CSR Policy statement outlines how businesses in the participating countries of the ASEAN CSR Network should take account of their economic, social and environmental impact in the way they operate. With commitment to CSR, businesses are expected to align their vision and business strategy with the needs and expectations of stakeholders while embedding such principles into their daily operations. Companies should also seek to contribute to achieving the following United Nations 17 Sustainable Development Goals (SDGs).

1. End poverty in all its forms everywhere
2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture
3. Ensure healthy lives and promote well-being for all at all ages
4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
5. Achieve gender equality and empower all women and girls
6. Ensure availability and sustainable management of water and sanitation for all
7. Ensure access to affordable, reliable, sustainable and modern energy for all
8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
10. Reduce inequality within and among countries
11. Make cities and human settlements inclusive, safe, resilient and sustainable
12. Ensure sustainable consumption and production patterns
13. Take urgent action to combat climate change and its impacts
14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development
15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
17. Strengthen the means of implementation and revitalize the global partnership for sustainable development

This Statement supports the UN Global Compact principles and ISO26000, and defines business approach as engaging with stakeholders to achieve the greater goal of sustainable development.

## 1. Environment

In this policy statement businesses should be committed to:

- Support a precautionary approach to environmental challenges;
- Undertake initiatives to promote greater environmental responsibility;
- Encourage the development and diffusion of environmentally friendly technologies.

The Management will ensure that the business reduces the environmental impact of the Company by:

- Developing and implementing awareness-raising activities and emergency response procedures to reduce and mitigate environmental, health and safety impacts caused by accidents;
- Reducing materials, water and energy use;
- Implementing sustainable procurement in its purchasing decisions;
- Assessing the environmental impact prior to the execution of a new project;
- Using environmentally sound technologies and practices;
- Continuously monitor and improve the environmental management;
- Raising the awareness of the climate change within the organisation.

## 2. Labour

In this policy statement businesses should be committed to:

- Uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Eliminate all forms of forced and compulsory labour;
- Eliminate child labour;
- Eliminate discrimination in respect of employment and occupation.

The Management will ensure that the business

- Recognises the importance of secure employment to both the individual worker and to society;
- Ensures equal opportunities for all workers and not discriminate either directly or indirectly in any labour practice;
- Pays wages at least adequate for the needs of workers and their families;
- Respects the right of workers to adhere to normal or agreed working hours established in laws, regulations or collective agreements;
- Develops, implements and maintains an occupational health and safety policy based on the principle that strong safety and health standards and organizational performance are mutually supportive and reinforcing.

## 3. Anti-corruption

In this policy statement businesses should be committed to work against corruption in all its forms, including extortion and bribery.

## 4. Human Rights

In this policy statement businesses should be committed to:

- Support and respect the protection of internationally proclaimed human rights;
- Make sure that they are not complicit in human rights abuses.

The Management will ensure that the business

- Respects all individual civil and political rights including life of individuals, freedom of opinion and expression, the right to own property and freedom of peaceful assembly and of association;
- Facilitates access to, and where possible providing support and facilities for, education and lifelong learning for community members;
- Regularly assesses the impact of its policies and activities on promotion of equal opportunities and non-discrimination.

Every employee in the business is expected to give their full commitment to the above principles in their activities at work. Partners, vendors and suppliers are also expected to respect such principles. The effectiveness of the Policy Statement will be reviewed at least annually by the Management to monitor the business' continuous compliance with any relevant legislation and to identify areas in need of further improvement and revision.

The ISO26000, international guidance on social responsibility, can be supplementary to this policy statement in implementing CSR principles. In communicating businesses' CSR effort with stakeholders, the Global Reporting Initiative (GRI) provides universal reporting framework and guidelines. The business will also ensure that all areas are communicated among individual staff as necessary.

### **The Egyptian Corporate Responsibility Center (ECRC)**

Egyptian Corporate Responsibility Center become one of the leading promoters of the principles of the United Nations Global Compact in Egypt. The ECRC was designed as part of a follow up to the recommendations of the United Nations Development Programme 2007 Business Report in an attempt to encourage sustainable business practices in Egypt. It was the focal point of the UNGC in Egypt, and represented a joint initiative between the United Nations Development Programme and the Industrial Modernization Center (IMC) tasked with supporting companies in their efforts to implement the Ten Principles of the United Nations Global Compact, as well as supporting the Millennium Development Goals (MDGs) in Egypt. ECRC activities include providing business development advisory services, and capacity building and training for private sector companies, with the objective of improving the national capacity to design, apply and monitor sustainable CSR policies as well as promote gender equality at the workplace. The ECRC also promotes inclusive business models encouraging major multi-national corporations to expand their sales and production operations in order to include "the poor" at the "base of the pyramid" (BOP) as employees, consumers or entrepreneurs.

### **Corporate Social Responsibility in South Africa**

For purposes of dealing with CSR in a South African context, the guiding principles are summarised in *The King Report on Governance for South Africa 2009* ("The King Report"). South Africa applies the King Report on Corporate Governance (South Africa 2009 - King III). This code promotes good social and environmental practices as part of good corporate governance, which is closely oriented to the standards of international corporate governance. King III applies to "all entities regardless of the manner and form of incorporation or establishment and whether in the public, private or non-profit sectors."

What is referred to as 'King III' really comprises the King Report on Governance for South Africa 2009 ("the Report"), the King Code of Governance Principles for South Africa 2009 ("the Code") and Practice Notes to King III issued by the Institute of Directors which provide guidance in regard to the implementation of the Code. The Code deals with a number of governance elements, each of which is broken down into different principles which must be applied. In applying these principles there are best practice recommendations in the Code, which are amplified in the Report. The King III report describes Sustainability and Corporate Citizenship as follow:

Sustainability is the primary moral and economic imperative of the 21st century. It is one of the most important sources of both opportunities and risks for businesses. Nature, society, and business are interconnected in

complex ways that should be understood by decision-makers. Most importantly, current incremental changes towards sustainability are not sufficient – we need a fundamental shift in the way companies and directors act and organize themselves.

The concept of corporate citizenship which flows from the fact that the company is a person and should operate in a sustainable manner. Sustainability considerations are rooted in the South African Constitution which is the basic social contract that South Africans have entered into. The Constitution imposes responsibilities upon individuals and juristic persons for the realization of the most fundamental rights.

Corporate responsibility is the responsibility of the company for the impacts of its decisions and activities on society and the environment, through transparent and ethical behavior that: contributes to sustainable development, including health and the welfare of society; takes into account the legitimate interests and expectations of stakeholders; is in compliance with applicable law and consistent with international norms of behavior; and is integrated throughout the company and practiced in its relationships. The King reports constitute accepted guidance of best practices in corporate governance in South Africa, focusing on social, environmental and economic concerns. The King reports' clauses are not mandatory, but they take a "comply/apply or explain" approach that somewhat forces corporations to apply CSR programs or justify why they have not adopted them.

King III has 'apply or explain' approach to its principles and recommended practices. It is the legal duty of directors to act in the best interests of the company. The 'apply or explain' regime shows an appreciation for the fact that it is often not a case of whether to comply or not, but rather to consider how the principles and recommendations can be applied.

In contrast to the King I and II codes, King III applies to all entities regardless of the manner and form of incorporation or establishment and whether in the public, private sectors or non-profit sectors. We have drafted the principles so that every entity can apply them and, in doing so, achieve good governance. All entities should apply the principles in the Code and consider the best practice recommendations in the Report. All entities should by way of explanation make a positive statement about how the principles have been applied or have not been applied.

### ***Integration of social, environmental and economic issues***

The proliferation of initiatives, tools and guidelines on sustainability is evidence of the growing awareness of sustainability issues. Because the company is so integral to society, it is considered as much a citizen of a country as is a natural person who has citizenship. It is expected that the company will be and will be seen to be a responsible citizen. This involves social, environmental and economic issues – the triple context in which companies in fact operate. Boards should no longer make decisions based only on the needs of the present because this may compromise the ability of future generations to meet their own needs.

A key challenge for leadership is to make sustainability issues mainstream. Strategy, risk, performance and sustainability have become inseparable; hence the phrase 'integrated reporting' which is used throughout this Report.

Sustainability is, however, about more than just reporting on sustainability. It is vital that companies focus on integrated performance. The board's role is to set the tone at the top so that the company can achieve this integrated performance.

### ***Inclusive stakeholder approach***

This Report seeks to emphasise the inclusive approach of governance. It is recognised that in what is referred to as the 'enlightened shareholder' model as well as the 'stakeholder inclusive' model of corporate governance, the board of directors should also consider the legitimate interests and expectations of stakeholders other than

shareholders. The way in which the legitimate interests and expectations of stakeholders are being treated in the two approaches is, however, very different.

In the 'enlightened shareholder' approach the legitimate interests and expectations of stakeholders only have an instrumental value. Stakeholders are only considered in as far as it would be in the interests of shareholders to do so.

In the case of the 'stakeholder inclusive' approach, the board of directors considers the legitimate interests and expectations of stakeholders on the basis that this is in the best interests of the company, and not merely as an instrument to serve the interests of the shareholder.

The King IV Report on Governance for South Africa 2016 encapsulates the South African context of CSR characteristic.

### Corporate Social Responsibility in United Kingdom

The United Kingdom had played a pioneering role in shaping internationally understanding on how to address issues associated with both the positive and negative impact of businesses on the society. The most of UK's largest companies follow a dual strategic leadership pattern. This implies that the role of the CEO and the chairman of the company board are separated. There is a control of Institutional Investors about 80 percent of the UK equity market. Earlier the companies were mostly skeptical or cynical about CSR, whereas there is a genuine consensus and effort today to consider CSR as a mainstream activity. There is a movement towards the developing company-Specific CSR to emerge as a preferred company in the market through a deeper comparative understanding of the investment goals and engagement practices. If the government of the United Kingdom is to play a stronger, more active role in promoting CSR, it needs to intervene in the marketplace for the benefit of the society. Progressive coalitions are already emerging on an issue specific basis- for example the Business Leaders Initiative on Climate Change and the Business Leaders Initiative on Human Rights.

CSR is a dynamic idea and would be under continuous flux. Therefore, constant updation of CSR initiatives has to happen from all the partners in group. These partners are from all the stakeholders of business and each of them needs to create their own credibility. There is a strong presence of CSR-training related to social and environmental issues in the management leadership in management of the firm.

The UK, Companies Act 2006 has incorporated some provisions relating to Corporate Social Responsibility. According to section 172 of the companies act 2006 of UK, (1) A director must act in a way to promote the success of the company for the benefit of the members as a whole and doing so having in regard to –

- (a) The likely consequences of any decision in the long term,
- (b) The interests of the company's employees,
- (c) The need to foster the company's business relationships with suppliers, customers and others,
- (d) The impact of the company's operations on the community and the environment,
- (e) The desirability of the company maintaining a reputation for high standards of business conduct, and
- (f) The need to act fairly as between members of the company.

(2) Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, subsection (1) has effect as if the reference to promoting the success of the company for the benefit of its members were to achieving those purposes

(3) The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.

Section 417 of the Companies Act 2006 of UK requires the contents of the Director's Report, a business review to inform the members of the company and help them to assess how well the directors have performed their duties in promotion of success of the company as under section 172 of the act. The following key points are required to be noted in fulfilling the section 417:

- i. The business review must contain a fair review and full description of the principal risks and uncertainties facing the company.
- ii. The review required is a balanced and comprehensive analysis of development and performance of the company's business during financial year, and Position of the company's business at the end of financial year.
- iii. The review must contain, for an understanding of the development, performance and position of the company's business, analysis using financial key indicators.
- iv. The review must, wherever necessary, include reference to, explanation of and amounts included in the company's annual report. V. Where the company is a quoted company (Listed company) the business review must include the following point:
  - (i) the main trends and factors likely to affect the future development, performance and position of the company's business; and
  - (ii) information about –
    - (a) environmental matters (including the impact of the company's business on the environment),
    - (b) the company's employees, and
    - (c) social and community issues, including information about any policies of the company in relation to those matters and the effectiveness of those policies; and
    - (d) Subject to subsection (11), information about persons with whom the company has contractual or other arrangements which are essential to the business of the company.

### **Netherlands Enterprise Agency**

The Dutch government expects Dutch companies that do business abroad to follow Corporate Social Responsibility (CSR). To do so, they must follow the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. The government promotes International Corporate Social Responsibility (ICSR) in many different ways. Companies following the OECD Guidelines can apply for funding.

#### ***The meaning of CSR***

CSR means taking responsibility for the effects of your business activities on the world around you. It also means respecting people, animals, the environment and society. There are various ways to do this; for example, you can:

- lower your CO2 emissions;
- treat men and women the same;
- ensure good working conditions;
- ensure transparency;
- ask your supply chain to help you with CSR.

**The benefits of CSR**

Your company may benefit from applying CSR. It can help you build a good reputation and stand out from your competitors. A pleasant working environment often makes companies more innovative and productive.

**Identifying CSR risks**

Companies that do business abroad are not always aware of the social risks. The *MVO Nederland CSR Risk Check Tool* gives you an idea of the risks in other countries and industries. Identifying the risks can help you create a specific action plan.

**More CSR tools**

Use the tools below to find out if your company is CSR-proof.

- **CSR risk management in 6 steps**

The Social and Economic Council of the Netherlands (SER) offers a practical step-by-step guide to make your company CSR-proof.

- **CSR scan and ISO 26000 guide**

Find out in 10 minutes how much progress your company has made on CSR by following the CSR guideline ISO 26000.

- **CSR passport (pdf)**

An overview of important CSR terms, information and organisations.

**Helpful CSR organisations**

- MVO Nederland is your starting point for CSR. MVO Nederland offers ICSR vouchers that give you a discount on advice for your company and products.
- MVO Platform is a network of CSR organisations.
- Global Compact is a partnership between United Nations organisations, trade unions, civil society organisations and companies. It aims to contribute to CSR and the broader UN goals, such as the Sustainable Development Goals.

**LESSON ROUND-UP**

- With the introduction of the Companies Act, 2013, Corporate Social Responsibility (CSR) became the buzzword of business in India. For the first time in the history of the country, the Act made donation of private corporations to social welfare mandatory.
- Corporate Social Responsibility means the activities undertaken by a company in pursuance of its statutory obligation laid down in section 135 of the Act in accordance with the provisions contained in CSR Rules.
- As per Section 135 of the Companies Act, 2013, 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 any financial year the immediately preceding financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.
- In 2009, the Ministry of Corporate Affairs (MCA), Government of India issued the 'Voluntary Guidelines on Corporate Social Responsibility' as a precursor towards mainstreaming the concept of business responsibility.

- The Corporate Social Responsibility is not only extended to India but it has a worldwide accepted concept. There are other countries that also follow the concept of Corporate Social Responsibility in their country in their own way.
- ISO (International Organization on Standardization) is a non-governmental body made up with the members of the National Standard Bodies around the world. International Standards give world-class specifications for products, services and good practice, to ensure quality, safety and efficiency.
- The United Kingdom had played a pioneering role in shaping internationally understanding on how to address issued associated with both the positive and negative impact of businesses on the society. The most of UK's largest companies follow a dual strategic leadership pattern.
- The Dutch government expects Dutch companies that do business abroad to follow Corporate Social Responsibility (CSR). To do so, they must follow the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. The government promotes International Corporate Social Responsibility (ICSR) in many different ways.

### TEST YOURSELF

*(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation)*

1. Define Corporate Social Responsibility.
2. Discuss the principle of Corporate Social Responsibility?
3. Briefly discuss the significance of Corporate Social Responsibility.
4. Explain the history of Corporate Social Responsibility along with its Examples.
5. In case the company has appointed personnel exclusively for implementing the CSR activities of the company, can the expenditure incurred towards such personnel in terms of staff cost etc. be included in the expenditure earmarked for CSR activities?

### REFERENCES

- Guidance Note on Corporate Social Responsibility-The ICSI
- Companies Act, 2013-Bare Act
- [csr.gov.in](http://csr.gov.in)
- [mca.gov.in](http://mca.gov.in)





### KEY CONCEPTS

■ Policy ■ Model Policy ■ Corporate Social Responsibility ■ Social Activities ■ CSR Activities

### Learning Objectives

#### To understand:

- CSR & Permissible Activities
- CSR Policy
- CSR Committee
- Board Responsibility
- Development Sectors in CSR

### Lesson Outline

- Applicability of CSR
- Composition of CSR Committee
- Functions of CSR Committee
- Board Responsibility towards CSR
- CSR Policy
- Annual Action Plan
- CSR Activities/Projects/Programs
- Lesson Round-Up
- Test Yourself
- References

## REGULATORY FRAMEWORK

- Companies Act, 2013
- Companies (Corporate Social Responsibility Policy) Rules, 2014

## INTRODUCTION

Corporate social responsibility (CSR) is a proactive and synergistic business philosophy, while attention is paid to broader economic, environmental, and social issues in a balanced way. Augmenting profits is no longer the sole business performance indicator for the corporates and they have to play the role of responsible corporate citizens by undertaking activities for betterment of the society and the environment under the umbrella of Corporate Social Responsibility (CSR).

Organisations use resources that belongs to the society and it is expected that they should operate in a sustainable manner and spend some amounts for preservation and sustainability of resources which belong to the society.

Over the last two decades, significant economic growth and integration has taken place in the global economy, resulting in several changes in the way businesses operate. Governments across the world have been using different forms of regulations to improve corporate behavior so as to promote increased accountability, disclosures and transparency from them. Gone are the days when Milton Friedman, the reputed Economics Nobel laureate, opined in 1960s that companies have no responsibility towards the society and that their objective was primarily the enhancement of shareholders' wealth.

With the enactment of the Companies Act, 2013, CSR became a norm in India. India is perhaps one of the few countries in the world where CSR is mandated under the Statute. Companies Act, 2013 ["Act"] is a legislation which officially embarked on one of the world's largest experiments of introducing the concept of CSR as a mandatory provision. With the introduction of new Act, there is a statutory obligation for the corporates to take initiatives towards Social, Environmental and Economic Responsibilities. The initiatives taken have to be reported to the company and other stakeholders appropriately. Section 135 of the Act and the Companies (Corporate Social Responsibility Policy) Rules, 2014 ["CSR Rules"] framed thereunder govern CSR in India.

## CSR & Permissible Activities

As per rule 2(d) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 "Corporate Social Responsibility" means the activities undertaken by a company in pursuance of its statutory obligation laid down in section 135 of the Act in accordance with the provisions contained in CSR Rules, but shall not include the following, namely: -

- (i) activities undertaken in pursuance of normal course of business of the company:
 

Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that –

  - (a) such research and development activities shall be carried out in collaboration with any of the institutes or organizations mentioned in item (ix) of Schedule VII to the Act;
  - (b) details of such activity shall be disclosed separately in the annual report on CSR included in the Board's Report;
- (ii) any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level;

- (iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;
- (iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019;
- (v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;
- (vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India.

Schedule VII of the Companies Act, 2013 provides the activities which may be included by companies in their Corporate Social Responsibility Policies Activities.

**Activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to:-**

- (i) **Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.**

It may be noted that “Giving medical and Legal aid, treatment to road accident victims, Provisions for aids and appliances to the differently- able persons – Request for inclusion, Trauma care around highways in case of road accidents, Supplementing of Govt. schemes like mid-day meal by corporates through additional nutrition, Enabling access to, or improving the delivery of, public health systems” also comes under the said activities.

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities are:

*In the area of healthcare activities to:*

- Promote good health through Yoga, Lifestyle Changes and Awareness Creation on health related issues etc.
- Prevent disease through fogging/ spraying/ distribution of mosquito nets etc.
- Making primary health care accessible, affordable and inclusive through: Health camps &
- Outreach Services through Mobile Medical Unit
- Partnering with Gol in Revised National Tuberculosis Control by providing Designated Microscopy Centres (DMC) and Directly Observed Treatment (DOT) in the surrounding areas of NTPC’s operations.
- Augmenting and strengthening healthcare infrastructure - primary, secondary and tertiary

*In the area of water activities: to*

- Augment water availability - watershed management, check dams, deepening of ponds etc.
- Improve access to water - bore wells/ tube wells/ hand pumps/ piped water

*In the area of sanitation activities to: Improve sanitation facilities by:*

- Construction of individual toilets
- Construction of community/ public toilets
- Construction of drains

- Installation of sanitary napkin vending machines with incinerators
- Setting up low-cost sanitary napkin manufacturing units through women self-help groups
- Improve awareness about sanitation

*Mainstreaming physically challenged persons by:*

- providing them with aids and appliances
- Operating Disability Rehabilitation Centres for assessment and provision/ fitment of assistive devices to persons with disability

ITC Limited in the financial year 2021-22 has spent Rs. 1.56 crores for Promoting healthcare including preventive healthcare activities under the project name 'Rural Health Care Project' in different states of India.

Reliance Industries Limited *in the financial year 2021-22 has spent Rs. 101 Crores for* Eradicating hunger, poverty and malnutrition, drinking water; Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare; Rural development projects *in different states of India.*

**(ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.**

It may be noted that "Drivers' training, Educating the Masses and Promotion of Road Safety awareness in all facets of road usage, Safety traffic engineering and awareness through print, audio and visual media, Capacity building for farmers covering best sustainable farm management practices, Training Agriculture Labour on skill development, Providing effective consumer grievance redressal mechanism; Protecting consumer's health and safety, sustainable consumption, consumer service, support and complaint resolution; Consumer protection activities; Consumer Rights to be mandated; All consumer protection programs and activities" on the same lines as Rural Development, Education etc., Donations to IIMA for conservation of buildings and renovation of classrooms, Non Academic Techno park TBI not located within an academic Institution but approved and supported by Department of Science and Technology" also comes under the said activities.

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities are:

*In the area of education activities like:*

- Providing basic educational supplies to school children essential to the fulfilment of their right to education
- Making education inclusive by providing scholarships
- Providing coaching for competitive examinations
- Improving learning levels
- Holistic education of girls
- Augment and strengthen educational infrastructure
- Providing various assets to schools

*In the area of vocational training and livelihood enhancement activities like:*

- Training to youth to make them Employable, Enterprising and Entrepreneurial

- Capacity building of farmers through training, demonstration, exposure visits, hand holding
- Enhancing milk production by improving cattle breed through artificial insemination, improved feed and fodder practices, making available on farm veterinary services etc.
- Supporting the Government of India's scheme for upgradation of ITIs under PPP mode
- Setting up Industrial Training Institutes.

HDFC Bank Limited in the financial year 2021-22 has spent total amount of Rs. 736.01 crores for CSR Activities but mostly for Promoting education activities in different states of India.

**(iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.**

It may be noted that “*Enabling access to, or improving the delivery of, public health systems, Slum re-development or EWS housing*” also comes under the said activities.

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities are:

- Providing training to women to make them Employable, Enterprising and Entrepreneurial
- Augmenting and strengthening infrastructure and providing assets for old age homes/ hostels for women/ orphanages etc.
- Other measures for reducing inequalities faced by socially and economically backward groups

Infosys Limited in the financial year 2021-22 has spent total amount of Rs. 344.91 crores for CSR Activities in different areas and also for Construction for hospital block in various medical institutes situated in different states of India.

**(iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.**

It may be noted that “*Doing our own research on the field for individual crops to find out the most cost optimum and Agri – ecological sustainable farm practices. (Applied research) with a focus on water management, to do Product Life Cycle analysis from the soil conservation point of view, Renewable energy projects*” also comes under the said activities.

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities are:

- Activities for protecting & maintaining environment (Air, Soil and Water).
- Initiate & support measures to conserve natural resources (by reduction, reuse and recycling), optimize usage of renewable energy, increase energy efficiency and reduce GHG emissions.
- Activities for Biodiversity Conservation, protection of Fauna & Flora & restoring ecological balance.
- Promoting Animal Welfare & Agro Forestry.
- Awareness / training programs / workshops / seminars on sustainable development

HCL Technologies Limited in the financial year 2021-22 has spent total amount of Rs.216.33 crores for CSR

Activities in different areas and also for Ensuring environmental sustainability, ecological balance and conservation of natural resources in different states of India.

Asian Paints Limited in the financial year 2021-22 has spent total amount of Rs.16.18 crores for Promoting integrated watershed development in areas around our manufacturing locations and rejuvenation of water bodies including desilting lakes and installing & maintaining rooftop rainwater harvesting units and recharge systems in villages and schools and Providing access to potable water in different states of India.

**(v) Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts.**

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities are:

- Promoting rural art and culture - rural cultural programmes, performing arts, festivals & melas
- Programs for Protection of national heritage including restoration of buildings and sites of historical importance
- Protection, promotion and development of traditional arts & culture, handicrafts etc

National Aluminium Company Limited in the financial year 2021-22 has spent total amount of Rs. 36.91 crores for CSR Activities in different areas and mainly towards for promotion of Horticulture and maintenance work in different states of India.

**(vi) Measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widow.**

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities for the benefit of armed forces veterans, war widows and their dependents.

Shree Cements Limited in the financial year 2021-22 has spent total amount of Rs. 57.54 crores for CSR Activities and Rs. 0.31 crores for 'Measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows' in different states of India.

**(vii) Training to promote rural sports, nationally recognized sports, paralympic sports and olympic sports.**

**For Example: -**

NTPC Limited support for rural and national sports - talent scouting, training, sports infrastructure, sports equipment, leagues and tournaments.

Shree Cements Limited in the financial year 2021-22 has spent total amount of Rs. 57.54 crores for CSR Activities and Rs. 0.33 crores for 'Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports' in different states of India.

**(viii) Contribution to the prime minister's national relief fund 8[or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund)] or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women.**

**For Example: -**

NTPC Limited indicative list of CSR projects/ programs/ activities are:

- Relief to victims of Natural Calamities like earthquake, cyclone, drought, fire & flood
- Activities for support to welfare of the Scheduled Castes, the Scheduled Tribes, backward classes, minorities and women

Kotak Mahindra Bank Limited in the financial year 2020-21 has spent total amount of Rs. 79.40 crores for CSR Activities in different areas and also for Relief & Rehabilitation COVID-19 in different states of India.

**(ix) (a) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and**

**(b) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organization (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).**

**For Example: -**

NTPC Limited support for technology incubators.

**(x) Rural development projects**

**For Example: -**

NTPC Limited projects for improvement in health, education, sanitation, and water etc. in rural areas.

Axis Bank Limited in the financial year 2021-22 has spent total amount of Rs.113.37 crores for CSR Activities in different areas and also for rural development situated in different states of India.

Tata Steel Limited in the financial year 2022-23 has spent total amount of Rs.405.97 crores for CSR Activities in different areas and also for rural development situated in different states of India.

**(xi) Slum area development.**

Explanation. - For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

**For Example: -**

NTPC Limited projects for improvement in health, education, sanitation, and water etc. in slum areas.

**(xii) Disaster management, including relief, rehabilitation and reconstruction activities.**

**For Example: -**

NTPC Limited various activities for relief, rehabilitation and reconstruction etc. for disaster affected areas.

HCL Technologies Limited in the financial year 2021-22 has spent total amount of Rs.216.33 crores for CSR Activities in different areas and also for Disaster management, including relief, rehabilitation in different states of India.



**For Example:** Tata Motors-CSR Programs and Projects for FY 22-23 are as under:

*For Employability (Kaushalya Programme)*

1. Training in Technical & Automotive Trades
2. Training in Agriculture & allied trades
3. Training in Non-Automotive Trades

*For Education (Vidyadhanam Programme)*

1. Scholarships for secondary education/ Financial Aid for Higher Education
2. Fellowships
3. Special coaching classes for secondary education & competitive entrance exams such as IIT-JEE, NEET, Civil Services
4. Co-Curricular activities
5. School Infrastructure improvement & Institutional
6. School Fee Subsidy

*For Health (Aarogya Programme)*

1. Combating Infant and Child Malnutrition
2. Health awareness program for women
3. Preventive and curative health services & Institutional Strengthening
4. Drinking Water - SMDF – Amrutdhara

*Environment (Vasundhara Programme)*

1. Tree Plantation
2. Creating Environmental Awareness & Adoption of Environmental friendly practices

*Others Programmes*

1. Need Based (Contribution to Prime Ministers National Relief Fund);
2. Contribute to Tata Relief Committee for Disaster Response and COVID-19 relief efforts & aligning to Schedule VII. Special projects by convergence of Govt Schemes like Integrated Village Development Program.

## Development Sectors in CSR

As per the amended Schedule VII of Companies Act 2013, the following activities may qualify as Corporate Social Responsibility (CSR) :

- Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects
- Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports
- Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water.

- Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
- Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care” and sanitation including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.
- Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts.
- Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and
- Measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows
- Contribution to the prime minister’s national relief fund or Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women Rural development projects
- Slum Area Development Projects
- Contribution towards Swachh Bharat Kosh
- Contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of the river Ganga Including relief, rehabilitation and reconstruction activities
- Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs)

### Activities not considered as CSR

Following activities are not considered as CSR activities. They are as under:

- (i) activities undertaken in pursuance of normal course of business of the company:

Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that-

- (a) such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act;

- (b) details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report;
- (ii) any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level;
- (iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;
- (iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 ;
- (v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;
- (vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India.

It may be noted that in common parlance 'normal course of business' refers to things which are routine in nature for business like sale, purchase etc. It refers to the usual course and routine of business activities. In the context of CSR, any activity which is part of core business of the company would not constitute CSR.

Further, the term "Employee" as per section 2(k) of Code of Wages Act, 2019 is defined as under:

*"employee" means, any person (other than an apprentice engaged under the Apprentices Act, 1961), employed on wages by an establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union.*

It must be noted that the term "contract labour" is also defined as under in Code of Wages Act, 2019:

"Contract labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker but does not include a worker (other than part-time employee) who

- (i) is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and
- (ii) gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment"

The term "worker" is also defined in Code of Wages Act, 2019 as under:

*"worker means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes....."*

Hence, even if some of the beneficiaries of any CSR projects happen to be employees (which may include even contract labour in case they fall within the ambit of the definition of "employee" for that relevant industry), to that extent, the amount spent should not be considered as CSR expenditure.

However, if the purpose of the project is for the benefit of the society at large and in case some of the employees are also beneficiaries of such programme then:

- If the benefit received by each beneficiary is specifically identifiable, to that extent the amount spent for employees should not be considered as CSR, i.e., the CSR amount would have to be calculated

proportionately, and entire project should not be disregarded as being non-CSR. [example: distribution of Covid vaccines, etc.]

- However, if the benefit received by each beneficiary is not specifically identifiable, the project may be considered completely as being for CSR. [example: distribution of food, awareness campaigns, etc.]

Expenditure on activities which are predominantly for the benefit of persons associated with the business carried on by the company should not be treated as CSR.

### CSR Committee

According to Rule 5 of the Companies (Corporate Social Responsibility Policy) Rules, 2014

- (1) The companies mentioned in the rule 3 shall constitute CSR Committee as under. -
  - (i) a company covered under subsection (1) of section 135 which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director;
  - (ii) a private company having only two directors on its Board shall constitute its CSR Committee with two such directors;
  - (iii) with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 of the Act and another person shall be nominated by the foreign company.
- (2) The CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR Policy, which shall include the following, namely: -
  - (a) the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act;
  - (b) the manner of execution of such projects or programmes as specified in sub-rule (1) of rule 4;
  - (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;
  - (d) monitoring and reporting mechanism for the projects or programmes; and
  - (e) details of need and impact assessment, if any, for the projects undertaken by the company:

Provided that Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.

Every company covered under section 135(1) of the Act is required to constitute a CSR committee of the Board consisting of at least three or more directors with at least one independent director.

As per proviso to section 135(1) of the Act, where a company is not required to appoint an independent director under section 149(4) of the Act, it shall have in its CSR Committee two or more directors.

In addition, rule 5(1) of CSR Rules exempts unlisted public companies and private companies that are not required to appoint an independent director from having an independent director as a part of their CSR Committee. Further, in case where a private company has only two directors on the Board, the CSR Committee can be constituted with these two directors. The CSR Committee of a foreign company shall comprise of at least two persons wherein one or more persons should be resident in India and the other person nominated by the foreign company.

Section 135 (9) of the Act provides for an exemption from the requirement to constitute a CSR Committee where the amount to be spent by the company under section 135(5) of the Act does not exceed Rs. 50 lakh in a

financial year. In such cases, the functions of CSR Committee as provided under section 135 of the Act shall be discharged by the Board of Directors of such company.

The wording of the section 135(9) of the Act is “where the amount to be spent by the company under section 135(5) of the Act, does not exceed Rs. 50 lakh”. Hence it may be said that when such expenditure is mandatory, then only the constitution of CSR committee is mandatory.

Section 135(2) of the Act requires that the composition of the CSR Committee shall be disclosed in the Board’s Report.

Further, in terms of rule 9 of CSR Rules, following details should be displayed on the website of the company, if any, for public access:

- (i) Composition of the CSR Committee;
- (ii) CSR Policy, and
- (iii) projects approved by the Board

Though legally there is no obligation to provide the project outlays on the website, as a good disclosure practice, it is advisable to also mention the amount allocated for the projects as approved by the Board.

### Functions of CSR Committee

The CSR Committee shall undertake the following functions:

formulate and recommend to the Board, a CSR Policy on the basis of the approach and direction given by the Board, which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII to the Act and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan; [section 135(3)(a) of the Act read with rule 2(f) of CSR Rules]

- (a) recommend the amount of expenditure to be incurred on the activities referred to in clause (a) by way of formulating and recommending to the Board, an annual action plan in pursuance of CSR Policy of the company including the following:
  - (i) the list of CSR projects or programs that are approved to be undertaken in areas or subjects specified in Schedule VII to the Act;
  - (ii) the manner of execution of such projects or programs as specified in rule 4(1) of CSR Rules;
  - (iii) the modalities of utilisation of funds and implementation schedules for the projects or programs;
  - (iv) monitoring and reporting mechanism for the projects or programs; and
  - (v) details of need and impact assessment, if any, for the projects undertaken by the company;

and recommend changes, if any, needed in the action plan with reasonable justification to that effect. [section 135(3)(b) of the Act read with rule 5(2) of CSR Rules]

- (b) monitor the CSR Policy of the company from time to time. [section 135(3)(c) of the Act]

### Board’s Responsibilities towards CSR

The Board of Directors shall:

- (a) after taking into account the recommendations made by the CSR Committee, approve the approach and directions for CSR and the CSR Policy for the company and disclose contents of such policy in its report.

Disclose the composition of the CSR Committee, CSR Policy and projects approved by the Board on the website of the company, if any, for public access; [section 135(4)(a) of the Act read with rule 9 of CSR Rules] approve the annual action plan recommended by the CSR Committee and amendment thereto during the financial year, if any, recommended by the CSR Committee based on reasonable justification to that effect; [rule 5(2) of CSR Rules]

- (b) ensure that the activities as are included in CSR Policy of the company are undertaken by the company; [section 135(4)(b) of the Act]
- (c) approve a project as on-going multi-year project and extend the duration for spending beyond one year based on reasonable justification [rule 2(i) of CSR Rules]
- (d) monitor the implementation of on-going projects with reference to the approved timelines and year-wise allocation and make modifications, if any, for smooth implementation of the project within the overall permissible time period.

Such modification may including extension of duration of on-going projects which might initially not be approved as multi-year projects, beyond the year in which CSR spending was proposed based on reasonable justification; [rule 4(6) and rule 2(i) of CSR Rules]

- (e) ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years.

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 CSR Policy. The company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities [section 135(5) of the Act]

It is clear that CSR obligation under section 135(5) of the Act needs to be complied with by companies which have not completed 3 years from the date of incorporation.

- (f) satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and to seek certification to this effect from the Chief Financial Officer or the person responsible for financial management. [rule 4(5) of CSR Rules]
- (g) ensure that the administrative overheads do not exceed 5% of total CSR expenditure of the company for the financial year; [rule 7(1) of CSR Rules]
- (h) in case the company is unable to spend the earmarked amount for CSR activities during a particular financial year, specify reasons for non-spending in its report under section 134 of the Act and transfer the unspent amount in following manner:-
  - In case of on-going projects, to transfer such unspent amount, within a period of 30 days from the end of 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 CSR account; [section 135(5) & (6) of the Act and rule 10 of CSR Rules]
  - In case there is no on-going project, it has to transfer such unspent amount, within 6 months of the expiry of the financial year, to any of the funds mentioned in Schedule VII to the Act. [section 135(5) of the Act read with rule 10 of CSR Rules]
- (i) In case there is excess amount spent towards CSR beyond the statutory obligation specified in section 135(5) of the Act during any financial year, to approve the set-off of such excess amount spent, during one or more of the three succeeding financial years.

However such excess amount should not be a surplus arising out of the CSR activities; [third proviso to section 135(5) of the Act read with rule 7(3) of CSR Rules]

- (j) To ensure that any surplus arising out of the CSR activities is ploughed back into the same project or transferred to the unspent CSR Account and spent in pursuance of CSR Policy and annual action plan of company or transfer such surplus amount to a fund specified in Schedule VII to the Act, within a period of 6 months of the expiry of the financial year [rule 7(3) of CSR Rules]
- (k) if any capital asset is created or acquired as a part of CSR, to ensure that it is held by a company established under section 8 of the Act, or a registered public trust or registered society, having charitable objects and CSR registration number provided by the Ministry of Corporate Affairs (MCA); or beneficiaries of the said CSR project, in the form of self- help groups, collectives, entities; or a public authority.
- (l) ensure that impact assessment is undertaken, wherever applicable, through an independent agency and to review the impact assessment reports placed before the Board and to annex the same to the annual report on CSR. [rule 8(3) of CSR Rules]
- (m) It would be good practice to identify the need for the project before approving its implementation. The identification of the need for the project will ensure that it acts as a basic parameter while carrying out impact assessment.

**What is the role of the Government in the approval and implementation of the CSR programmes/projects of a company?**

Provisions of section 135, read with Schedule VII of the Act and Companies (CSR Policy) Rules, 2014 provide the broad framework within which the eligible companies are required to formulate their CSR policies including activities to be undertaken and implementation of the same. CSR is a board-driven process, and the Board of the company is empowered to plan, approve, execute, and monitor the CSR activities of the company based on the recommendation of its CSR Committee.

The Government has no direct role in the approval and implementation of the CSR programmes /projects of a company.

### CSR Policy

“CSR Policy” is defined in rule 2(f) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 as under:

“CSR Policy” means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

The approach and direction for CSR is to be recommended by the CSR Committee to the Board, and based on the same, the approach and direction is finalised by the Board of Directors. The CSR Policy is to be prepared and recommended by the CSR Committee to the Board for its approval as per section 135(3)(a) of the Act read with rule 2(f) of the CSR Rules. This process may happen simultaneously also depending upon the convenience of the Board.

As per section 135(3)(a) of the Act, the CSR Policy shall indicate the activities to be undertaken by the company in areas or subjects, specified in Schedule VII to the Act. The guiding principles to be included in the CSR Policy as contemplated in the CSR Rules appear to be macro level indicators as to the areas in which CSR projects are proposed to be undertaken, which can be articulated in the annual action plan for each financial year.

**For example:**

- Guiding principles for selection of CSR projects can be what parameters are to be evaluated while selecting a project, namely what should be the thrust area, local area, other areas where there exists a

need for CSR project, projects of national importance, areas which deplete natural resources, etc. and what proportion of CSR spending is to be apportioned for these purposes so that there is an adequate positive impact arising out of the activities undertaken by the company.

- Guiding principles for implementation of CSR projects can be whether they will be undertaken directly or through any Implementing Agency, minimum benchmarks of various criteria while selecting an Implementing Agency such as no conflict of interest, no political background, satisfactory due diligence, track record indicators etc.
- Guiding principles for monitoring of CSR projects can be at what frequency spending shall be monitored, whether site visits would be needed, who shall visit, what evidences should be collected as to the progress of the project, etc.
- Guiding principles for formulation of annual action plan can be whether long term projects or short-term projects are to be selected, requirement of environmental clearance, compliance of local laws, evaluation while choosing a project, at what frequency impact assessment should be done, etc.

It is recommended that CSR Policy should be drawn up to the extent it is relevant in the context of company and should be compatible with the legal requirements. CSR Policy should be approved by the Board of Directors and reviewed and updated, as and when required. It is recommended that a company should:

- i) Outline a CSR Policy to reflect the vision, mission and goals on a broader level
- ii) CSR Policy should articulate broadly target group (marginalized group)/ geography (local/ wider area) / sectors (health/education/ environment).

#### **What are the mechanisms for monitoring the CSR process?**

CSR is a Board-driven process, and the Board of the company is empowered to plan, decide, execute, and monitor the CSR activities of the company based on the recommendation of its CSR Committee. The CSR architecture is disclosure-based and CSR-mandated companies are required to file details of CSR activities annually in MCA21 registry. Companies are required to make necessary disclosures in the financial statements regarding CSR including non-compliance. The existing legal provisions such as mandatory disclosures, accountability of the CSR Committee and the Board, and provisions for audit of accounts of the company provide sufficient mechanisms for monitoring.

### **ANNUAL ACTION PLAN**

As per rule 5(2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR Policy, which shall include the following: -

- (a) the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII to the Act;
- (b) the manner of execution of such projects or programmes as specified in rule 4(1) of CSR Rules;
- (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;
- (d) monitoring and reporting mechanism for the projects or programmes; and
- (e) details of need and impact assessment, if any, for the projects undertaken by the company.

All CSR projects or activities are required to be approved in annual action plan. If company proposes to undertake any project / activity which is not approved in annual action plan, it requires approval of CSR Committee and the Board with proper justification.



The annual action plan shall change for each financial year as it is a manifestation of the guiding principles mentioned in CSR Policy, as may be relevant for each financial year. It is recommended that the annual action plan should clearly outline the mechanisms and modalities for actual implementation of CSR projects and programs with a view to ensure measurable and sustainable outcomes primarily focusing on projects/ activities which are beneficiary oriented and contribute to sustainable development. It is also recommended that the annual action plan should also speak about the expectations to be achieved during the next financial year.

**For example:**

- List of CSR programmes, or at least broad criteria about what constitute a CSR project, which will meet the thrust areas and make positive impact.
- Manner of execution of project can be as to how much amount to be spent on a particular project in the current year, how much amount to be spent in the next financial year, which Implementing Agencies to hire etc.
- Modalities of utilisation of funds can be at what stage funds shall be disbursed, example- funds shall be disbursed after completion of work, etc.
- Monitoring & reporting mechanism can be selection of any third party for verification of work done, deciding frequency and parameters of verification, etc.
- Fixation of who shall do the impact assessment, which projects, timelines, etc.

## Model Corporate Social Responsibility Policy

### 1. Purpose

The Corporate Social Responsibility Policy (“CSR Policy”) of (name of the company) has been formulated by the CSR Committee and approved by the Board of Directors at its meeting held on .

This policy aims to contribute towards sustainable development of the society and environment to make planet a better place for future generations. The philosophy of CSR is imbibed in our business activities and social initiatives taken in the area of (e.g. health, sanitation, drinking water and infrastructure etc.)

The activities enlisted in this CSR Policy are aligned with the group CSR Policy of (name of the business group/parent/holding co., if any) and are carried out by the company either individually or in association with eligible Implementing Agencies registered with the Ministry of Corporate Affairs.

The CSR Policy is formulated in accordance with the provisions of section 135 of the Companies Act, 2013 and rules made thereunder and other applicable laws to the company.

### 2. Effective Date

This policy shall be effective from the beginning of financial year \_\_\_ .

### 3. Definitions

- 3.1 “Act” means the Companies Act, 2013.
- 3.2 “Board of Directors” or “Board” means the collective body of the directors of the company.
- 3.3 “Company” means “(name of the company)”
- 3.4 “CSR Committee” means Corporate Social Responsibility Committee constituted by the Board of Directors of the company.
- 3.5 “CSR Policy” means CSR Policy of \_ (name of the company)

3.6 “CSR Rules” means the Companies (Corporate Social Responsibility Policy) Rules, 2014 as amended from time to time.

“Implementing Agency” means any entity registered with Ministry of Corporate Affairs for undertaking CSR projects, which is engaged by the company to implement various projects in pursuance of CSR Policy.

Any term used in this policy but not defined herein shall have the same meaning assigned to them under the Act and CSR Rules as applicable to the company.

#### 4. Functions of CSR Committee

CSR Committee was constituted by the Board of Directors on (date of constitution) with following functions assigned:

- a) To formulate and recommend a CSR Policy indicating the activities to be undertaken by the company in areas or subject specified in Schedule VII to the Act;
- b) To recommend the amount of expenditure to be incurred on the activities referred to in clause (a);
- c) To formulate and recommend an annual action plan in pursuance of CSR Policy covering the following aspects:
  - (i) the list of approved CSR projects or programs to be undertaken in areas or subjects specified in Schedule VII to the Act;
  - (ii) the manner of execution of such projects or programs as specified in rule 4(1) of CSR Rules;
  - (iii) the modalities of utilisation of funds and implementation schedules for the projects or programs;
  - (iv) monitoring and reporting mechanism for the projects or programs; and
  - (v) details of need and impact assessment, if any, for the projects undertaken by the company;
- d) Recommend changes to the Board, if any, needed in the annual action plan with reasonable justification to that effect.
- e) To monitor the CSR Policy as approved by the Board from time to time.

The CSR Committee should recommend the approach and direction of CSR activities to be undertaken by the company and also provide Guiding principles for

- (i) Selection of CSR projects / programmes / activities
- (ii) Implementation of CSR projects / programmes / activities
- (iii) Monitoring of CSR projects / programmes / activities
- (iv) Formulation of the annual action plan

#### 5. CSR Activities

Company shall undertake CSR activities for development of the society and the environment, particularly in the vicinity of the areas where the facilities of the company are located.

A. *The company shall undertake such activities which are broadly related to any of the following:*

- (i) Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation
- (ii) Promoting education, including special education and employment enhancing vocation skills

especially among children, women, elderly and the differently abled and livelihood enhancement projects.

- (iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
- (iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water.
- (v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;
- (vi) measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows;
- (vii) training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports
- (viii) Rural development projects
- (ix) Development of area declared as “slum area” by the Government or Competent Authority.
- (x) Disaster management, including relief, rehabilitation and reconstruction activities.

*B. The company may also contribute to the following funds as part of CSR activities:*

- (i) Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.
- (ii) Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga;
- (iii) Prime Minister’s National Relief Fund or Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or any other fund set up by the Central Government for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;
- (iv) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government;
- (v) Contributions to public funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organisation (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

The above areas as enshrined in Schedule VII to the Act and included in this policy aims to provide macro areas in which CSR projects should be undertaken by the company. The CSR Committee should consider details of CSR projects as elaborated in the annual action plan for each financial year.

Any CSR activity proposed to be undertaken as a CSR initiative, but not specifically covered in the aforesaid, may be undertaken only with the prior approval of the Board and CSR Committee.

## 6. Focus Areas

While the company may undertake CSR activities in any areas listed above, the focus areas of CSR activities should be on the following aspects:

- 6.1 Health Camps
- 6.2 Environment protection
- 6.3 Rain Water Harvesting
- 6.4 Rural Transformation
- 6.5 Safe Drinking Water
- 6.6 Education to underprivileged

## 7. Annual Action Plan

The CSR Committee shall formulate and recommend to the Board, an annual action plan which shall include the following:

- (a) the list of CSR projects or programmes that are approved and to be undertaken by the company
- (b) the manner of execution of such projects or programmes
- (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;
- (d) monitoring and reporting mechanism for the projects or programmes; and
- (e) details of need and impact assessment, if any, for the projects undertaken by the company.

The Board of Directors are empowered to alter the annual action plan during the financial year, if so recommended by the CSR Committee, based on the reasonable justification for such change.

## 8. CSR Spending

The company shall endeavor to achieve the objectives of CSR Policy and allocate every year:

- a. Minimum 2% of its average net profits made during the three immediately preceding financial years
- b. Any income or surplus arising out of the CSR activities, projects or programs shall not form part of the business profit of the company and the same shall be ploughed back for use in CSR activities

All the expenditure relating to CSR shall be pre-approved by the CSR Committee. The CFO shall monitor the utilization of funds for the purposes set forth and certify to this effect.

Unspent CSR amount, if any, shall be transferred to separate account in accordance with the applicable CSR Rules from time to time.

### **What is the role of the Government in monitoring compliance of CSR provisions by companies?**

The Government monitors the compliance of CSR provisions through the disclosures made by the companies in the MCA 21 portal. For any violation of CSR provisions, action can be initiated by the Government against such non-compliant companies as per provisions of the Companies Act, 2013 after due examination of records, and following due process of law. Noncompliance of CSR provisions has been notified as a civil wrong w.e.f. 22nd January, 2021.

## 9. Mode of implementation

CSR programs, projects or activities of the company should be implemented through following methods:

- i. Directly by the company;
- ii. Implementing Agencies;
- iii. Any foundation or body incorporated by the company and eligible to undertake such CSR projects.
- iv. in collaboration with other organizations/group companies

While the company can engage suitable Implementing Agencies to undertake approved CSR projects. The company can also partner with local governance bodies, such as Gram Panchayats, Civic Bodies, Municipality to directly undertake approved CSR projects with the help and support of these bodies.

## 10. Need and Impact Assessment

CSR activities undertaken should be in the interest of the society and the local population where the company operates. Before undertaking any project or activities the company shall conduct need assessment for the project and its utility in the demography where project is proposed.

After one year of completion of CSR project, the company should consider to conduct an impact assessment of the project so completed and place a report for consideration of the Board.

A summary of impact assessment outcome shall be disclosed in the Board's Report.

## 11. Capital Assets

Capital asset acquired or created by CSR projects should be held by the beneficiaries of the said CSR project or a trust or a public authority for the benefits of all. The company should take appropriate measure to ensure that such assets are utilized for the purpose it was meant for and should not be transferred or disposed off without prior permission of the company.

## 12. Information dissemination

CSR Policy and activities undertaken shall be disseminated on website for public access and shall be published in the Annual Report of the company in the format prescribed under the Act and CSR Rules.

## 13. Review

The CSR Committee shall be fully responsible for the monitoring and review of the implementation of this policy in accordance with applicable laws from time to time. The CSR Committee shall provide recommendations as and when it deems necessary to the Board so as to amend/ modify/ revise the CSR Policy.

**Note:** In addition, the CSR Policy of the company may give guidance on Voluntary CSR Initiatives, Voluntary CSR Audit, CSR Governance Principles and reporting about deviations, if any. Further, CSR Policy may also provide for guidance on disclosure of awards and recognitions received.

## Corporate Social Responsibility Policy of ITC Limited\*

This Corporate Social Responsibility (hereinafter referred to as 'CSR') Policy is framed in terms of the Companies Act, 2013 (hereinafter referred to as 'the Act') read with the Companies (Corporate Social Responsibility Policy) Rules, 2014 (hereinafter referred to as 'the CSR Rules'), as amended from time to time.

## Philosophy

Recognising that business enterprises are economic organs of society and draw on societal resources, it is

ITC's belief that a company's performance must be measured by its Triple Bottom Line contribution towards building economic, social and environmental capital. ITC believes that in the strategic context of business, enterprises possess - beyond mere financial resources - the transformational capacity to create game-changing development models by unleashing their power of entrepreneurial vitality, innovation and creativity. In line with this belief, ITC will continue crafting unique models which have a significant multiplier impact on sustainable livelihood creation and environmental replenishment. These initiatives are independent of the normal conduct of ITC's businesses and are aligned to the activities listed in Schedule VII read with Section 135 of the Act and the CSR Rules.

Programmes, projects and activities (hereinafter collectively referred to as 'CSR Programmes') carried out in this regard are the subject matter of this Policy.

### CSR Policy

It is ITC's Policy to direct its CSR Programmes, inter alia, towards achieving one or more of the following - poverty alleviation; promoting education and skill development; promoting healthcare including preventive healthcare; providing sanitation and drinking water; ensuring environmental sustainability; enabling climate resilience; rural development projects; creating livelihoods for people, especially those from disadvantaged sections of society; protection of national heritage, art and culture; preserving and promoting music and sports; and providing relief and assistance to victims of disasters and calamities.

In pursuit of the above, ITC has identified the following focus areas for its CSR Programmes based on comprehensive need assessment surveys of its stakeholders:

- Create sustainable livelihoods and alleviate poverty through promotion of, inter alia, afforestation, water stewardship, sustainable agriculture and climate smart practices, livestock development and women empowerment;
- Build capabilities for tomorrow through interventions in, inter alia, education, vocational training, sanitation, school WASH (Water, Sanitation & Hygiene), safe drinking water and solid waste management;
- Promote healthcare, including preventive healthcare, and improve critical nutritional & health status of at-risk population through interventions to strengthen mother & child health, nutritional content, delivery, outreach and outcomes;
- Protect national heritage, art & culture, and preserving & promoting music and sports; and
- Provide relief and assistance to victims of disasters and calamities.

### The Company aims:

- To develop the required capability and self-reliance of beneficiaries at the grass roots, especially of women, in the belief that these are pre-requisites for social and economic development;
- To engage in affirmative action interventions such as skill building and vocational training;
- To pursue CSR Programmes primarily in areas that fall within the economic vicinity of the Company's operations to enable close supervision and ensure maximum developmental impact;
- To enter into public-private-people partnerships to multiply the impact of the CSR Programmes;
- To carry out CSR Programmes in relevant local areas to fulfil commitments arising from requests by government / regulatory authorities;
- To provide equal opportunities to beneficiaries of the CSR Programmes;
- To promote sustainability in partnership with industry associations, like the Confederation of Indian Industry (CII) through the CII-ITC Centre of Excellence for Sustainable Development.

## Implementation

The Company's CSR Programmes will be implemented through (i) Company personnel, or (ii) external implementing agencies, or (iii) ITC Trusts viz., ITC Education and Health Care Trust, ITC Rural Development Trust, ITC Sangeet Research Academy, ITC Bhadrachalam Education Trust and Tribeni Tissues Education Society, and (iv) such other Trusts, Societies, Foundations and Section 8 companies that may be established by the Company from time to time.

In case CSR Programmes are implemented through external agencies or ITC Trusts, the programmes to be undertaken by those agencies or Trusts will be specified, and it will be ensured that such programmes are covered in the Objects laid down in the respective Trust Deeds / Memoranda and Articles of Association of the external agencies / ITC Trusts.

## Governance

- The CSR and Sustainability Committee will review, monitor and provide strategic direction to the Company's CSR and sustainability practices towards fulfilling its Triple Bottom Line objectives. The Committee will also guide the Company in crafting unique models to support creation of sustainable livelihoods together with environmental re-generation.
- Every year, the CSR and Sustainability Committee will place for the approval of the Board of Directors of the Company (hereinafter referred to as 'the Board'), an annual CSR Action Plan (hereinafter referred to as 'CSR Plan') delineating the CSR Programmes to be carried out during the financial year, including the budgets thereof, their manner of execution, implementation schedules, modalities of utilisation of funds, and monitoring & reporting mechanism for the CSR Programmes. The Board will consider and approve the CSR Plan with such modification that may be deemed necessary; the CSR Plan may also be modified by the Board during the financial year, on the recommendation of the CSR and Sustainability Committee.
- The Corporate Management Committee (hereinafter referred to as 'the CMC') will ensure that the Company's CSR Programmes address major development challenges of the country and are aligned with the priorities of the Government. The CMC will also assign the task of implementation of the CSR Plan within specified budgets and timeframes to such persons or bodies as it may deem fit, and ensure implementation thereof.
- The Management Committee of the Social Investment Programme (hereinafter referred to as 'MC-SIP') formed by the CMC, has been entrusted with the task of implementing and monitoring the approved CSR Programmes within the specified budgets and timeframes.
- MC-SIP will provide report back to the CMC on the progress of the CSR Programmes at quarterly intervals, or at such other frequency as the CMC may direct. The aforesaid report back will also include the following:
  - summary of impact assessment report(s) for the CSR Programmes highlighting their impact and outcome against the goals and objectives; and
  - in case of ongoing CSR Programmes (having time schedule of three years or more), progress of their implementation with reference to approved timelines and year-wise allocation.
- The CMC will review the report back stated under (d) above and issue necessary directions from time to time to ensure orderly and efficient execution of the CSR Programmes in accordance with this Policy.
- Once every six months, the CMC will provide a report back to the CSR and Sustainability Committee on the progress of implementation of the approved CSR Programmes carried out during the six month period, covering details of achievement against planned deliverables for each intervention. The

aforsaid report back will also include confirmation from the Chief Financial Officer that the funds disbursed for the CSR Programmes are being utilised for the stated purpose and in the specified manner.

- The CSR and Sustainability Committee will review the report back stated under (f) above and keep the Board apprised, once every six months, on the status of implementation of the CSR Programmes.
- At the end of every financial year, the CSR and Sustainability Committee will consider an Annual Report on CSR activities and recommend the same for the approval of the Board. The said Report will be disclosed as part of the Report of the Board of Directors & Management Discussion and Analysis of the Company (hereinafter referred to as the 'Board's Report').

### CSR Expenditure

- It will be the Company's endeavour to spend in every financial year, two percent of its average net profits during the three immediately preceding financial years (or such other limit as may be prescribed under the Act), on CSR Programmes in pursuance of this Policy.
- The CSR expenditure will include all expenditure, direct and indirect, incurred by the Company on CSR Programmes undertaken in accordance with the CSR Plan.
- Any surplus arising from the CSR Programmes will be used for CSR activities within six months from the end of the relevant financial year. Accordingly, any income arising from CSR Programmes will be netted off from the CSR expenditure and such net amount will be reported as CSR expenditure.
- If CSR expenditure in a financial year exceeds the statutory limit, such excess may be set-off against CSR expenditure for the next three financial years with the approval of the Board, on the recommendation of the CSR and Sustainability Committee.

*\*This Policy was approved by the Board on 25<sup>th</sup> April, 2014 and last amended on 15<sup>th</sup> April, 2021.*

Source: <https://www.itcportal.com/about-itc/policies/corporate-social-responsibility-policy.aspx>

**Extract of  
TATA MOTORS  
CORPORATE SOCIAL RESPONSIBILITY (CSR) POLICY FY 22-23**

As an integral part of our commitment to Good Corporate Citizenship, we at TATA Motors believe in actively assisting in the improvement of the quality of life of the people in the communities, giving preference to local areas around our business operations. We shall continue to relentlessly strive in our endeavor of nation-building, sustainable development, accelerated inclusive growth and social equity.

The Tata group constitutes a global force not only for doing good business, but being in the business of doing good for society. We shall strategically integrate the shouldering of our Social Responsibility with our pursuit of Business Excellence. Towards achieving long-term stakeholder value creation, TATA Motors shall always continue to respect the interests of and be responsive towards its key stakeholders - the communities, especially those from socially and economically backward groups, the underprivileged, marginalized and most vulnerable groups; focused on inter alia the Scheduled Castes and Scheduled Tribes, Persons with Disability, Women and the society at large.

In our CSR journey towards achieving human development and excellence, we shall endeavor to deploy TATA Group CSR Programs and drive Affirmative Action (within Health, Education and Employability) and other international development goals like Sustainable Development Goals (SDGs), in line with Schedule VII of The Companies Act, 2013 as recommended by the CSR Committee of the Board and approved by the Board from time to time.

In order to leverage the demographic dividend of our country, Company's CSR efforts shall focus on



Health, Education, Employability and Environment interventions for relevant target groups, ensuring diversity and giving preference to needy and deserving communities inhabiting urban and semi urban India. Company shall also develop a CSR annual action plan covering details of the program, manner of execution, modality of utilization, monitoring and reporting mechanism, and impact assessment, wherever applicable. The company will continue with its robust monitoring and evaluation processes of all the CSR projects and programme.

The corpus to be spent by TATA Motors on CSR shall include at least 2% of the average net profits of its India Operations for preceding three financial years. Any surplus arising out of the CSR projects or programs or activities shall not form part of business profits of the Company. CSR Policy implementation shall be periodically reviewed and monitored by a two tiered Governance Structure comprising of Tier I – Board and CSR Committee of the Board, and Tier II - CSR Team comprising of Corporate Office, Manufacturing Plants and Commercial Offices.

CSR at Tata Motors shall be underpinned by 'More from Less for More' philosophy which implies striving to achieve greater impacts, outcomes and outputs from our CSR projects and programmes by judicious investment and utilization of financial and human resources, engaging in like-minded stakeholder partnerships for higher outreach benefitting more lives. Company shall disburse milestones linked payment to the CSR implementing partners. We shall continue to nurture a vibrant culture of volunteering in our aspiration to leverage our core competencies and managerial, technological capabilities for CSR.

We shall strive to bring innovation to our CSR initiatives and optimize their effectiveness while seeking to create a measurable impact of our CSR activities.

Source: <https://investors.tatamotors.com/pdf/csr-policy.pdf>

#### LESSON ROUND-UP

- Companies Act, 2013 ["Act"] is a legislation which officially embarked on one of the world's largest experiments of introducing the concept of CSR as a mandatory provision. With the introduction of Companies Act, there is a statutory obligation for the corporates to take initiatives towards Social, Environmental and Economic Responsibilities.
- A foreign company defined under clause (42) of section 2 of the Act having its branch office or project office in India which fulfills the criteria specified in sub-section (l) of section 135 of the Act shall comply with the provisions of section 135 of the Act and the rules.
- Every company covered under section 135(1) of the Act is required to constitute a CSR committee of the Board consisting of at least three or more directors with at least one independent director.
- Schedule VII of the Companies Act, 2013 states Activities which may be included by companies in their Corporate Social Responsibility Policies.
- CSR Policy means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.
- Normal course of business refers to things which are routine in nature for business like sale, purchase etc. It refers to the usual course and routine of business activities. In the context of CSR, any activity which is part of core business of the company would not constitute CSR.
- As per rule 5(2) of the CSR Rules, the CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR Policy.





### KEY CONCEPTS

■ CSR Project ■ Implementation Agency ■ Monitoring ■ Net Profit ■ Evaluation

### Learning Objectives

#### To understand:

- Identification
- Evaluation & Monitoring
- Leveraging Technology & IT Tools
- On Going Project

### Lesson Outline

- Evaluation and Monitoring
- CSR Implementation
- Identifying Appropriate Implementation Agency
- CSR Spending
- Unspent Amount
- Excess Spending
- Surplus Arising out of CSR Projects
- Administrative Overheads
- Lesson Round-Up
- Test Yourself
- References

## REGULATORY FRAMEWORK

- Companies Act, 2013
- Companies (Corporate Social Responsibility Policy) Rules, 2014

## INTRODUCTION

“Social responsibility (is the) responsibility of an organisation for the impacts of its decisions and activities on society and the environment through transparent and ethical behaviour that is consistent with sustainable development and the welfare of society; takes into account the expectations of stakeholders; is in compliance with applicable law and consistent with international norms of behaviour; and is integrated throughout the organisation.”( Working definition, ISO 26000 Working Group on Social Responsibility, Sydney, February 2007)

According to “Corporate Social Responsibility: An Implementation Guide for Business” published by International Institute for Sustainable Development -Corporate social responsibility (CSR) is also known by a number of other names. These include corporate responsibility, corporate accountability, corporate ethics, corporate citizenship or stewardship, responsible entrepreneurship, and “triple bottom line,” to name just a few. As CSR issues become increasingly integrated into modern business practices, there is a trend towards referring to it as “responsible competitiveness” or “corporate sustainability.”

A key point to note is that CSR is an evolving concept that currently does not have a universally accepted definition. Generally, CSR is understood to be the way firms integrate social, environmental and economic concerns into their values, culture, decision making, strategy and operations in a transparent and accountable manner and thereby establish better practices within the firm, create wealth and improve society. As issues of sustainable development become more important, the question of how the business sector addresses them is also becoming an element of CSR.

The World Business Council for Sustainable Development has described CSR as the business contribution to sustainable economic development. Building on a base of compliance with legislation and regulations, CSR typically includes “beyond law” commitments and activities pertaining to:

- Corporate governance and ethics;
- health and safety;
- Environmental stewardship;
- Human rights (including core labour rights);
- Sustainable development;
- Conditions of work (including safety and health, hours of work, wages);
- Industrial relations;
- Community involvement, development and investment;
- Involvement of and respect for diverse cultures and disadvantaged peoples;
- Corporate philanthropy and employee volunteering;
- Customer satisfaction and adherence to principles of fair competition;
- Anti-bribery and anti-corruption measures;
- Accountability, transparency and performance reporting; and
- Supplier relations, for both domestic and international supply chains.

CSR is vital for the community, but it is also important for businesses. Employees and organizations can form a stronger bond through CSR initiatives, which can enhance morale and make both employees and employers feel more connected to the world around them. Many businesses consider CSR to have a significant impact on their brand image, recognizing that younger customers prefer to do business with ethical companies.

CSR initiatives can also play a significant role in a company's public relations strategy and marketing efforts. Companies are utilizing CSR strategies to boost the value of intangible assets as a result of increased global rivalry, increased media clutter, and less differentiation in brand. Because of this, brands must be inspirational to their stakeholders while also being socially responsible. CSR not only raises consumer awareness of a business but also builds a favorable brand image in the minds of future customers.

### CSR Implementation

There is no "one-size-fits-all" method for pursuing a corporate social responsibility (CSR) approach. Each company has unique characteristics and circumstances that will affect how it views its operational context and its defining social responsibilities. Each will vary in its awareness of CSR issues and how much work it has already done towards implementing a CSR approach. That said, there is considerable value in proceeding with CSR implementation in a systematic way—in harmony with the company's mission, and sensitive to its business culture, environment and risk profile, and operating conditions. Many companies are already engaged in customer, employee, community and environmental activities that can be excellent starting points for firm-wide CSR approaches. CSR can be phased in by focusing carefully on priorities in accordance with resource or time constraints. Alternatively, more comprehensive and systematic approaches can be pursued when resources and overall priorities permit or require. The bottom line is that CSR needs to be integrated into the company's core decision making, strategy, management processes and activities, be it incrementally or comprehensively.

A well-designed CSR implementation framework integrates economic, social and environmental decision making throughout a company—from the board of directors to front-line officials and supply-chain partners—and is therefore intimately connected with effective corporate governance. A properly governed company can reap optimal benefits for itself and its shareholders, and in turn for those who are affected by the company's activities. At all levels of a firm, inadequate direction and control of its activities and assets can jeopardize its very ability to operate.

As per rule 4(1) of CSR Rules, the Board shall ensure that the CSR activities are undertaken by the company itself or through-

- (a) a company established under section 8 of the Act or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961 established by the company, either singly or alongwith any other company; or
- (b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or
- (c) any entity established under an Act of Parliament or a State legislature; or
- (d) a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

These entities are generally referred to as 'Implementing Agencies', though this term has not been used in the CSR Rules. The CSR activities can be carried out by the company either directly or through any of these Implementing Agencies or through a combination of both methods.

As per rule 4(2) of CSR Rules, every entity, covered under rule 4(1), which intends to undertake any CSR activity, shall register itself with the Central Government by filing the form CSR-1 electronically with the Registrar, with

effect from 1<sup>st</sup> April 2021. However, it shall not affect the CSR projects or programmes approved prior to 1<sup>st</sup> April 2021. This means that from the date of commencement of the amended rule 4(2) of CSR Rules, i.e., from 22<sup>nd</sup> January 2021 till 31<sup>st</sup> March 2021, CSR projects or programmes can be carried out through Implementing Agencies which have not registered themselves with the MCA as the requirement to file e-form CSR-1 is applicable from 1<sup>st</sup> April, 2021 onwards. Hence, this is the only sub-rule under the amendment in CSR Rules dated 22<sup>nd</sup> January 2021, which is effective from 1<sup>st</sup> April 2021, and all other provisions have become effective from 22<sup>nd</sup> January 2021 itself.

Rule 4(2) of CSR Rules further provides that Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice. After submission of Form CSR-1 on the MCA portal, a unique CSR registration number will be generated by the system automatically.

On perusal of Form CSR-1 provided in CSR Rules it can be ascertained that this form can be filed only by such section 8 companies / registered public trusts / registered societies which have already registered under section 12A and section 80G of the Income Tax Act, 1961, unless they are established by the Central Government or State Government or were established under an Act of Parliament or a State legislature. This means that the registration under section 12A and section 80G of the Income Tax Act, 1961 shall be conditions precedent which shall be followed by the allotment of the CSR registration number by MCA.

As per rule 4(3) of CSR Rules, a company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR Policy as well as for capacity building of their own personnel for CSR.

'International organisations' have been defined under rule 2(g) of the CSR Rules, as "International Organisation" means an organisation notified by the Central Government as an international organisation under section 3 of the United Nations (Privileges and Immunities) Act, 1947, to which the provisions of the Schedule to the said Act apply.

As per rule 4(4) of CSR Rules, a company may also collaborate with other companies for undertaking CSR projects or programs or activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs in accordance with CSR Rules.

#### **What are the different modes of implementation of CSR activities?**

Pursuant to rule 4 of the Companies (CSR Policy) Rules, 2014 a company may undertake CSR activities through following three modes of implementation:

- i) Implementation by the company itself.
- ii) Implementation through eligible implementing agencies as prescribed under sub-rule (1) of rule 4.
- iii) Implementation in collaboration with one or more companies as prescribed under sub-rule (4) of rule 4.

Is it mandatory for every implementing agency to register on the MCA21 portal?

Yes, every implementing agency mentioned in rule 4(1) of the Companies (CSR Policy) Rules, 2014 shall mandatorily register itself in the MCA21 portal w.e.f. 01st April 2021 in order to enable it to undertake CSR activities on behalf of the company.

#### **Identifying appropriate Implementing Agency**

Identifying an appropriate Implementing Agency for undertaking CSR activities is an important task as the proper utilization of funds allocated depends on how capable the Implementing Agency is.

While finalizing the Implementing Agency, the following points should be kept in mind:

- The Implementing Agency should have well established track record of 3 years or more;
- The Implementing Agency should not have any association with any political party – directly or indirectly. Otherwise the whole purpose may deviate;
- The Implementing Agency should not have any conflict of interest with the employees of the company. There should be no direct or indirect benefit to any of the employees of the company or their family members;
- Due diligence is being complied with by the Implementing Agency;
- The Implementing Agency should have registration under section 12A and section 80G of the Income Tax Act and from 1<sup>st</sup> April, 2021 onwards such agency should also be registered with the MCA for undertaking CSR activities;
- The antecedents of the Implementing Agency, its past reputation, the reputation of persons associated with the same should also be subjected to scrutiny before selection;
- Any other requirement as may be prescribed by Government / Regulatory Authorities is being followed by the Implementing Agency.

#### **Which entities are eligible to act as an implementing agency for undertaking CSR activities?**

Rule 4(1) of the Companies (CSR Policy) Rules, 2014 provides the eligible entities which can act as an implementing agency for undertaking CSR activities. These are:

- (i) Entity established by the company itself or along with any other company – a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961.
- (ii) Entity established by the Central Government or State Government – a company established under section 8 of the Act, or a registered trust or a registered society.
- (iii) Statutory bodies – any entity established under an Act of Parliament or a State legislature.
- (iv) Other bodies – a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

#### **What is the purpose of registration of the implementing agency on MCA21 portal?**

The identification of suitable implementing agencies is a major concern for companies. Registration of implementing agencies on MCA21 portal is aimed at creating a database of such agencies for companies who may want to engage them. Further, this will bring accountability and transparency in the implementation of CSR activities and thereby strengthen the CSR eco-system.

#### **Whether all three types of entities – a company established under section 8 of the Act, or a registered public trust, or a registered society, are required to have income-tax registration u/s 12A as well as 80G of the Income Tax Act, 1961?**

Yes, as per rule 4(1) all three types of entities – a company established under section 8 of the Act, or a registered public trust, or a registered society are required to have income-tax registration u/s 12A as well as 80G of the Income Tax Act, 1961 to act as implementing agency, except for any entities established by Central or State Government.



**Can international organisations act as an implementing agency? What is the role of international organisations in the context of CSR?**

No, an international organisation cannot act as an implementing agency. Pursuant to rule 4(3) of the Companies (CSR Policy) Rules, 2014, a company can engage international organisations for the limited purposes of designing, monitoring, and evaluation of the CSR projects or programmes, or for capacity building of personnel of the company involved in CSR activities.

### **Implementation framework**

#### *1. Conduct a CSR assessment:*

- Assemble a CSR leadership team;
- Develop a working definition of CSR;
- Identify legal requirements;
- Review corporate documents, processes and activities, and internal capacity; and
- Identify and engage key stakeholders.

#### *2. Develop a CSR strategy:*

- Build support with CEO, senior management and employees;
- Research what others are doing, and assess the value of recognised CSR instruments;
- Prepare a matrix of proposed CSR actions;
- Develop ideas for proceeding and the business case for them; and
- Decide on direction, approach, boundaries and focus areas.

#### *4. Implement CSR commitments:*

- Develop an integrated CSR decision-making structure;
- Prepare and implement a CSR business plan;
- Set measurable targets and identify performance measures;
- Engage employees and others to whom CSR commitments apply;
- Design and conduct CSR training;
- Establish mechanisms for addressing problematic behaviour;
- Create internal and external communications plans; and
- Make commitments public

#### *5. Assure and report on progress:*

- Measure and assure performance;
- Engage stakeholders; and
- Report on performance, internally and externally.

#### *6. Evaluate and improve:*

- Evaluate performance;

- Identify opportunities for improvement; and
- Engage stakeholders.

### Example

#### *Tata Motors: Implementation Modality*

Direct: Tata Motors

Through Implementation Agency:

- Internal: Company promoted Trust, Society
- External: NGOs - Trusts, Societies, Section 8 Companies, Academic & Research Institutes, Skill Development Agency, Other Resource Agencies

Through Business Partners: Dealers, Vendors, Service Providers

Through Government Agencies (Both Central and State)

#### *Mahindra & Mahindra Financial Services Limited: CSR Implementation*

- The CSR Committee shall provide guidance on the allocation of the CSR budget among the thrust areas on an annual basis and seek approval from the Board.
- The CSR Projects will be undertaken based on the annual action plan formulated and recommended by the CSR Committee and approved by the Board. The Board may alter the annual action plan at any time during the financial year, as per the recommendation of the CSR Committee based on reasonable justification to that effect.
- The Company has set up the Mahindra Finance CSR Foundation (incorporated on 2nd April, 2019) as a wholly-owned subsidiary company registered under Section 8 of the Companies Act, 2013 to promote and support CSR initiatives of the Company and its subsidiary companies.

#### *State Bank of India (SBI)- CSR Implementation*

As per SBI CSR Policy, CSR activities will be undertaken by Corporate Centre Establishments, Circles, Administrative Offices, Corporate Accounts group, Commercial Clients Group, Apex Training Institutes (ATIs), Branches, RSETIs etc. and SBI Foundation within the allocated budget as per the approved policy. CSR Department at Corporate Centre will be the nodal point for monitoring the donations made.

- Bank may engage international organizations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.
- Bank may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programmes in accordance with CSR rules.

## CSR SPENDING

### Minimum 2% spending requirement

As per section 135(5) of the Act, it is the responsibility of the Board to 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 CSR Policy.

This spending is to be made on activities permissible as per definition of CSR which are included in Schedule VII to the Act and which form part of CSR Policy of the company as well as the annual action plan adopted by the company for the respective financial year.

As per explanation to section 135(5) of the Act, for the purpose of this section, “net profit” shall be calculated in accordance with the provisions of section 198 of the Act after making the adjustments referred to in rule 2(h) of CSR Rules.

It may be noted that while calculating average net profits of three immediately preceding financial years, the figures of profits as well as losses of such previous years should be considered.

While making CSR spends, the company should give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities.

### **Applicability of CSR provisions to newly incorporated companies**

Section 135(1) of the Act specifies eligibility for undertaking CSR activities as net worth of Rs. 500 crore, or turnover of Rs. 1000 crore, or net profit of Rs. 5 crore for the preceding financial year. The criteria is mutually exclusive. While, section 135(5) of the Act enunciates that the quantum of CSR amount to be spent should be calculated as 2% of average net profit made during the immediately preceding three years, it also says that for the companies which have not completed the period of three financial years since incorporation, the quantum of CSR amount to be spent shall be 2% of the average net profits of the company made during such immediately preceding financial years.

From the above, it follows that the section 135(5) of the Act should henceforth be construed accordingly to mean that it is the responsibility of the Board to ensure that the companies falling under section 135(1) should spend their average net profit of immediately three preceding financial years on CSR activities, however if the company has not completed the period of three financial years since its incorporation, such number of financial year(s) which it has completed since its incorporation (being less than three years) should be taken into consideration.

In the case of a newly incorporated company which has not completed three financial years, the company will be obliged to make CSR spends if its net profit for the preceding financial year exceeds the threshold of Rs. 5 crore.

### **On-going project**

On-going project is defined in rule 2(i) of CSR Rules as under:

“Ongoing Project” means a multi-year project undertaken by a company in fulfillment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the Board based on reasonable justification.”

If the Board has approved a project and subsequently Board realizes that the project and spending is going to extend to next financial year, the same project again is required to be approved by the Board as a multi-year/on-going project with some reasonable justification.

As per rule 5(2) of CSR Rules, the CSR Committee shall formulate an annual action plan, under which it needs to include the modalities of utilisation of funds and implementation schedules for the projects or programs. Hence, in case of on- going projects, the timelines of CSR spending and any tentative carry forward of CSR spending in a particular financial year must also be incorporated in annual action plan and should be approved.

Further as per rule 4(6) of CSR Rules, in case of ongoing project, the Board of a company shall monitor the

implementation of the project with reference to the approved timelines and year-wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

#### **What is the meaning of 'ongoing project'? Which projects can be considered as ongoing?**

Ongoing project has been defined under rule 2(1)(i) of the Companies (CSR Policy) Rules, 2014 as:

- (i) a multi-year project, stretching over more than one financial year;
- (ii) having a timeline not exceeding three years excluding the year of commencement;
- (iii) includes such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the Board based on reasonable justification.

The project should have commenced within the financial year to be termed as 'ongoing'.

The intent is to include a project which has an identifiable commencement and completion dates. After the completion of any ongoing project, the Board of the company is free to design any other project related to operation and maintenance of such completed projects in a manner as may be deemed fit on a case-to-case basis.

**Note:** The term 'year' refers to financial year as defined in section 2(41) of the Act.

#### **Meaning of 'Commencement'**

As per Cambridge/Oxford Dictionary, the term "Commencement" is defined as "the beginning of something". As per Merriam Webster's Dictionary, "Commencement" is defined as "an act, instance or time of commencing".

Black's law Dictionary define the term "commence/commencement of building" as under:

COMMENCE: To perform the first act of.

COMMENCEMENT OF BUILDING or improvement, within the meaning of Lien Law, is the visible commencement of actual operations on the ground for the erection of the building, which everyone can readily recognize as commencement of a building, and which is work until building is completed.

As per Concise Law Dictionary, "to commence" means "to originate, to cause to begin; to take the first step; to do the first act in anything. "(Source: A. Ramanatha Aiyar at page 256.)"

Further there are some judgements under the Income Tax Act, which explain the term "Commencement of business" as "To commence any business does not mean merely the business for which the company was started but any transaction including sale, purchase etc." (Kishan Garh Electric Supply Co. Ltd v State of Rajasthan (AIR 1960 Raj 49)) delivered in the context of section 149 of the Companies Act, 1956.

In the context of "commencement of business" it was held by the Income Tax Appellate Tribunal, Hyderabad Bench in case of M/s. Surya Infra IT Parks Pvt Ltd v/s. Commissioner of Income Tax (ITA No. 863/Hyd/2014 dated 30th November 2015) that there is a distinction between setting up of the business and commercialization of the operation, which generates actual revenue to the business. The concept of commencement will change according to the nature and facts of particular industry. It may vary depending upon the business model and business cycle of the industry.

In case of CIT v/s Dhoomketu Builders and Developers (P) Ltd., ITA 528/2012 and 529/2012 delivered on 23rd April, 2013, the Hon'ble Delhi High Court had held on similar lines that in case of business of development of real estates, the participation in the tender represents one activity which would enable to acquire the land for development. The commencement of real estate business would normally start with the acquisition of land or immovable property.

Hence, whether the project has commenced or not needs to be carefully evaluated depending on a case to case basis.

**When will an ongoing project be regarded as ‘commenced’?**

An ongoing project will have ‘commenced’ when the company has either issued the work order pertaining to the project or awarded the contract for execution of the project.

**When will an ongoing project be regarded as ‘commenced’?**

As per the definition of an ongoing project, the maximum permissible time period shall be three financial years excluding the financial year in which it is commenced i.e., (1+3) financial years.

Under no circumstances shall the time period of an ongoing project be extended beyond its permissible limit.

**What are the responsibilities of the Board in case ongoing projects are undertaken by the company?**

In case of ongoing projects, the major responsibilities of the Board, inter-alia, include:

- (i) identification of the ongoing projects;
- (ii) year-wise allocation of funds;
- (iii) transferring the unspent money to a separate bank account as prescribed under sub-section (6) of section 135;
- (iv) monitoring the implementation of the projects with reference to the approved timelines and year-wise allocation; and
- (v) making modifications, if any, for smooth implementation of the projects within the overall permissible time period.

**Unspent Amount**

In any financial year, if a company is unable to spend the earmarked amount for CSR activities during that particular financial year itself, second proviso to section 135(5) of the Act prescribes that the reasons for non-spending of CSR amount needs to be mentioned in Board’s Report prepared under section 134 of the Act.

In case the company is unable to spend the earmarked amount for CSR activities during a particular financial year, and if the Board has not approved any multi-year on-going project for CSR spending with reasonable justification as to why the CSR spending of that particular year needs to be carried forward beyond that financial year up to a maximum of next 3 financial years, such unspent CSR amount of that particular financial year needs to be transferred, within 6 months of the expiry of that financial year, to any of the funds mentioned in Schedule VII to the Act.

Rule 10 of the CSR Rules prescribes that until a fund is specified in Schedule VII to the Act for the purposes of section 135(5) and (6) of the Act, the unspent CSR amount, if any, shall be transferred by the company to any fund included in Schedule VII to the Act.

**Should a company open a separate ‘Unspent CSR Account’ for each ongoing project?**

No, a company can open a single special account, called ‘Unspent Corporate Social Responsibility Account’, for a financial year in any scheduled bank, to transfer the unspent amount w.r.t ongoing project(s) of that financial year. A company needs to open a separate ‘Unspent CSR Account’ for each financial year but not for each ongoing project.

**Can the amount transferred to 'Unspent CSR Account' of the company be utilised for regular business of the company?**

No, the provisioning of a separate special account, namely the 'Unspent CSR Account', in any scheduled bank is to ensure that the unspent amount, if any, is transferred to this designated account and used only for meeting the expenses of ongoing projects, and not for other general purposes of the company. The special account cannot be used by the company as collaterals or creating a charge or any other business activity.

**A company has been given six months' time to transfer the unspent CSR amount, other than the amount pertaining to ongoing projects, to any fund included in Schedule VII of the Act. Can the company spend this amount in the said period of six months on any CSR activity?**

No, the provisioning of a separate special account, namely the 'Unspent CSR Account', in any scheduled bank is to ensure that the unspent amount, if any, is transferred to this designated account and used only for meeting the expenses of ongoing projects, and not for other general purposes of the company. The special account cannot be used by the company as collaterals or creating a charge or any other business activity.

### Excess Spending

Section 135(5) of the Act which says that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount spent against the requirement to spend for such number of succeeding financial years and in such manner, as may be prescribed.

Rule 7(3) of CSR Rules prescribes that the set-off can be claimed up to immediately succeeding three financial years subject to the condition that –

- (i) the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of rule 7(2) of CSR Rules.
- (ii) the Board of the company shall pass a resolution to that effect.

### Surplus arising out of CSR projects

As per rule 7(2) of CSR Rules, any surplus arising out of the CSR activities shall not form part of the business profit of a company and:

- (1) It shall be ploughed back into the same project; OR
  - (2) It shall be transferred to the Unspent CSR Account, and shall be spent in pursuance of CSR Policy and annual action plan of the company;
- OR
- (3) It shall be transferred to a fund specified in Schedule VII to the Act, within a period of six months of the expiry of the financial year.

Further as per rule 7(3)(i) of CSR Rules, such surplus amount ploughed back into the same project shall not be included in calculation of excess amount by the company, if any, for claiming set off in succeeding three financial years.

This means any surplus arising out of CSR activities must be utilized in the CSR project, but it shall not be considered as part of 2% CSR obligation of the company for the financial year in which it is spent, i.e., it must be over and above the obligation to spend 2% of profits of the company for the relevant financial year.

### Administrative Overheads

As per the erstwhile rule 4(6) of CSR Rules, companies could build CSR capacities of their own personnel as well as those of their Implementing Agencies through Institutions with established track records of at least three financial years but such expenditure including expenditure on administrative overheads, should not exceed 5% of total CSR expenditure of the company in one financial year.

Rule 7(1) of CSR Rules which says that the Board shall ensure that the administrative overheads shall not exceed 5% of total CSR expenditure of the company for the financial year.

Pursuant to amendment in CSR Rules effective from 22nd January 2021, the term 'administrative overheads' had been defined in rule 2(b) of CSR Rules as under:

"Administrative overheads" means the expenses incurred by the company for 'general management and administration' of CSR functions in the company but shall not include the expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular CSR project or programme.

As the above definition is generic, there is bound to be discussion on the issue as to what kind of expenses come within the ambit of "administrative overheads".

In effect, salaries paid to CSR staff engaged in administrative activities cannot be factored into project cost, and it shall form part of administrative overheads. Salaries paid to CSR volunteers, who are not doing administrative activities but are involved in the actual implementation of CSR project, may be counted towards CSR Project cost.

As per MCA clarification monetization of 'pro bono' services of employees would not be counted towards CSR expenditure. Designing, implementation, monitoring, and evaluation is part of CSR project cost and it would not be considered as administrative cost / overheads.

Hence, 'general management and administration' costs related to the CSR function of the company is administrative cost, whereas cost spent on the implementation of a CSR project would form part of that particular CSR Project.

The intent behind keeping a cap on the administrative expenses is that there should be minimum of 95% of the funds allocated towards cost of the project excluding administrative expenses, be it at the company level or at the Implementing Agency level. Thus, the view is that the limit of 5% administrative overheads should be applicable for expenses incurred at company level as well as at the level of the Implementing Agencies.

### Creation of Capital Assets

As per rule 7(4) of CSR Rules, CSR expenditure may be incurred by companies for creation or acquisition of a capital asset. However, such capital asset shall be held by-

- (a) a company established under section 8 of the Act, or a registered public trust or registered society, having charitable objects and CSR registration number under rule 4(2) of CSR Rules; or
- (b) beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or
- (c) a public authority.

The proviso to rule 7(4) of CSR Rules states that any capital asset created by a company prior to the commencement of the Companies (CSR Policy) Amendment Rules, 2021, (i.e., prior to 22<sup>nd</sup> January 2021) shall, within a period of 180 days from such commencement (i.e. within 180 days from 22<sup>nd</sup> January 2021, i.e., by 21<sup>st</sup> July, 2021) comply with the requirement of this rule, which may be extended by a further

period of not more than ninety days (i.e., up to 19<sup>th</sup> October 2021) with the approval of the Board based on reasonable justification.

In this particular proviso to rule 7(4) of the CSR Rules, it has been expressly mentioned that the requirement to comply with the newly inserted rule 7(4) shall apply even in respect of such capital assets which were created by companies as part of CSR projects, prior to the commencement of the rule 7(4), and a specific transitional timeline has also been provided.

While complying with rule 7(4) of CSR Rules, relevant provisions of Income Tax/ GST / Stamp Act/ Registration or other applicable laws should be complied with.

**What is meant by 'registered public trusts' in such states where registration is not mandatory?**

Registered public trust (as referred to in rule 4(1) of the Companies (CSR Policy) Rules, 2014) would include trusts registered under the Income Tax Act, 1961 in respect of those states where registration of public trusts is not mandatory.

### CSR Monitoring

The word “monitor” is derived from the Latin word meaning to ‘warn’. Monitoring is a process of measuring, recording, collecting, processing and communicating information to assist project management decision-making. Monitoring system is an information system for management decision making. It is a continuous activity for the CSR department. Monitoring begins with the start of a project and ends with the completion of the project. It is a continuous process during the implementation of project.

Monitoring of CSR projects goes concurrently with implementation and it is an integral part of the CSR activity. Monitoring is essential to assess if the progress is on expected lines in terms of timelines, budgetary expenditure and achievement of milestones. In terms of rule 4(5) of CSR Rules, the Board of a company shall satisfy itself that the funds so disbursed by it for carrying out CSR implementation have been utilised for the purposes and in the manner as approved by it.

Also, in case of on-going projects, rule 4(6) of CSR Rules says that the Board of a company shall monitor the implementation of the project with reference to the approved timelines and year-wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.

Hence, the CSR Committee and the Board should be apprised periodically of the progress of all CSR activities undertaken.

Periodic progress report on CSR activities of the company should be placed before the CSR committee and the Board. On the basis of such reports, the CSR committee and / or the Board may recommend appropriate actions for course corrections, if need be.

To ensure that the funds are utilized prudently for the intended purpose, the company should place appropriate checks on the utilization of funds. The funds should be released in a phased manner, upon full satisfaction of the utilization of funds previously given.

Other modalities of utilization of funds and implementation schedules for the projects or programmes and manner of execution of the same are expected to be prescribed in the annual action plan prepared under rule 5(2) of CSR Rules. The Board also needs to prescribe, in the CSR Policy, such parameters by way of guiding principles for selection, implementation and monitoring of activities as well as formulation of annual action plan.



**Example:***Tata Chemicals Limited -CSR Monitoring*

The Board of Directors have constituted a Corporate Social Responsibility (CSR) Committee of the Board which formulates and recommends to the Board the CSR policy and the annual action plan.

The CSR committee to monitor the progress of the annual action plan and the multi-year programs, their manner of execution, modalities of utilization of funds and implementation schedules along with details of need and impact assessment for projects as required.

The funds to be disbursed shall be utilised for the purposes and in the manner as approved by the Board. The Chief Financial Officer or the person responsible for financial management shall issue the certificate to the Board every year certifying that the funds disbursed are utilized for the purpose and in the manner as approved by the Board.

The Management Review Committee of the Company will receive quarterly progress reports of all CSR activities of the Company. Implementation of this policy will be monitored and reviewed periodically through a three tier structure comprising: CSR committee of the Board, Management Review Committee and CSR teams at the corporate offices and manufacturing plants. The monitoring process will cover both programme and financial reviews.

*Mahindra & Mahindra Financial Services Limited: Monitoring process of CSR Interventions*

- To ensure effective implementation of the CSR intervention, a monitoring mechanism has been established by the CSR Implementation Secretariat to maintain a regular connect with the implementing partner and take corrective actions at the right time.
- The implementing partners will report on a quarterly basis the progress of the project activities, the utilization of funds disbursed and plans for sustainability of the project.
- The CSR Committee will monitor and review on a regular basis or as and when required, the progress of CSR initiatives undertaken.
- The fund utilization made in projects as approved by the Board, will be certified by the Chief Financial Officer of the Company.
- Applicable projects, as required by the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, shall be subjected to an in depth impact study to assess the impact created through the project.
- In case of deviation in implementation as defined in the annual action plan, such changes will be approved by the CSR Committee and the Board of Directors of the Company.
- In order to ensure transparency and communication with all stakeholders, the CSR Policy and the list of approved projects will be uploaded on the Company's website and made available in the public domain.

**CFO Certification**

Rule 4(5) of CSR Rules says that the Chief Financial Officer (CFO) or the person responsible for financial management shall certify to the Board to the effect that the funds disbursed by the Board for CSR implementation have been utilised for the purposes and in the manner as approved by the Board.

It may be noted that the CSR responsibilities of the Board and CSR committee cannot be assigned to Trust / Trustees. Hence, even if the company has formed a Trust for undertaking CSR activities, the ultimate responsibility for such CSR activities would always be on the company. Hence, CFO certificate would also be needed in such cases.

It may be noted that the CSR responsibilities of the Board and CSR committee cannot be assigned to Trust /

Trustees. Hence, even if the company has formed a Trust for undertaking CSR activities, the ultimate responsibility for such CSR activities would always be on the company. Hence, CFO certificate would also be needed in such cases.

### Delivery Mechanism

CSR activities/projects/programs shall be undertaken by the company itself or-

- a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, established by the company, either singly or along with any other company; or
- a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or
- any entity established under an Act of Parliament or a State legislature;
- Company own Foundation”, a charitable trust: with an objective to serve the society that takes up projects and programmes addressing domains of socio- economic concerns;
- Company encourage volunteering by its employees and their family members for initiatives in Community.

As far as possible every effort is made to ensure that approved CSR activities are implemented within the specified schedule.

### CSR Assessment

When the board of directors and top management or owners do not have an accurate snapshot of how far the company is down the CSR road, it is unlikely they will be able to make informed decisions about moving ahead. Front-end intelligence gathering in the form of a CSR assessment can save a company from launching an ineffective CSR approach or heading in a direction that is not sustainable in business terms. An assessment can also help identify CSR gaps and opportunities and thereby improve business decision making. Importantly, too, it can act as a reminder of existing legal requirements. A proper CSR assessment should provide an understanding of the following:

- the company’s values and ethics;
- the internal and external drivers motivating the firm to undertake a more systematic approach to CSR;
- the key CSR issues that are affecting or could affect the firm;
- the key stakeholders who need to be engaged, and their concerns;
- the current corporate decision making structure and its strengths and inadequacies in terms of implementing a more integrated CSR approach;
- the human resource and budgetary implications of such an approach; and
- existing CSR-related initiatives.

The CSR assessment generates a base of information the firm can use to develop a CSR strategy. A CSR strategy is a road map for moving ahead on CSR issues. It sets the firm’s direction and scope over the long term with regard to CSR, allowing the firm to be successful by using its resources within its unique environment to meet market needs and fulfill stakeholder expectations. A good CSR strategy identifies the following:

- overall direction for where the firm wants to take its CSR work;

- the stakeholders and their perspectives and interests;
- a basic approach for moving ahead;
- specific priority areas;
- a time line for action, responsible staff, and immediate next steps; and
- a process for reviewing and assuring outcomes. Different firms may be at different stages of awareness of and work on CSR, which will dictate the contents of the strategy. Some may decide to adopt a “minimum necessary” stance. Others may wish to make strategic forays into particular areas.

## Monitoring & Evaluation

An evaluation tracks the overall progress of a company’s CSR approach and forms the basis for improvement and modification. With the information derived from verification and reporting, a company is in a good position to rethink its current approaches and make adjustments.

Evaluation is all about learning. Learning organizations are those whose existence is based on continuous receipt and review of new information and adaptation for sustainable advantage. They do not simply attempt to achieve objectives; they are constantly on the alert to adapt to changing circumstances or to find ways for improving their approaches. An evaluation should involve stakeholder engagement, including comments and suggestions from management, CSR coordinators, managers and committees, employees and outside stakeholders.

The art of business has analogies to sailing. It is about setting a course, steering to make best use of the prevailing winds, and constantly checking to see if the sails need to be adjusted. In similar fashion, an evaluation allows a company to see whether it is on course, and what it needs to do to be more effective. It enables the company to:

- determine what is working well, why and how to ensure that it continues to do so;
- investigate what is not working well and why not, to explore the barriers to success and what can be changed to overcome the barriers;
- assess what competitors and others in the sector are doing and have achieved; and
- revisit original goals and make new ones as necessary.

This base of information should allow the company to determine whether the current CSR approach is achieving its objectives and whether the implementation approach and overall strategy are correct.

An evaluation not only helps identify valuable information about process and performance, it also helps identify internal partners, and can help develop more “joined-up” management. How to do an evaluation.

Drawing on the CSR objectives and indicators, and the information obtained through the verification and reporting process, company should consider and respond to the following questions:

- What worked well? In what areas did the company meet or exceed targets?
- Why did it work well? Were there factors within or outside the firm that helped it meet its targets?
- What did not work well? In what areas did the company not meet its targets?
- Why were these areas problematic? Were there factors within or outside the company that made the process more difficult or created obstacles?
- What did the company learn from this experience? What should continue and what should be done differently?

- Drawing on this knowledge, and information concerning new trends, what are the CSR priorities for the company in the coming year? and
- Are there new CSR objectives?

It may be noted that:

1. The Monitoring and Review may be done at station and corporate level. Station level shall do local reviews, disseminate MIS and generate exception report. Review of company-wide CSR and budget utilization shall be done at corporate level.
2. Effectiveness of CSR programme may be assessed through both internal and external evaluation.
3. Progress may be measured against the findings of a need-assessment / baseline survey (conducted prior to start of the project), wherever required.
4. Periodical audits may be carried out to verify effectiveness of implementation.
5. Impact Assessment shall be undertaken, through an independent agency.

**Example:**

***Tata Power Trading Company Ltd. - Monitoring, Review and Evaluation***

There are 3 levels of Monitoring and Review undertaken for CSR Initiatives: -

**Level 1:** Local reviews; dissemination of MIS and exception reports by Execution teams and by the Corporate Social Responsibility team respectively.

**Level 2:** Senior Leaders review on the progress, effectiveness; action plans and support required.

**Level 3:** Board committee on CSR Review on quarterly basis.

There are two kinds of evaluation undertaken: -

- *Internal Evaluation* - CR Team using Community Engagement Index and other tools on annual basis to assess the outcome.
- *External Evaluation* - It is also undertaken with reputed academic institutions/industry association/consultant/market research agencies once in 3 years to assess the overall impact on community.

Besides evaluation, the basis for engaging with community is, undertaking thorough socio-economic baselines studies to assess the community needs and priorities and align the community development programs, to meet the objectives. All divisions have to undertake baseline studies prior to developing programs and implementing programs within a defined geography in vicinity of operations (5-10 kms radius) in a phased manner.

*Note- CSR Committee from time to time will further apprise the Tata Power Trading Board.*

***State Bank of India-Monitoring and Evaluation***

*Monitoring*

- CSR Department at Corporate Centre should be in close touch with the Circles for ensuring proper use of donations.
- Circles must report their spends on Monthly basis to CSR Department at Corporate Centre.
- Donations sanctioned within the discretionary powers of CGM of the Circle as per delegation of powers should be submitted to Corporate Centre for control purpose.
- Projects under SBI Foundations are subject to audit by the CAG.

*Evaluation*

- Random checking of assets / scrutinizing documents & assessment of impact by the Circle/ Corporate Centre functionaries.
- For bigger projects, impact assessment may be done by the independent agencies.
- Bank shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.
- The impact assessment reports shall be placed before the Board and shall be annexed to the annual review on CSR.
- For impact assessment bank may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less.

**Display of CSR Activities on Website**

As per rule 9 of CSR Rules, the Board of Directors of the company shall mandatorily disclose the composition of the CSR Committee, the CSR Policy and projects approved by the Board on website of the company, if any, for public access.

**Leveraging Technology & IT Tools**

Technology has played a huge role in transforming every walk of our lives. Be it our learning, entertainment, communication, or the way we work and operate. Businesses have become efficient, smart, fast, and more profitable with the strategic implementation of technological innovations into their processes. While organizations continue to leverage technology to enhance productivity, it is crucial for them to understand that business objectives and social responsibility are the two sides of the same coin. Corporates across the world realize the direct impact of social responsibilities on their business performance. For this relationship to further strengthen, organizations need to proactively embrace CSR technology to elevate their CSR programme. Technology can contribute to increasing the effectiveness of social service delivery, enabling it to be more responsive to the needs of the communities that it serves. There is a huge potential for technology in strategizing, planning, managing, and reporting a company's CSR (corporate social responsibility) programs, thereby propelling the journey towards greater impact. For companies who wish to break away from the traditional way of doing and managing CSR programs, technology is going to be the game changer in the long run.

Technology can help them build a platform to induce transparency, effective monitoring, and accountability in the CSR ecosystem. Every step in the process can be optimized to ensure successful program execution. Technology can be seamlessly incorporated into each step that is critical in a company's CSR lifecycle.

Information technology (IT) is an effective enabler for all sorts of business strategies, so it comes as no surprise that IT is useful for implementing a firm's CSR initiative. There are many technological practices available that are targeted at improving the impact of CSR. Technology remains the basic driver of societal development, but growing social expectations place new demands on technology developers of responsible and sustainable technologies that could adequately support the solution of social issues in modern society.

Technology can help businesses to adopt a more coherent and integrated reporting framework. Through technology, companies are better placed to include detailed data on their supply chains and regional operations, providing a more comprehensive picture of their corporate sustainability and compliance. Consequently, technology allows businesses to explore and benefit from the interconnections between organizational strategy, governance, and economic performance.

For example, Google is using its technology to tackle education inequality worldwide. The company has supported the creation of an open-source platform that translates books into local languages spoken in smaller communities around the world. Therefore, investors want to be associated with companies that have a long-term strategy to sustainably operate and maintain harmonious relationships with their stakeholders.

There is a huge potential for technology in strategizing, planning, managing, and reporting CSR programs. It has the potential to impose great impact. For companies looking to break away from the traditional way of doing and managing CSR, technology is regarded as a game-changer in the long run. These plans and strategies have the rationale for choosing the causes to support, beneficiaries, and locations to focus on and modalities of monitoring and reporting based on their previous learning and data analytics.

Technology could play a bigger role in enhancing CSR since tech platforms can bring greater transparency by bringing all the relevant stakeholders on one plane. Technology can help in prioritizing CSR expenditure by aligning them with the needs on the ground and helping choose the right partners at the planning stage. Additionally, CSR strong planning is a very important step that can be done by introducing various tech platforms. Tech based monitoring of CSR programs provides eyes on the ground and direct access to beneficiaries which paper-based monitoring cannot. CSR and Innovation are the foundation of business competencies. These two elements help companies to create value and new ways of operations that may be more efficient in resource utilization and will benefit the company in the long term.

For example, Mahindra Group uses MGrant as a centralised IT-enabled platform for all Mahindra Group CSR projects. It is used to manage budgets, grant management procedures, gather real-time project data from NGOs, and compile last mile impact across projects and locations. Through an end-to-end solution that would consolidate all workflows and crucial operations in managing a CSR project onto a single platform, the Integrated IT System for CSR has digitalized the entire CSR Lifecycle.

### **National CSR Data Portal**

The National Corporate Social Responsibility Data Portal is an initiative by Ministry of Corporate Affairs, Government of India to establish a platform to disseminate Corporate Social Responsibility related data and information filed by the companies registered with it.

The Corporate Social Responsibility concept in India is governed by Section 135 of the Companies Act, 2013 ('Act'), Schedule VII of the Act and Companies (CSR Policy) Rules, 2014 wherein the criteria has been provided for assessing the CSR eligibility of a company, Implementation and Reporting of their CSR Policies. India having the most elaborated CSR mechanism and implementation strategy has started its journey to set a benchmark in attaining sustainability goals and stakeholder activism in nation building.

The CSR ambit is getting bigger and for upcoming years it would turn as a unique knowledge base for analyzing and achieving sustainability goals as among various large economies. India is a country which has assured by mandating CSR through its legislative action.

### **National CSR Exchange Portal**

National CSR Exchange Portal launched in 2022. National CSR Exchange Portal is an initiative by Ministry of Corporate Affairs, Government of India to establish an interactive platform for CSR Stakeholders. The National CSR Exchange Portal shall serve as an e-marketplace hosting PAN India social welfare projects where stakeholders such as Implementing agencies can put up its ongoing projects and companies can select projects for CSR Spending as per their preferences and vice versa.

The Exchange Portal has been developed on the basis of recommendations of High Level Committee on Corporate Social Responsibility 2018. An Advisory cum Technical Committee was formed for the development of the portal. The Committee was represented by different CSR Stakeholders – CSR Practitioners, Technical

Experts and Civil Society Organizations. The Committee apprised of BSE Sammaan which was an initiative of MCA Think Tank: Indian Institute of Corporate Affairs, Confederation of Indian Industry and Bombay Stock Exchange which offered similar functionalities as envisaged for National CSR Exchange Portal.

Social development is not a core expertise for most Corporates, most of the companies choose an implementing agency for executing projects. One of the recurring issues for companies to carry out CSR activities has been the identification of suitable Implementing Agencies (IAs). This Exchange Portal will help Corporates identify suitable Implementing Agencies for successful implementation of their CSR Projects reducing their transaction cost.

National CSR Exchange Portal also helps overcoming a common challenge cited by Corporates for failing to fulfil their CSR obligations “inability to find suitable projects” based on their CSR Policy. CSR Exchange Portal resolves this issue by providing a platform to view projects proposed by various implementing agencies (IAs). It will allow them to list their CSR projects for raising funds from corporates.

There are a large number of Non-Government Agencies (NGOs) that are scouting for funds for their projects that could fit in the domain of CSR. National CSR Exchange Portal will help in connecting the Corporates and Implementing Agencies to work for the betterment of the country.

#### LESSON ROUND-UP

- CSR is vital for the community, but it is also important for businesses. Employees and organizations can form a stronger bond through CSR initiatives, which can enhance morale and make both employees and employers feel more connected to the world around them.
- Rule 4 of The Companies (Corporate Social Responsibility Policy) Rules, 2014 provides for the implementation of CSR entity activities.
- Identifying an appropriate Implementing Agency for undertaking CSR activities is an important task as the proper utilization of funds allocated depends on how capable the Implementing Agency is.
- As per explanation to section 135(5) of the Act, “net profit” shall be calculated in accordance with the provisions of section 198 of the Act after making the adjustments referred to in rule 2(h) of CSR Rules.
- Ongoing Project” means a multi-year project undertaken by a company in fulfillment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the Board based on reasonable justification.
- In any financial year, if a company is unable to spend the earmarked amount for CSR activities during that particular financial year itself, the reasons for non-spending of CSR amount needs to be mentioned in Board’s Report prepared under section 134 of the Act.
- If the company spends an amount in excess of the requirements, such company may set off such excess amount spent against the requirement to spend for such number of succeeding financial years and in such manner, as may be prescribed.
- Rule 4(5) of CSR Rules says that the Chief Financial Officer (CFO) or the person responsible for financial management shall certify to the Board to the effect that the funds disbursed by the Board for CSR implementation have been utilised for the purposes and in the manner as approved by the Board.

- Technology has played a huge role in transforming every walk of our lives. Be it our learning, entertainment, communication, or the way we work and operate. Businesses have become efficient, smart, fast, and more profitable with the strategic implementation of technological innovations into their processes.
- The National Corporate Social Responsibility Data Portal is an initiative by Ministry of Corporate Affairs, Government of India to establish a platform to disseminate Corporate Social Responsibility related data and information filed by the companies registered with it.
- National CSR Exchange Portal launched in 2022. National CSR Exchange Portal is an initiative by Ministry of Corporate Affairs, Government of India to establish an interactive platform for CSR Stakeholders. The National CSR Exchange Portal shall serve as an e-marketplace hosting PAN India social welfare projects where stakeholders such as Implementing agencies can put up its ongoing projects and companies can select projects for CSR Spending as per their preferences and vice versa.

### TEST YOURSELF

*(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation.)*

1. Monitoring of CSR projects goes concurrently with implementation and it is an integral part of the CSR activity. Comment.
2. How the 'Net Profit' is required to be calculated as per these CSR Rules?
3. If a company has not completed the period of three financial years since incorporation, is it required to comply with the CSR provisions?
4. What are the broad methods by which CSR projects can be implemented by a company?
5. What are the disclosure requirements at the website of the company?

### REFERENCES

- Guidance Note on Corporate Social Responsibility-The ICSI
- Companies Act, 2013-Bare Act
- [csr.gov.in](http://csr.gov.in)
- [mca.gov.in](http://mca.gov.in)

*Reference: Corporate Social Responsibility: An Implementation Guide for Business ISBN 978-1-895536-97-3 Paul Hohnen, Author Jason Potts, Editor This document is available at [http://www.iisd.org/pdf/2007/csr\\_guide.pdf](http://www.iisd.org/pdf/2007/csr_guide.pdf)*





### KEY CONCEPTS

- Social Impact Assessment ■ Impact of CSR Projects over Society ■ Techniques to Assess Social Impact
- International Perspective ■ CSR Audit

### Learning Objectives

#### To understand:

- What is Social Impact Assessment
- Importance of Social Impact Assessment
- How Social Impact Assessment would help corporates to plan their CSR Activities
- Relationship between CSR & its impact on society as a whole
- Techniques & tools of Social Impact Assessment
- Essential of CSR Audit

### Lesson Outline

- Social Impact Assessment
- Requirement of Social Impact Assessment is required
- How Social Impact Assessment being performed
- Tools & Techniques of Social Impact Assessment
- CSR Audit: Concept & Eligibility
- CSR: Accounting and Taxation Aspects
- Lesson Round-Up
- Test Yourself
- References

**INTRODUCTION**

As per the United Nations Organisation, Impact implies changes in people’s lives. This might include change in their knowledge, skills, behavior, the way health & education conditions of are changing across community. Such changes may be negative or positive, small or huge in quantum, it can be either long term or short term and may be identifiable or non-identifiable. These changes can be economic, socio-culture, institutional, environmental or of any other type.

*Illustrative list of possible impacts:*

<b>Social/Cultural</b>	<b>Economic</b>	<b>Public Infrastructure and services</b>
<ul style="list-style-type: none"> <li>● Break-up of community cohesion</li> <li>● Disintegration of social support systems</li> <li>● Disruption of women’s economic activities</li> <li>● Loss of time-honoured sacred places of worship</li> <li>● Loss of archeological sites and other cultural property</li> </ul>	<ul style="list-style-type: none"> <li>● Loss of agricultural lands, tress, wells</li> <li>● Loss of dwellings and other farm buildings</li> <li>● Loss of access to common property resources</li> <li>● Loss of shops, commercial buildings</li> <li>● Loss of businesses/jobs</li> <li>● Overall reduction in income due to above losses</li> </ul>	<ul style="list-style-type: none"> <li>● Government office buildings</li> <li>● School buildings</li> <li>● Hospitals</li> <li>● Roads</li> <li>● Street lighting</li> </ul>

**Social Impact Assessment**

As per International Institute of Sustainable Development, “A Social Impact Assessment is a process of research, planning and the management of social change or consequences (positive and negative, intended and unintended) arising from policies, plans, developments and projects”.

In other words, Social Impact refers to net effect of the proposed project on stakeholders. This may include impact on community as whole or on individuals or upon a single families or set of families, organisations or industries as a whole.

The net effect of any project upon people’s life would termed as Social Impact and detailed assessment of such impact upon lives of community or individual would help the originator of CSR projects to plan and execute such projects more properly.

Examples of Social Impact includes:

- People’s way of life – that is, how they live, work, play and interact with one another on a day-to-day basis.
- Their culture – that is, their shared beliefs, customs, values and language or dialect.
- Their community – its cohesion, stability, character, services and facilities.
- Their political systems – the extent to which people are able to participate in decisions that affect their lives, the level of democratization that is taking place, and the resources provided for this purpose.
- Their health and well-being – health is a state of complete physical, mental, social and spiritual well-being and not merely the absence of disease or infirmity.

From above listed examples it is quite clear that social impact assessment should not only assess the impact of projects on lives of people but also should carve out the impact on natural resources, environmental impact and interactions between such environmental factors.

*For Example: if the planned project impacts the availability of water and land for local food production it also leads to social impacts, such as increases in food prices, the need to travel longer distances to buy and/or grow food.*

#### **What is the objective of providing impact assessment of CSR activities?**

The purpose of impact assessment is to assess the social impact of a particular CSR project. The intent is to encourage companies to take considered decisions before deploying CSR amounts and assess the impact of their CSR spending. This not only serves as feedback for companies to plan and allocate resources better but shall also deepen the impact of CSR.

#### **Whether companies are required to undertake impact assessment for FY 2020-21?**

The provisions for impact assessment have come into effect from 22nd January, 2021. Accordingly, the company is required to undertake impact assessment of the CSR projects completed on or after January 22, 2021. However, as a good practice the Board may undertake impact assessment of completed projects of previous financial years.

#### **Who can conduct impact assessment?**

Rule 8(3) of the Companies (CSR Policy) Rules, 2014 requires that the impact assessment be conducted by an independent agency. The Board has the prerogative to decide on the eligibility criteria for selection of the independent agency for impact assessment.

#### **Whether impact assessment reports of all the CSR projects shall be annexed to the annual report on CSR?**

Rule 8(3)(b) of the Companies (CSR Policy) Rules, 2014 provides that impact assessment reports shall be placed before the Board and shall be annexed to the report on CSR. It is clarified that web-link to access the complete impact assessment reports and providing executive summary of the impact assessment reports in the annual report on CSR, shall be considered as sufficient compliance of the said rule.

### **Social Impact Assessment and Indian Legislative Framework:**

As per the Companies (Amendment) Act, 2020 and Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 Companies (CSR Policy) Amendment Rules, 2021:

- a. Every company having average CSR obligation of INR 10 Cr. or more in the 3 immediately preceding financial years, shall undertake impact assessment of their CSR projects having outlays of INR 1 Cr. or more, through an independent agency.
- b. At least 1 year shall be passed away of completion of such CSR project while undertaking the impact study.
- c. The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR

The rules as amended are applicable with effect from 22/1/2022.

## Importance of Social Impact Assessment

Following are the importance of Social Impact Assessment:

- **To drive answerability:** Arranging funding from donors is a task in itself and when an organization arranges such fund, the donors make it usually compulsory to report back on how the funds are being utilized and what is the progress of the project wherein such funds are spent. In such situation organizations might have predetermined targets with them such as the number of people the project will reach within a given time and it will be quintessential to monitor project regularly to collect this information.
- **To secure future funding:** Social impact of organisation will affect the decision of funding bodies of further & continuing funding as they will want to observe the concrete evidence of organisation's project's impact upon target stakeholder. Ongoing monitoring and evaluating can provide evidence of what a project has achieved and what might be achieved as project implementation continues in the future.
- **To check the project's progress against the planned:** Loosing the sight of original aims for implemented project is easy in current scenario and monitoring the same on monthly, quarterly, half-yearly or yearly basis can prevent such situation and will lead to be concentrated on original aims as were specified during planning stage. A social impact assessment process also helps keep an eye on whether timelines & budgets are being adhered to as stipulated.
- **To learn from experience:** Appropriate monitoring and evaluation of project means one can see what has worked well and what has not. Subsequently this information can be used to improve future projects or funding applications. Social impact assessment tools enable organisations to collect data that track successes and failures and helps to build strong data management systems.
- **To motivate staff and volunteers:** Showing the volunteers and staff real and concrete evidence of their impact, will make them feel great. Environmental and social impact assessment can also encourage them to continue working with the organisation and involve them in future endeavours of the change journey of the organisation.

*For different stakeholders, the importance of impact would mean different:*

<b>Corporate</b>	<ul style="list-style-type: none"> <li>● Social License to Operate</li> <li>● Brand Building</li> <li>● Attracting Good Human Resource</li> <li>● Compliances to Regulations</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>● Compliment the outcomes of development sector specific schemes</li> <li>● Providing better quality of life to citizen at last mile</li> <li>● Improvement in different indicators (SDGs, Niti Ayog ranking, etc.)</li> </ul>
<b>Community</b>	<ul style="list-style-type: none"> <li>● Sense of Pride</li> <li>● A vision for life</li> <li>● Higher Resilience</li> </ul>

## Process of Social Impact Assessment

In general, Social Impact Assessment calls for close collaboration with community members, as well as other stakeholders and experts.

Social Impact Assessment is a process for the identification, analysis, assessment, management and monitoring of the social impacts of a project, both positive and negative, long-term or short-term, identifiable or non-identifiable. The social impacts of a project are the direct and indirect impacts that affect people and their communities at all stages of the project lifecycle.

Social Impact Assessment must cover the following specific areas to identify impacts and mitigation measures:

- Community and stakeholder engagement
- Workforce management
- Housing and accommodation
- Local business and industry content
- Health and community well-being.

Social Impact Assessment (SIA) is a process that provides a framework for prioritizing, gathering, analyzing, and incorporating social information and participation into the design and delivery of developmental interventions. It ensures that development interventions are:

- Informed and take into account the key relevant social issues
- Incorporate a participation strategy for involving a wide range of stakeholders.

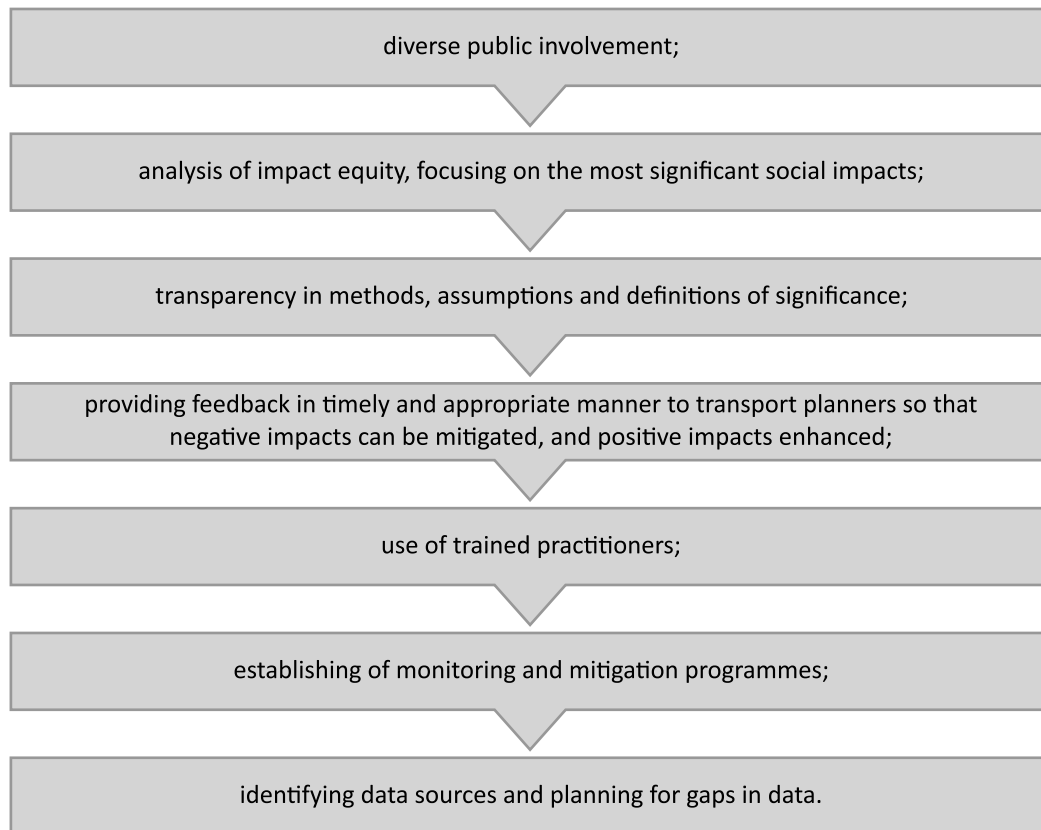
Social Impact Assessment process is an iterative, logical and cyclical process that helps to identify both direct and indirect impacts of proposed project while at the same time providing direction and guidance for policy decision making.

The process begins with the description of proposed project which presents the nature of proposed project, the scale of the project, project phasing, funding sources, expected profit, total number of jobs to be generated and site layout. This is followed by the scoping exercise which assesses the relevant social issues and uses it as the basis for the establishment of spatial and contextual boundaries for the proposed project.

The final stages of the process involves the establishment of baseline data based on present socio-economic characteristics, assessment and evaluation cumulative social effects, formulation of alternatives and development of mitigation plan and course of actions.

## Principles of Social Impact Assessment

The principles for social impact assessment were first developed by the Inter-organizational Committee on Principles and Guidelines for Social Impact Assessment (IOCPGSIA 1994). Basically, these principles are as follows:



- (1) *Involve the Diverse Public:* It is important to first identify all potentially affected groups and individuals, and involve them throughout the Social Impact Assessment (SIA) process. This involvement must reach out to groups that are routinely excluded from decision making due to cultural, linguistic, and economic barriers (lower caste and tribal groups, minorities and poor people). The involvement should be truly interactive, with communication flowing both ways between the agency and affected groups. This engagement will ensure that stakeholder groups understand what the project is about and the possible ways it might affect them, both positive and negative.
- (2) *Analyze Impact Equity:* Projects affect different groups differently. Impacts should therefore be specified differentially for affected groups, not just measured in the aggregate. Identification of all groups likely to be affected is central to the concept of impact equity. There will always be winners and losers because of the decision to build a dam or undertake some other development work. SIA should identify who will win and who will lose, but no groups and individuals that are considered vulnerable due to race, ethnicity, caste, gender, occupation, age, or other factors should have to bear the brunt of adverse social impacts.
- (3) *Focus the Assessment:* Often, time and resources available for doing social impact assessment are very limited. In such circumstances, the best course is to focus on the most significant social impacts, giving high priority to impacts identified by the people themselves. It is well known that some groups low in power do not usually participate in project preparation stage, but SIA must ensure that their concerns are fully addressed. At the same time, the role of SIA practitioners in impact analysis and assessment remains important. They have the expertise to help prioritize issues, and are able to identify impacts often missed out by the people themselves.

In addition to impacts on households, an accurate assessment of loss to the community assets also needs

to be carried out. This impact assessment should include the following: (a) Common property resources, (b) Public structures, (c) Cultural property, and (d) Infrastructure

- (4) *Identify Methods and Assumptions and Define Significance:* SIA should use easily understood methods and assumptions that are transparent and replicable. The methods and assumptions used in the SIA should be made publicly available. A summary should clearly describe the methods used, the assumptions made, and the significance of impacts determined. This will allow decision makers as well as affected people to evaluate the assessment process.
- (5) *Provide Feedback on Social Impacts to Project Planners:* The SIA findings are inputs for designing a project to mitigate negative impacts and enhance positive impacts. The project design process must ensure that all affected and interested persons get an opportunity to comment on the draft before it is given a final shape.
- (6) *Use SIA Practitioners:* Trained social scientists using social science research methods alone will get the best results. An experienced SIA practitioner will know what data to look for. His familiarity with impacts that have occurred elsewhere under similar settings will be an asset. It will be easier for him to identify the full range of impacts and then select procedures appropriate for their measurement. The presence of a social scientist in the interdisciplinary team will reduce the probability of any major social impact remaining uncounted.

It is extremely important that the SIA practitioner be an independent social scientist, not a part of the regulatory authority sponsoring the SIA study.

- (7) *Establish Monitoring and Mitigation Programmes:* The monitoring of important social impact variables and the mitigation programmes is critical to the SIA process. The monitoring and mitigation should be a joint responsibility of the project and the affected community.

A social impact assessment not only predicts the likely impacts, it should also identify means to mitigate those adverse impacts. Mitigation includes avoiding the impact by not undertaking the project; or undertaking it with a modified design that reduce the impact; or by compensating for unavoidable and/or irreducible impacts.

- (8) *Identify Data Sources:* Generally, SIAs draw on the following three sources of information: (a) Published scientific literature, (b) Secondary data sources including various government documents and official reports, and (c) Primary data from the affected area.

All these three sources are important, but not all projects may need them in equal measure. Some SIAs may require more primary data from the affected area than the published materials from journals or books, for example.

The SIA can usefully consult previously published social science books, journal articles that document knowledge of impacts and case studies from similar projects. The best secondary data sources include census, compendium of statistics, land records data, and several government planning and development reports.

Survey research, informant interviews, and participant observation are among the important primary data sources that can be used to verify data collected from other sources. Often, project area people are quite knowledgeable about the local socioeconomic situation and can provide a better understanding of the broader range of likely impacts.

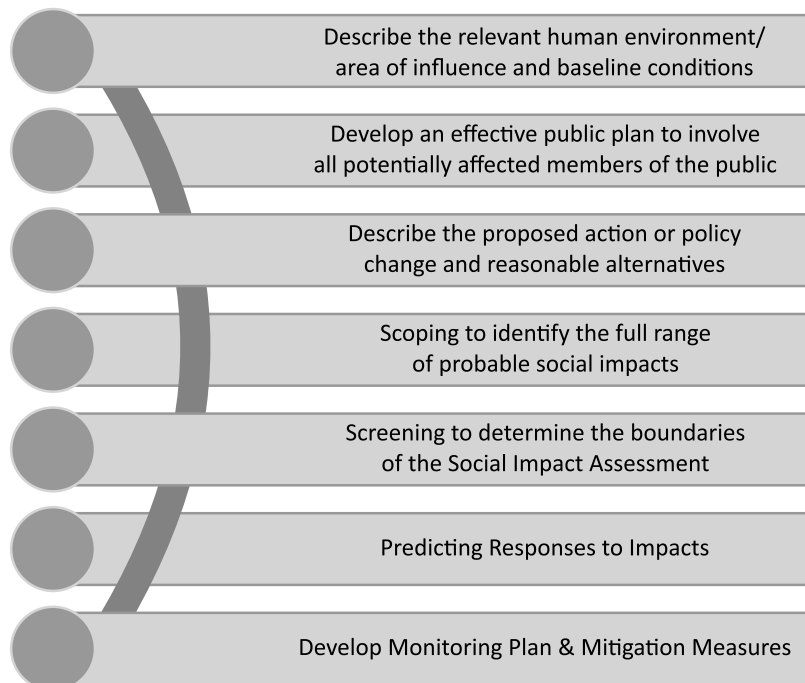
- (9) *Plan for Gaps in Data:* Often, data relevant and necessary to carry out an assessment is not available yet the SIA is to be carried out. In circumstances when information is incomplete or unavailable, it should be made abundantly clear that assessment has been made in the absence of relevant and necessary data, explaining why this could not be obtained.



**Social Impact Assessment (SIA) Process:**



**Stages in Social Impact Assessment**



The Social Impact Assessment must be carried out in the proposed affected areas taking into consideration the impact that the project will have on public and community properties, assets and infrastructure. In particular: roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of worship, land for traditional tribal institutions, burial and cremation grounds.

Subsequently, the Social Impact Assessment should describe all required infrastructural facilities and amenities in the resettlement area, specify clear timeframes within which the implementation of the rehabilitation package shall be accomplished and lay down an effective monitoring and grievance redressal mechanism. Where both Economic Impact Assessment (EIA) and Social Impact Assessment (SIA) are required, the public hearing carried out in the project affected area for EIA shall also cover issues related to SIA.

### Approaches & Methods

The impact assessment process is approached either as an information generating activity using principles of research design and scientific analysis or as a planning tool. The planning aspect of the process utilizes planning principles and procedures to determine an order of preference among a set of resource allocation choices and preference is based on explicit social norms that act as decision rules to compare and rank alternative choices, and to trade off environmental, economic, and social objectives.

The approach for conducting Social Impact Assessment resembles all other forms of policy analysis because it identifies, predicts and evaluates all costs and benefits caused directly or indirectly by certain proposed events but differs considerably from conventional forms of policy analysis such as cost-benefit or system analysis.

The cause-effect relationship is central in undertaking cumulative social impact assessments. The sources of the social impacts are identified by critically and participatorily assessing the multiple activities that will adversely or positively affect the society. Based on the identified sources, linkages are established and the cumulative social effects predicted and mitigation measures put in place to minimise the cost and optimise benefits of proposed project to be implemented.

The conduct of Social Impact Assessment is based on the collection of reliable data to help access public opinion, identify sources of effects, establish linkages between the various effects, predict and propose mitigation measures. The relevant data is collected and analysis is done through the use of tools like modelling, matrices expert opinion, community consultations, checklist, spatial analysis, carrying capacity, network and system analysis.

Consultation with the community as a whole is central to every Social Impact Assessment because it helps to gather the opinion of the public at a large or in small group on the proposed project and assess its potential effect on the public especially vulnerable groups. The maximization of community involvement in the Social Impact Assessment process is not just by consultation, but by directly involving locals in planning teams thus helping to reduce uncertainty; increasing the legitimacy of the Social Impact Assessment and enhancing the development project and effecting the implementation of the project.

The opinions of experts are also used at all the stages of the process as it helps guide the technical aspect of the process and offer policy directions. The entire process used to be dominated by the opinions of experts but the increasing realisation on the importance of community participation is reducing the role of the experts in Social Impact Assessment. The SIA was more technocratic in the sense that there was a strong, almost total focus on the

use of quantitative data, written information sources and expert observations. The process design, identification of relevant information and data analysis were largely seen as the domain of the expert social impact assessor.

### Tools of Social Impact Assessment

To perform Social Impact Assessment, certain tools are required and the organisations to choose the appropriate tool for conducting Social Impact Assessment which derive the results as desired.

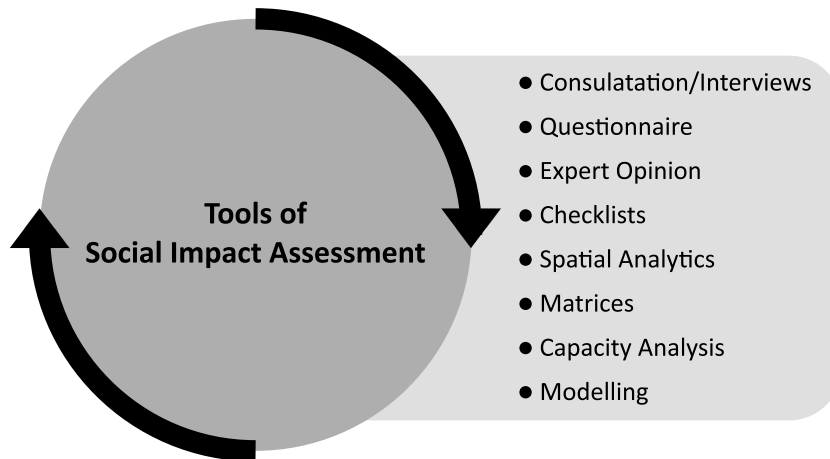
The tool to be utilised for conducting Social Impact Assessment should provide for

- baseline information about the social and economic conditions prevailing or existing in the project area;
- information on potential impacts of the project and the characteristic of the impacts, magnitude, distribution, and their duration upon the community and target stakeholders;
- information on who will be the affected group, positively or negatively;
- information on perceptions of the affected people about the project and its impact;
- information on potential mitigation measures to minimize the impact;
- information on institutional capacity to implement mitigation measures.

There are numerous tools and methodologies which may be used to harness citizen involvement and get the most from their input and feedback at all stages of the process. While choosing the appropriate tool for conducting Social Impact Assessment consideration should be given to composition, timing, location and format of stakeholder and citizen meetings and how 'harder to reach' groups such as economically disadvantaged, ethnic minorities, women and vulnerable groups will be involved so that they can share their experiences and provide input in Social Impact Assessment process and desired outputs can be carved out and execution & implementation of proposed project.

Some questions that should commonly be addressed in social impact assessment include the following:

- Who are the key stakeholders? What do they already know about the proposed project, its impact and the measures being contemplated to mitigate its negative impact?
- What are their interests? Are the objectives of the project consistent with their needs, interests, and capacities?
- What is the impact of the project on various stakeholders, and particularly on women and vulnerable groups?
- What social factors affect the ability of stakeholders to participate or benefit from the operations proposed? (gender, caste, ethnicity, or income level)
- What institutional arrangements are needed for participation and project delivery?
- What are the risks which might affect the success of the project? (lack of commitment or capacity, resource crunch, incompatibility with existing conditions)
- How does the project address needs of different stakeholders?
- Do any of these issues pose risks to overall project success and sustainability?



**Below is the brief of each tool of Social Impact Assessment:**

1. *Expert Opinion:* A means of both identifying and assessing indirect and cumulative impacts and impact interactions. Expert Panels can be formed to facilitate exchange of information of different aspects of the impacts of a project and such expert group may include employees from organisation, subject experts, group of people from target community and stakeholders. This may also incorporate experts who've conducted such expert surveys in past.

One of the major advantage of this tool of conducting Social Impact Assessment is that it can care out such impacts which can be considered as integral part of such assessment and can lead to more proper & effective execution and implementation of the proposed project.

However, finding appropriate subject expert who may proved to be vital for proposed project be difficult and certain cases, especially arranging for experts in remote areas might be difficult for organisations. Some specialists may remain remote from the main project which will not meet the exact target of expert opinion and this tool may not prove to be appropriate for conducting Social Impact Assessment.

2. *Consultation/Interviews:* Under this tool, the information is gathered from establishing direct communication with the target stakeholders and community. This may require channelling communication and recruitment to events through social media, in different languages, to various community groups, and holding events at times and locations accessible to local communities or groups to derive inputs from such target stakeholders and to utilise such input in planning & executing the proposed project.

Some of such activities may include:

- holding meetings in the evenings, or with babysitting so that parents with children can attend;
- holding consultation events in the community where there is a large and natural footfall, using accessible buildings and infrastructure;
- levelling the power balance through the use of language (avoiding or explaining jargon and acronyms) and material which is readily understandable and attractive, usage of native and simple language will make the job of surveyor easier and more data can be extracted from such interviews;
- using social media campaigns to raise awareness and buy-in of the consultation process.

3. *Questionnaires:* Under this tool, basic to advance level of questionnaire is prepared and circulated amongst the community or target beneficiaries of project in order to ascertain their lifestyle, prevailing

issues related to subject of proposed project, their expectations from the proposed project, risks associated & mitigations.

In other words, this tool of Social Impact Assessment is a means of gathering information about a wide range of actions, including those in the past, present and future which may influence the impacts of a project and ultimately the objective of project.

The questionnaire should be framed in such a way that:

- a. The questions should be simple and easy to understand and answer;
- b. The questions should be framed in such a manner that answers to it should be crisp & short rather than bulky or difficult to interpret;
- c. Basic of target stakeholders should be well captured in questionnaire.
- d. The questionnaire blended in such way that it consists of both “close-ended” or “open-ended”. “Close-ended” questions provide options to the respondents and require them to choose one or more items from the list. “Open-ended” questions allow the respondent to express their opinions freely and they are not restricted by the options.
- e. The questions in the questionnaire should be logically sequenced, keeping simple questions in beginning and moving to more complex questions.
- f. Avoidance of ambiguous questions should be practiced
- g. The language of questionnaire should be both English and native language (if any) so as to make people understand the meaning & intent of question easily and reliable as well appropriate answers could be driven.

One of the major disadvantage of questionnaire is it is prone to errors in form of framing wrong or inappropriate questions which will not fulfil the ultimate objective of conducting Social Impact Assessment. Also, questionnaire can be time consuming and contains risk of poor or no response.

4. *Checklists*: this tool of conducting Social Impact Assessment provides a systematic way of ensuring that all likely events resulting from a project are considered. In this tool, the Information is presented in a tabular format.

This is one of the most systematic tools of conducting Social Impact Assessment as it includes all the probable dos and don'ts of proposed project. Standard checklists can also be prepared for projects having similar nature.

One of the major disadvantage of using checklists as tool for conducting Social Impact Assessment is that it can allow oversight of important effects, further nature of “Cause – and – effect relation cannot be specified.

5. *Spatial Analysis*: This tool uses Geographical Information Systems (GIS) and overlay maps to identify where the cumulative impacts of a number of different actions may occur, and impact interactions. This can be commonly used in analysing the impact of projects related to sanitation, roads construction, water scarcity, farming related activities.

Advantages of Spatial Analysis:

- GIS is flexible and easy to use

- Can consider multiple projects simultaneously and their respective past, present and future activities
- Allows clear visual presentation.

Following are some major disadvantages of this tool:

- This tool can be expensive and at the same time more time consuming
- It will be difficult to quantify the impacts
- Problems may occur in updating overlays.

6. *Matrices*: This tool of conducting Social Impact Assessment is a more complex form of checklist. This tool can be used quantitatively and can evaluate impacts to some degree. It can be extended to consider the cumulative impacts of multiple actions on a resource.

Following are main advantages of this tool:

- a. Provides a good visual summary of impacts.
- b. Matrices can be weighted/ impacts ranked to assist in evaluation.

This tool can be complex and cumbersome to use and require expertise to use such tool for conducting Social Impact Assessment.

7. *Capacity Analysis*: This tool is based on the recognition that thresholds exist in the environment and projects can be assessed in relation to the carrying capacity or threshold determined, together with additional activities. Here, the capacity available in the environment with respect to natural resources the project is assessed.

Following are the broad advantages of Capacity Analysis:

- It addresses accumulation of impacts against thresholds
- This tool considers changing trends in the environment.

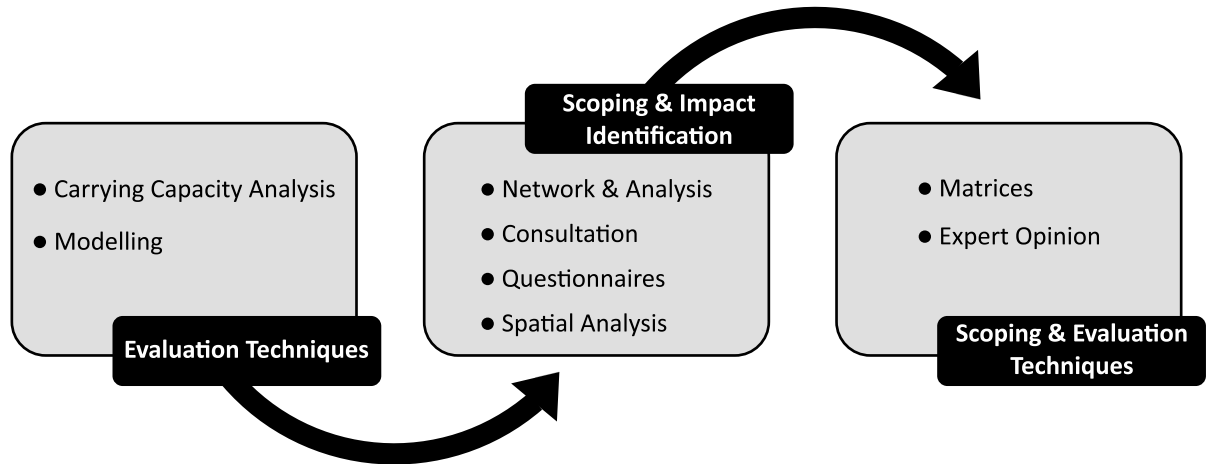
The data availability is limited which will create hindrance in deriving exact results of Social Impact Assessment. Further, this tool not always able to establish the threshold or carrying capacity for a particular resource or receptor as different project will have different set of resources to be accommodated.

8. *Modelling*: This is an analytical tool which enables the quantification of cause-and-effect relationships by simulating environmental conditions. Modelling offers mainly two advantages which are as follows:
- a. Quantifies cumulative effects
  - b. Geographical and time-frame boundaries are usually explicit.

However, this tool often requires large investment of time and resources, and it also depends on baseline data available.

The type of tool used for Social Impact Assessment depends on the stage of the process, type of data, availability and quality of data, time, financial and logistical resources. There are a number of factors which will influence the approach adopted for the assessment of indirect and cumulative impacts and impact interactions for a particular project and the method should be practical and suitable for the project.

**Stages of Social Impact Assessment and Required Tools**



The unpredictable nature of human behaviour and abstract nature of certain aspects of the social structure poses a great challenge to the development of social indicators thus necessitating the use of a mixed methods approach. Some aspects of social changes can be modelled with confidence, providing the basis for long-term predictions while other aspects such as economic growth and inflation for example, are more difficult to predict, despite the application of powerful models and the existence of good historical data, still others such as political and cultural change, are not tractable to modelling at all.

**CASE STUDY**

***Mackenzie Valley Environmental Impact Review Board Socio-Economic Impact Assessment***

This case study offered a different use of SIA as a pre-project assessment tool to a post project assessment tool thus giving community perspective on ways to improve the entire process and address some of the challenges discussed in this review (Mackenzie Valley Environmental Impact Review Board Socio-Economic Impact Assessment, 2005). The SIA was conducted by the Mackenzie Valley Environmental Impact Review Board in 2005 to assess the socioeconomic impacts of present and future projects. The Mackenzie Valley Review Board was established by the Mackenzie Valley Resource Management Act in 1998 as a co-management board responsible for the environmental impact assessment process in the Mackenzie Valley.

The impact assessment process involved an extensive stakeholder consultation to help examine changes in the human environment caused or accelerated by new developments. The assessment was undertaken by conducting over 50 meetings with approximately 550 people which took place in 13 different communities. The initial focus of the review project was not on a specific project but participants limited the scope of the impact review to the Mackenzie Gas Pipeline Project where the federal government of Canada has set aside \$500 million to deal with socio-economic impacts on communities (Mackenzie Valley Environmental Impact Review Board Socio-Economic Impact Assessment, 2005).

The goal was to interact with a wide range of stakeholders including those in the social, economic and cultural sectors. The stakeholders consulted include nurses, social workers, health and social services agencies, interagency committees, economic development officers, renewable resource committees, impact advisory groups, social and cultural institutes, land corporations, drug and alcohol counsellors, community leadership, elders and youth groups (Mackenzie Valley Environmental Impact Review Board Socio-Economic Impact Assessment, 2005).

The Review Board analysed the views of the community in two main areas which consisted of impact concerns and process needs. The impact concerns dealt with past, present and future social impacts of projects on communities while the process needs identified with how socioeconomic issues are considered during and after the impact assessment process.

### Format of Social Impact Assessment Report

Once a Social Impact Assessment has been completed, a formal Report with a brief Executive Summary should be prepared for submission to the authority which sponsored it.

The Social Impact Assessment report should be divided into several distinct sections, each section dealing with different aspects of the SIA process. Below are some contents to be incorporated in Social Impact Assessment Report:

1. *Introduction:* This section includes the purpose of the report. It describes its scope and how it is organized (provide brief outline of the contents of the report).
2. *Description of the Project:* Provide in this section brief details of the project, the objectives of the project, need for the project, the project location, the proposed schedule for implementation. Furnish a drawing showing the project layout, and its location.
3. *Methods in Identifying Project Impacts:* Describe the methods used in conducting the assessment, both quantitative and qualitative.
4. *Anticipated Project Impacts:* Describe project impacts on different groups, both positive and negative, as identified by the SIA.
5. *Affected Population:* This section contains details about the total affected population, such as male and female ratio, age profile, marital status, occupational structure, etc.
6. *Affected Vulnerable Groups:* Provide details regarding all vulnerable affected households, including scheduled castes/scheduled tribes/other backward classes, Women-headed households, squatters and encroachers, disabled and those unable to work, elderly and children without support, and the very poor.
7. *Inventory of Losses to Households:* This section contains full information on losses to both assets immovable as well immovable. These include land, houses, other structures, income and livelihood, and social networks.
8. *Losses to the Community:* Provide a complete list of community property affected by the project. This will include all public buildings, common property resource (such as pastures and rivers), cultural property (includes archaeological sites), and infrastructure (roads, bridges, and canals).
9. *Public Consultation and Disclosure:* This section will describe the process followed to involve the affected people and other stakeholders. It summarizes their comments and describes how these were addressed. Describe activities undertaken to share information.
10. *Findings and Recommendations:* This section will provide an overall assessment of impacts and make recommendations for further action based on the impact assessment, including abandonment of the project if in relation to the benefits the impacts are too severe to manage.
11. *Mitigation Plan:* If the recommendation is to mitigate the project impacts, provide details of an action plan for mitigation, including relocation and income and livelihood restoration plans.



**Content and Format: Social Impact Assessment**

Outline of a Social Impact Assessment Report

Executive Summary

Introduction

Description of the Project

Methods in Identifying Project Impacts

1. Land acquisition survey
2. Census
3. Socioeconomic survey and studies
4. Consultation with project area people

Anticipated Project Impacts

- a. Positive Impacts
- b. Adverse Impacts

Affected Population

Affected Vulnerable Groups

- Scheduled castes/scheduled tribes/other backward classes
- Women-headed households
- Squatters and encroachers
- Disabled and those unable to work
- Elderly and children without support
- The very poor

Inventory of Losses to Households

- Land
- Houses
- Other structures
- Income and livelihood
- Social networks

Losses to the Community

- Public buildings
- Common property resource
- Cultural property
- Infrastructure

Public Consultation and Disclosure

Findings and Recommendations

Mitigation Plan

- Relocation
- Income and livelihood restoration

**Whether reporting of CSR is mandatory in Board's Report? What are the disclosure requirements on the website of the company?**

Yes, as per rule 8(1) of the Companies (CSR Policy) Rules, 2014, the Board's Report pertaining to any financial year, for a CSR-eligible company, shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II of the said rules, as applicable.

As per rule 9, the Board of Directors of the company shall mandatorily disclose the following on their website, if any, for public access:

- (i) Composition of the CSR Committee;
- (ii) CSR Policy; and
- (iii) Projects approved by the Board.

**Whether all three types of entities – a company established under section 8 of the Act, or a registered public trust, or a registered society, are required to have income-tax registration u/s 12A as well as 80G of the Income Tax Act, 1961?**

Yes, as per rule 4(1) all three types of entities – a company established under section 8 of the Act, or a registered public trust, or a registered society are required to have income-tax registration u/s 12A as well as 80G of the Income Tax Act, 1961 to act as implementing agency, except for any entities established by Central or State Government.

**Can international organisations act as an implementing agency? What is the role of international organisations in the context of CSR?**

No, an international organisation cannot act as an implementing agency. Pursuant to rule 4(3) of the Companies (CSR Policy) Rules, 2014, a company can engage international organisations for the limited purposes of designing, monitoring, and evaluation of the CSR projects or programmes, or for capacity building of personnel of the company involved in CSR activities.

### CSR Audit

A corporate social audit is important because it can increase a company's responsibilities to the community. This assessment holds businesses accountable and ensures they only engage in practices that benefit stakeholders who aren't necessarily shareholders, like employees, customers and business partners.

A corporate social audit examines the following elements of a company:

- a. *Transparency with financial and accounting practices:* A corporate social audit can determine how transparent a company is with its financial and accounting practices. It ensures that all staff members report information accurately and that the company files its taxes according to state and federal regulations. It also ensures that the company shares as much financial information as possible with the public in the form of financial reports.
- b. *Transparency with product defects or other issues:* A corporate social audit reports if a company has been transparent with any issues in its products or other offerings. For example, imagine a consumer goods company unknowingly sold a laundry detergent that contained harmful phosphates. If the company recalled the product, issued a public apology, and distributed proper compensation after realizing the error, it may still receive a satisfactory audit because of its transparency.

- c. *Fair hiring practices and employee treatment:* A corporate social audit can also determine if a company participates in fair hiring practices. This can include hiring employees without discriminating against them because of their gender, race, sexuality, religion any other basis. It can also include making reasonable accommodations for potential employees with disabilities and giving them a fair chance to secure available positions.
- d. *Participation in charitable giving:* A corporate social audit assesses how much a company participates in charitable giving. The audit may evaluate what percentage of its profits it donates to worthy causes. It may also check to see if the company offers incentives for its employees to volunteer, like offering a paid day off of work to volunteer at a local food bank or another organization.

According to the Companies (Company Social Responsibilities Policy) Rules 2014, monitoring CSR activities and reporting on them are required. Additionally, it is the obligation of the Company (through the CSR Committee) to oversee the use of company money in accordance with its CSR Policy. There is no requirement to acquire a report of the contribution made when the company complies with its CSR requirements by only contributing that is specifically permitted by Schedule VII of the Act.

Wherever, the Company is complying with its CSR obligations by merely making contribution (donation) which is specifically allowed as per Schedule VII of the Act, there would not be any requirement of obtaining any report of such contribution made. However, where the CSR obligation is done through a third party as per sub-rule (2) of Rule 4 of the CSR Policy Rules, report of utilization of funds should be obtained from that third party's auditors by the Company's CSR Committee to have an effective CSR compliance of the monitoring and reporting requirements of the CSR Policy Rules.

### Responsibility of Auditors

Wherever a Company undertakes CSR activity itself, the auditor of the company should ensure that:

- The activity/ project undertaken is within the purview of Schedule VII of the Act.
- If mere contribution/donation is given, then the same is specifically allowed as per Schedule VII of the Act.
- Separate disclosure of expenditure on CSR activities is made as per Schedule III of the Act.
- The expenditure on the project is incurred as per Companies (CSR Policy) Rules 2014.
- The company has complied with applicable Accounting Standards in accounting, recognition and disclosure related to CSR spend.
- He has complied with relevant Standards on Auditing for audit of CSR spend including:
  - SA 250 - Consideration of Laws and Regulations in an Audit of Financial Statements.
  - SA 720 (Revised) - The Auditor's Responsibilities Relating to Other Information.

He has complied with the Guidance note on Audit of Expenses. Wherever a Company undertakes CSR activity through a Third Party being eligible Section 8 Company / Registered Trust / Registered Society, the company should obtain an Independent Practitioner's Report on Utilisation of such CSR Funds from the auditor / CA in practice of the third party, to whom the funds are given by the Company for implementing CSR activity. The auditor / CA in practice of the third party before issuing the Independent Practitioner's Report on Utilization of CSR Funds should ensure that:

The third party has spent the funds on CSR activities as per Section 135 of the Companies Act, 2013, read with Schedule VII to the Act and related regulations.

**Draft format of Independent Practitioner's Report on Utilization of CSR Funds**

To

The Governing Body of the Entity (Third Party) (Address of the Entity) Independent Practitioner's Report on Utilization of Funds by (Name of the third party/ NGO) for purposes of discharging the Corporate Social Responsibility requirements of (Name of the Company)

1. This Report is issued in accordance with the terms of our engagement letter dated (date).
2. The accompanying Statement contains the details of utilization of funds received from (name of the company from whom CSR amount has been received hereinafter referred as "the Company") by (name of the entity who received the amount hereinafter referred as "the entity") under XX Project (name of the Project under which the amount was received and hereinafter referred as "the Project") having its office at (address of the entity) for CSR activities pursuant to the requirements of spending on CSR activities by the Company as per Section 135 of the Companies Act 2013 (hereinafter referred as the Act) read with Schedule VII to the Act and has been initialled by us for identification purposes.

**Management's Responsibility**

3. The management of the entity is responsible for preparation of the accompanying Statement including the preparation and maintenance of all accounting and other relevant supporting records and documents. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the Statement and applying an appropriate basis of preparation; and making estimates that are reasonable in the circumstances.
4. The management is also responsible for ensuring that the [Project of] entity complies with the requirements specified by the Company at the time of providing the funds regarding end utilisation to meet the CSR requirements of the company and for providing all relevant information to the Company as agreed to between the Company and the entity spending on the Project on the activities specified in Schedule VII to the Act.

**Practitioner's Responsibility**

5. Pursuant to the requirements of statutory laws, it is our responsibility to provide reasonable assurance in the form of an opinion on the Statement based on our examination of the matters in the Statement with reference to the books of account and other records of the [Project of] entity, whether the details given in the Statement have been accurately extracted from the [audited / unaudited] financial statements of the [Project of] entity produced before us for examination and the activities for which amount was utilized by the [Project of] entity are covered under CSR activities as per Schedule VII to the Companies Act, 2013. We have performed following procedures in this regard
  - a) Traced and agreed the amounts in the attached Statement, to the [audited / unaudited] financial statements of the entity as at and for the year ended March 31, 20xx.
  - b) Checked whether the entity has incurred amounts on the Corporate Social Responsibility (CSR) activities specified in Schedule VII of the Companies Act, 2013.
  - c) Traced the amount spent on CSR activities from the bank statements / cash book of the entity.
  - d) Checked whether amounts spent on CSR activities have been adequately disclosed in the financial statements of the [Project of] the entity.
  - e) Obtained written representation from the management of the entity on the total amount unspent and their plan to disburse the unspent amount related to the project.
  - f) Tested the arithmetical and clerical accuracy of the Statement.

6. We audited the financial statements of the [Project] of the entity as of and for the financial year ended March 31, 20XX, on which we issued an unmodified audit opinion vide our reports dated ..... (specify date). Our audits of these financial statements were conducted in accordance with the Standards on Auditing and other applicable authoritative pronouncements issued by the Institute of Chartered Accountants of India. Those Standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

#### Opinion

7. Based on our examination as above, and the information and explanations given to us, in our opinion, the details given in the Statement have been accurately extracted from the audited financial statements of the [Project of] of the entity for the year ended [March 31, 20XX] produced before us for examination. We are also of the opinion that the activities for which amount was utilized by the [Project of] entity are covered under CSR activities as per Schedule VII to the Act.

#### Restriction on Use

8. This report is addressed to and provided to the governing body of the entity for the purpose of certifying the utilization of the funds by the [Project of] entity for CSR activities as envisaged by the CSR Committee of the Company, and should not be used by any other person or for any other purpose. Accordingly, we do not accept or assume any liability or any duty of care for any other purpose or to any other person to whom this report is shown or into whose hands it may come without our prior consent in writing.

For XYZ and Co. Chartered Accountants

Firm's Registration Number Signature

(Name of the Member Signing the Assurance Report)

(Designation)

Membership Number

UDIN

Place of Signature:-

Date:-

### CSR: Accounting and Taxation Aspects

CSR Applicability:

A company satisfying any of the following criteria during the immediately preceding financial year is required to comply with CSR provisions specified under section 135(1) of the Companies Act, 2013 read with the Companies (CSR Policy) Rules, 2014 made thereunder:

- (i) net worth of rupees five hundred crore or more, or
- (ii) turnover of rupees one thousand crore or more, or
- (iii) net profit of rupees five crore or more.

## CSR Accounting Aspects

### Definitions:

- a. *Net worth* – as per section 2(57) of Companies Act, 2013 “net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits, securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.
- b. *Financial Year* – as per section 2(41) of the Companies Act, 2013 “financial year”, in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up.

*How is average net profit calculated for the purpose of section 135 of the Act? Whether ‘profit before tax’ or ‘profit after tax’ is used for such computation?*

The average net profit for the purpose of determining the spending on CSR activities is to be computed in accordance with the provisions of section 198 of the Act and will also be exclusive of the items given under rule 2(1)(h) of the Companies (CSR Policy) Rules, 2014. Section 198 of the Act specifies certain additions/deletions (adjustments) to be made while calculating the net profit of a company (mainly it excludes capital payments/receipts, income tax, set-off of past losses).

Profit Before Tax (PBT) is used for computation of net profit under section 135 of the Act.

The major issues involved in accounting for CSR are as follows:

- General Recognition & Measurement criteria of CSR
- Spend Treatment of Unspent CSR Amount
- Treatment of Excess CSR Spent
- Measurement of CSR spend made in kind
- Treatment of Surplus arising out of CSR Activities
- Presentation & Disclosure Requirements.

## General Recognition & Measurement Criteria of CSR

### *Amount of spending*

The Company shall spend, in every financial year, at least 2% of the average net profits made during the immediately preceding three financial years.

### *Mode of Spending*

- List of programs and activities specified in Schedule VII of the Act, as amended
- Preference to the local area where it operates
- Programs and activities should be undertaken in India only
- Programs and activities should not be exclusively for employees & their families.

*Medium of Spending*

- a. Self
- b. Through a registered trust or a registered society or a company established under Section 8 of the Act by the Company, either singly or along with its Holding or Subsidiary or Associate Company, or along with any other Company or Holding or Subsidiary or Associate Company of such other Company or otherwise.
- c. Through a registered trust or a registered society or a Section 8 company not established by the Company, either singly or along with its Holding or Subsidiary or Associate Company, or along with any other Company or Holding or Subsidiary or Associate Company of such other Company, provided it shall have an established track record of 3 years in undertaking similar programs or activities.
- d. Collaboration or pool resources with other companies.

Any amount spent on CSR activities through option (b) or (c) is recognised as expense in Statement of Profit & Loss immediately when they are incurred.

When companies undertake CSR activities on their own [option (a) above], it is need to be checked the nature of expenditure i.e., whether the expenditure is of revenue nature or capital nature. If expenditure is of revenue nature then it is charged to Statement of Profit & Loss. On the other hand, if expenditure is of capital nature then verify whether the control of asset remains with the company or it has been transferred. If control of the asset has been transferred, then charge expense to Statement of Profit & Loss. However, if the company retains the control of the asset, examine whether any future economic benefits would accrue to the company. Since, as per Rule 6 of the Companies (CSR) Rules, 2014 any CSR Surplus cannot be included in business profits, therefore, amount needs to be taken to Statement of Profit & Loss in this case also.

CSR Expenses are measured at aggregate of amount actually spent/paid and amount for which contractual liability has been incurred (benefits received but payment not made as on date).

**What are the penal provisions for non- compliance with the provisions regarding transfer of unspent amount?**

The said non-compliance is a civil wrong and shall attract the following penalties:

- **Company** - Twice the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, as the case may be, or one crore rupees, whichever is less.
- **Every Officer in Default** - 1/10th of the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, or two lakh rupees, whichever is less.

**Is the penal provision in section 135(7) specific to non-transference of the unspent CSR amount? What are the penal provisions relating to non- compliance with provisions other than section 135(5) and 135(6) of the Act?**

Yes, section 135(7) clearly states the penalty for default in complying with the provisions of sub-section (5) or sub- section (6) only.

In case of non-compliance with any other provisions of the section or rules, the provisions of section 134(8) or general penalty under section 450 of the Act will be applicable. Further, in case of non-payment of penalty within the stipulated period, the provisions of section 454(8) will be applicable.

### Treatment of Unspent CSR Amount

The Board of Directors shall ensure that amount required to be spent on CSR is spent as intended. If the company fails to do so, then the unspent amount needs to be disclosed in Board's Report specifying the reasons for such failure. [2nd Proviso to section 135 (5)]

Also, the Board Report shall include Annual Report on CSR. (Rule 8)

Further, no provision is required to be made for unspent amount of CSR and only a disclosure is required to be made. However, provision needs to be made when a liability has been incurred by entering into contract for CSR spend.

The amount of provision will be equal to the amount representing the extent to which CSR activity was completed during the year.

A complete overhaul is proposed in the treatment of unspent amount; however, such provisions are yet to be notified by the government. After the amendment, the classification in to be made based on whether unspent amount relates to an Ongoing Project or is related to other than Ongoing Project. If it is related to other than ongoing project, then the amount needs to be transferred to a fund specified in Schedule VII within 6 months from the end of financial year (i.e., upto 30 September).

On the other hand, if the unspent amount relates to an ongoing project then transfer unspent amount to a Special Account opened in the name of company within 30 days from the closure of financial year (i.e., upto 30 April). This account shall be called as 'Unspent CSR Account'.

The amount remaining in this account should be utilized within 3 years from the date of transfer on the ongoing project to which it relates. If unable to utilize within 3 years then transfer to a fund specified in Schedule VII within 30 days after completion of 3 years.

*For example, XYZ Ltd. has unspent CSR amount on 31st March 2022 of Rs. 500 crores which relates to an ongoing project. Now, ABC Ltd. shall open Unspent CSR Account with the bank and transfer Rs. 500 crores in that account upto 30th April 2022.*

*Let say it transferred amount on 29th April 2022 in the account and now it has to utilize this amount upto 28th April 2025 failing which the remaining amount will have to be transferred to fund specified in Schedule VII such as PM Cares Fund or PM National Relief Fund, etc.*

### Treatment of Excess CSR Amount

If the company spends amount on CSR in excess of the 2% of average profits of past 3 years then it is free to do so as 2% is minimum amount and there is no maximum limit prescribed in law. However, no set-off will be allowed in subsequent years for excess amount spend in previous years and accordingly no asset should be recognised in books for such amount.

For instance, R Ltd. spends Rs. 800 crores on CSR in FY 21-22 which is equal to 2.8% of its average profits. However, in FY 22-23 it spends Rs. 560 crores which is 1.5% of its average profits. Now, R Ltd. cannot set-off excess 0.8% of FY 21-22 with deficit of 0.5% on FY 22-23.

Like overhaul of unspent amount, a major change is also proposed in treatment of excess CSR spend wherein companies will be allowed to set-off excess amount in future years and accordingly asset will be recognised in books of accounts equivalent to such excess. However, these provisions are yet to be notified.



**Measurement of CSR spend made in kind**

This includes activities such as free distribution of goods produced by the entity. These should be measured in accordance with the AS-2/ Ind AS 2 at cost or net realisable value, whichever is lower.

**Treatment of Surplus arising out of CSR Activities**

Any surplus arising out of CSR Projects shall not form part of business profits of a company. Also, the CSR Policy of the company shall state this. [Rule 6(2)] Since, such surplus cannot form part of business profits, but it is an income of the company (not arising from transaction with owners) which has to be recognised in Statement of Profit & Loss. So, corresponding to income a liability will also be recognised for CSR expense which will be expensed off in future period.

**Presentation & Disclosure Requirements**

As per General Instructions for Preparation of Financial Statements in accordance with Schedule III of the Companies Act 2013, the amount of CSR expenditure should be disclosed by way of note to the Statement of Profit & Loss.

For better financial reporting practices create a separate line item for CSR Expenditure in Statement of Profit & Loss.

A company may be in losses but still qualify for CSR spend due to net worth or turnover limit. In such cases a disclosure would be made in Board's Report.

Following disclosure are required in notes to account of CSR expenditure:

1. Gross Amount required to be spent.
2. Amount approved by the Board.
3. Amount spent during the year on Construction/ acquisition of asset Other purposes
4. Details of Related Party Transactions (Trust/ society/ section 8 company which is controlled by company for making CSR spend).

**CSR: Taxation Aspects**

CSR and Income Tax:

- Finance (No. 2) Act, 2014 has introduced Explanation 2 to Section 37(1) which states that for the purposes of section 37(1), expenditure incurred by companies on CSR as per Section 135 of the Companies Act shall not be deemed to be expenditure incurred for the purposes of business or profession.

The rationale for the same is given in the Memorandum to the Finance Bill as follows:

- 1) CSR expenditure is application of income and hence not incurred wholly and exclusively for the purposes of business;
  - 2) CSR provisions are intended for corporates to share the burden of the Government in providing social service and allowance of such expenditure would amount to subsidizing one-third of such expenditure by the Government.
- The Memorandum also clarifies that the CSR expenditure which falls under sections 30 to 36 would be allowed as deduction subject to fulfilment of conditions specified in those sections.
  - CSR donations are eligible for deduction under Section 80G of the Income-tax Act subject to specified

exceptions - *Goldman Sachs Services Pvt. Ltd v. JCIT [IT(TP)A No. 2355/Bang/2019]*; *First American (India) Pvt. Ltd v. ACIT (ITA No.1762/Bang/2019)* and *Allegis services (India) Pvt. Ltd v. ACIT (ITA No.1693/Bang/2019)*

- CSR Spenders can avail allowability of certain expenses under Section 30 to Section 36 of the Income Tax Act, 1961:

<b>Section 30</b>	Deduction on repairs, municipal tax, and insurance for premises.
<b>Section 31</b>	This section provides deduction on repairs and insurance of plant, machinery, and furniture.
<b>Section 32</b>	Under this section, CSR spenders can get depreciation on tangible assets like building, machinery, plant, furniture and also on intangible assets like know-how, patents, trademarks, licenses.
<b>Section 35</b>	Under this section, deduction is given on expenditure for scientific research and knowledge extension in natural and applied sciences under agriculture, animal husbandry and fisheries. Payment to approved universities/research institutions or company also qualifies for deduction. In-house R & D too is eligible for deduction, under this section.
<b>Section 35CCD</b>	Deduction for skill development projects.
<b>Section 36</b>	Here, deduction is provided regarding insurance premium on stock, health of employees, loans or commission for employees, interest on borrowed capital, employer contribution to provident fund, gratuity and payment of security transaction tax.

*What tax benefits can be availed under CSR?*

No specific tax exemptions have been extended to CSR expenditure. The Finance Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure.

CSR and GST:

- Section 16(1) of the CGST Act provides that a registered person is eligible to avail the credit of goods or services supplied to it and used by it in the course or furtherance of business.
- Further, according to Section 17(5) of the CGST Act, input tax credit is not available in respect of supplies listed therein, notwithstanding anything contained in Section 16(1) of the CGST Act.

*Whether CSR expenditure of a company can be claimed as a business expenditure?*

No, the amount spent by a company towards CSR cannot be claimed as business expenditure. Explanation 2 to section 37(1) of the Income Tax Act, 1961 which was inserted through the Finance Act, 2014 provides that any expenditure incurred by an assessee on the activities relating to CSR referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

## CASE LAWS

In re *M/s. Polycab Wires Pvt. Ltd. (GST AAR Kerala) (2019)*, it was held that the applicant had distributed electrical items like, switches, fan, cables etc. to flood affected people under CSR expenses on free basis without collecting any money. For these transactions input tax credit will not be available as per Section 17(5)(h).

However in the case of *Essel Propack Ltd. Vs Commissioner of CGST, Bhiwandi (CESTAT Mumbai)* dated August 31, 2018, CESTAT observed that CSR is not in the nature of charity as it has got a direct bearing on the manufacturing activity of the company which is largely dependent on smooth supply of raw materials. The Tribunal thus held that such expenses are incurred to win the confidence of the stakeholders and shareholders. It also noted that CSR which was a mandatory requirement for the public sector undertakings, has been made obligatory also for the private sector and unless the same is to be treated as input service in respect of activities relating to business, production, and sustainability of the company itself would be at stake. Hence, Cenvat credit was allowed to the appellant.

CSR under Companies Act, 2013 is more than a mere responsibility and is admittedly in the nature of an obligation under a Statutory requirement - *Northern Coalfields Ltd. v. Commissioner of GST, Customs & Central Excise [Excise Appeal No. 51442 of 2018, dated 20-11-2019]*.

The word 'obligation' implies not a moral duty, but a legal duty which can be enforced by law and which is imposed upon a person by an outside agency or a third party in respect of the subject-matter - *State of West Bengal v. Iswar Damodar Jew AIR 1976 Cal 46*.

Conclusion: It is possible to take a view that availing ITC on above CSR activities is not restricted by law as it does not come under the expanse of Section 17(5) of CGST Act.

## LESSON ROUND-UP

- A Social Impact Assessment is a process of research, planning and the management of social change or consequences (positive and negative, intended and unintended) arising from policies, plans, developments and projects. Social Impact refers to net effect of the proposed project on stakeholders. This may include impact on community as whole or on individuals or upon a single family or set of families, organisations or industries as a whole.
- Every company having average CSR obligation of INR 10 Cr. or more in the 3 immediately preceding financial years, shall undertake impact assessment of their CSR projects having outlays of INR 1 Cr. or more, through an independent agency.
- Social impact of organisation will affect the decision of funding bodies of further & continuing funding as they will want to observe the concrete evidence of organisation's project's impact upon target stakeholder. Ongoing monitoring and evaluating can provide evidence of what a project has achieved and what might be achieved as project implementation continues in the future.
- Social Impact Assessment is a process for the identification, analysis, assessment, management and monitoring of the social impacts of a project, both positive and negative, long-term or short-term, identifiable or non-identifiable. The social impacts of a project are the direct and indirect impacts that affect people and their communities at all stages of the project lifecycle.
- The impact assessment process is approached either as an information generating activity using principles of research design and scientific analysis or as a planning tool. The planning aspect of the process utilizes planning principles and procedures to determine an order of preference among a set of resource allocation choices and preference is based on explicit social norms that act as decision rules to compare and rank alternative choices, and to trade off environmental, economic, and social objectives.

- A corporate social audit is important because it can increase a company’s responsibilities to the community. This assessment holds businesses accountable and ensures they only engage in practices that benefit stakeholders who aren’t necessarily shareholders, like employees, customers and business partners.
- Net worth means the aggregate value of the paid-up share capital and all reserves created out of the profits, securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

**TEST YOURSELF**

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)*

1. What are the disclosure requirements stipulated in Schedule III w.r.t to disclosure requirements of CSR?
2. What are the accounting disclosures for holding company vis-à-vis subsidiary company?
3. Write a note on Social Impact Assessment tools.
4. What are the major principles of Social Impact Assessment? Discuss in brief.
5. Describe various stages involved in Social Impact Assessment.

**REFERENCES**

- <https://www.pppinindia.gov.in/toolkit/ports/module2-fgost-oosiaassr.php?links=fgost4>
- <https://www.iisd.org/learning/eia/wp-content/uploads/2016/05/SIA.pdf>
- [https://www.statedevelopment.qld.gov.au/\\_\\_\\_data/assets/pdf\\_file/0017/17405/social-impact-assessment-guideline.pdf](https://www.statedevelopment.qld.gov.au/___data/assets/pdf_file/0017/17405/social-impact-assessment-guideline.pdf)

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### KEY CONCEPTS

■ CSR: Concept ■ Indian Legislative Framework ■ Guidelines ■ International Framework

### Learning Objectives

#### To understand:

- Corporate Social Responsibility
- Governing Provisions
- Guidelines of CSR for CPSEs
- CSR in Insurance Companies
- CSR in Banking Companies

### Lesson Outline

- Governing provisions of CSR in Indian Scenario
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## INTRODUCTION

Corporate Social Responsibility (CSR) is an initiative with the basic aim to include responsibility for the Company's actions and encourage a positive impact through its activities on the environment, consumers, employees, communities, stakeholders and society at large.

In the modern world, a good and responsible corporate citizen recognizes that apart from the financial responsibilities / obligations it has important responsibilities/obligations towards the society, community, and the environment. Reaching out to the underserved & underprivileged section of communities is part of business responsibility.

Every major business has an impact on the communities and societies in which it operates. It is a well acknowledged and accepted fact that an organization cannot focus only on economic outcomes and performance, without paying attention to the society at large within which it operates. It is the responsibility of the Company to get involved in the social development and societal upliftment of the community surrounding it.

Corporate Social Responsibility is strongly linked to the principles of sustainable growth and development. A responsible organization should make decisions based not only on financial factors, but also on the social and environmental impact. Therefore, it is the primary responsibility of the Company to ensure its corporate values include a commitment to grow in a socially and environmentally responsible way, while contributing to the society.

### Governing Provisions

#### Legal Framework of CSR

Government provides the broad framework of CSR through:

- i. Section 135 of the Companies Act, 2013 enumerates the provisions regarding CSR,
- ii. Schedule VII to the Companies Act, 2013 indicates the activities to be undertaken by the company under CSR, and
- iii. Companies (CSR Policy) Rules, 2014 prescribes the manner in which companies shall comply with CSR provisions of the Act.

#### (1) Section 135 of Companies Act, 2013

It contains the provisions regarding CSR which inter-alia includes eligibility and spending criteria for CSR, Formulation and contents of CSR Policy, role and functions of CSR committee and the board of the company, treatment of unspent CSR amount, disclosures requirements and penal provisions concerning CSR.

Section 135 has been recently amended vide Companies (Amendment) Act, 2019 and Companies (Amendment) Act, 2020 and the same has been commenced w.e.f 22<sup>nd</sup> January 2021.

#### (2) Schedule VII to the Companies Act, 2013

Schedule VII of the Companies Act, 2013 specifies the areas or subjects to be undertaken by the company as CSR activities. These areas are broadly aligned with national priorities and relate to sustainable and inclusive development. The act does not recognize any expenditure on areas/activities outside of Schedule VII of the Companies Act, 2013 as CSR expenditure.

#### (3) Companies (CSR Policy) Rules, 2014

Companies (CSR Policy) Rules, 2014 prescribes the operational framework and the manners in which

companies shall comply with CSR Provisions of Act. The mode of implementation of CSR Activities, the content of CSR policy, impact assessment, reporting requirements and disclosures of CSR have been covered under the Companies (CSR Policy), Rules 2014.

### **Guidelines of CSR and Sustainability for Central Public Sector Enterprises (CPSEs)**

Central Public Sector Enterprises (CPSEs) are those companies in which the direct holding of the Central Government or other CPSEs is 51% or more. There were approximately 389 CPSEs (excluding insurance companies). Of these, 108 enterprises were yet to commence commercial operations and 26 CPSEs are under closure/liquidation. Remaining 255 were operating enterprises (including 165 scheduled CPSEs).

The first guidelines on CSR were issued by Department of Public Enterprises (DPE) in April 2010 to make it mandatory for public sector enterprises to set aside a fixed percentage of their profits for CSR activities. Subsequently, DPE explored a new dimension of CSR as a form of responsible business to be adopted voluntarily by the companies. After extensive consultations with all key stakeholders, DPE issued revised guidelines on CSR and Sustainability, effective from 1st April 2013, which incorporated the global best practices but retained focus on the domestic socio- economic requirements of our country.

The thrust of DPE guidelines on CSR and Sustainability has been on inclusive growth, development of backward regions, upliftment of the marginalized and under privileged and weaker sections of the society, empowerment of women, environment sustainability, promotion of green and energy efficiency technologies and sustainability development in all its diverse aspects.

The Ministry of Corporate Affairs has formulated CSR Rules (hereinafter referred to as the 'CSR Rules'), under the provisions of the Act and issued the same on 27.2.2014. The CSR Rules are applicable to all companies, including CPSEs w.e.f. 1.4.2014.

All CPSEs shall have to comply with the provisions of the Act and the CSR Rules. Any amendment notified by the Ministry of Corporate Affairs in the CSR Rules, or in Schedule VII of the Act will also be binding on the CPSEs.

Prior to the notification of CSR Rules, Department of Public Enterprise (DPE) Guidelines on CSR and Sustainability issued in December 2012, were applicable to CPSEs w.e.f. 01.04.2013.

In DPE guidelines, CSR and sustainable development were treated as complementary and, therefore, dealt with together. CSR was seen as an important constituent of the overarching framework of sustainability.

The present guidelines of DPE are also intended to reinforce the complementarity of CSR and sustainability and to advise the CPSEs not to overlook the larger objective of sustainable development in the conduct of business and in pursuit of CSR agenda.

#### **DPE Guidelines on CSR and Sustainability for CPSEs**

1. The CSR provisions of the Act, Schedule VII of the Act, and the CSR Rules are inviolable. However, in addition to the CSR provisions of the Act and the CSR Rules, the Department of Public Enterprises (DPE) has formulated Guidelines on CSR and Sustainability (hereinafter referred to as 'the Guidelines') which are applicable to CPSEs. It is clarified that the Guidelines do not supersede or override any provision of the Act, or Schedule VII of the Act, or the CSR Rules, but will only supplement them.

The Guidelines are initiatives or endeavour which the key stakeholders expect of CPSEs in the discharge of their Corporate Social Responsibility. Any possible situation in which there may be a conflict between the CSR Rules and the Guidelines, is not envisaged. However, it is clarified that in case of any perceived conflict between the CSR Rules and the Guidelines, the former shall prevail in all circumstances.

2. The term Sustainability has been used in conjunction with CSR in the title of DPE Guidelines because CSR activities which are envisaged in the Act and in the CSR Rules can be supplemented with sustainability initiatives as both aim at achieving sustainable development goals.



In the Guidelines the need for taking sustainability initiatives is emphasised in addition to the requirement of mandatory compliance with the CSR Rules. The Guidelines are aimed at providing an overarching framework of Sustainability within which CSR is firmly embedded. Therefore, it has been advised that all the CPSEs should read the CSR Rules together with the Guidelines to clearly understand what is expected of them by the stakeholders.

3. The Act enjoins all companies to have a CSR policy, and the information which needs to be furnished in the CSR policy is specified in the CSR Rules. There is to be no deviation from the mandatory provisions of the Act and the CSR Rules in this regard. However, the CSR policy document of a CPSE should also include a vision and mission statement of how the CPSE proposes to comply with the Guidelines.

The broad sustainability initiatives which a CPSE intends to undertake should also find mention therein. Since CSR and Sustainability issues are complementary in nature, and both are to be mentioned in the policy document, it is suggested that it may be referred to as 'CSR and Sustainability' policy.

The change in nomenclature of the policy document and its information expanse would not in any way detract from the CPSE's commitment to CSR or dilute its content. Rather, it would only indicate the willingness of the CPSE to voluntarily take a few extra steps to address social, economic and environmental concerns, which may be beyond the realm of CSR as envisaged in the Act and the CSR Rules but are nevertheless worthy of attention for promotion of sustainable development in its diverse dimensions.

4. The following Guidelines applicable to all CPSEs are generally in the nature of guiding principles. The guidelines contain certain additional requirements as mentioned below:

- a. It is mandatory for all profit making CPSEs to undertake CSR activities as per the provisions of the Act and the CSR Rules. Even the CPSEs which are not covered under the eligibility criteria based on threshold limits of net-worth, turnover, or net profit as specified by Section 135 (1) of the Act, but which made profit in the preceding year, would also be required to take up CSR activities as specified in the Act and the CSR Rules, and such CPSEs would be expected to spend at least 2% of the profit made in the preceding year on CSR activities.
- b. All CPSEs must adopt a CSR and Sustainability Policy specific to their company with the approval of the Board of Directors. The philosophy and spirit of CSR and Sustainability must be firmly ingrained in the policy, and it must be consistent with the CSR provisions of the Act, Schedule VII of the Act, CSR Rules, the Guidelines, and the policy directions issued by the Government from time to time.

The CSR and Sustainability policy of a CPSE should serve as the referral document for planning its CSR activities in accordance with Schedule VII of the Act and give a road map for formulation of actionable plans.

- c. If the CPSEs feel the necessity of taking up new CSR activities / projects during a year, which are in addition to the CSR activities already incorporated in the CSR policy of the company, the Board's approval of such additional CSR activities would be treated as amendment to the policy.
- d. It would be mandatory for all CPSEs which meet the criteria as laid down in Section 135(1) of the Act, to spend at least 2% of the average net profits of the three immediately preceding financial years in pursuance of their CSR activities as stipulated in the Act and the CSR Rules. This stipulated percentage of average net profits is to be spent every year in a manner specified in the Act and CSR Rules.

In case a company fails to spend such amount, it shall have to specify the reasons for not spending it. However, in case of CPSEs mere reporting and explaining the reasons for not spending this

amount in a particular year would not suffice and the unspent CSR amount in a particular year would not lapse. It would instead be carried forward to the next year for utilisation for the purpose for which it was allocated.

- e. While selecting CSR activities / projects from the activities listed in Schedule VII of the Act, CPSEs should give priority to the issues which are of foremost concern in the national development agenda, like safe drinking water for all, provision of toilets especially for girls, health and sanitation, education, etc.

The main focus of CSR and Sustainability policy of CPSEs should be on sustainable development and inclusive growth, and to address the basic needs of the deprived, under privileged, neglected and weaker sections of the society which comprise of SC, ST, OBCs, minorities, BPL families, old and aged, women / girl child, physically challenged, etc.

- f. For CPSEs to fully exploit their core competence and mobilize their resource capabilities in the implementation of CSR activities / projects, they are advised to align their CSR and Sustainability policy with their business policies and strategies to the extent possible, and select such CSR activities / projects which can be better monitored through in-house expertise.
- g. All CPSEs are expected to act in a socially, economically, and environmentally sustainable manner at all times. Even in their normal business activities, public sector companies should try to promote sustainable development through sustainability initiatives by conducting business in a manner that is beneficial to both, business, and society. They are advised not to lose sight of their social and environmental responsibility and commitment to sustainable development even in activities undertaken in pursuance of their normal course of business.

National and global sustainability standards which promote ethical practices, transparency and accountability in business may be referred to as guiding frameworks to plan, implement, monitor, and report sustainability initiatives. But the amount spent on sustainability initiatives in the pursuit of sustainable development while conducting normal business activities would not constitute a part of the CSR spend from 2% of profits as stipulated in the Act and the CSR Rules.

- h. As a part of their sustainability initiatives CPSEs are expected to give importance to environmental sustainability even in their normal mainstream activities by ensuring that their internal operations and processes promote renewable sources of energy, reduce / re-use / recycle waste material, replenish ground water supply, protect / conserve / restore the ecosystem, reduce carbon emissions, and help in greening the supply chain.

CPSEs are expected to behave in a responsible manner by producing goods and services which are safe and healthy for the consumers and the environment, resource efficient, consumer friendly, and environmentally sustainable throughout their life cycles i.e., from the stage of raw material extraction to production, use / consumption, and final disposal.

However, such sustainability initiatives will not be considered as CSR activities as specified in the CSR Rules, and the expenditure incurred thereon would also not constitute a part of the CSR spend. Nevertheless, CPSEs are encouraged to take up such sustainability initiatives from their normal budgetary expenditure as it would demonstrate their commitment to sustainable development.

- i. Sustainability initiatives would also include steps taken by CPSEs to promote welfare of employees, especially women, physically challenged, SC / ST / OBC categories, by addressing their concerns of safety, security, professional enrichment and healthy working conditions beyond what is mandated by law. However, expenditure on such sustainability initiatives would not qualify as CSR spend.

- j. The philosophy and spirit of CSR and Sustainability should be understood and imbibed by the employees at all levels and get embedded in the core values of the company.
- k. CPSEs should extend their reach and oversight to the entire supply chain network to ensure that as far as possible suppliers, vendors, service providers, clients, and partners are also committed to the same principles and standards of corporate social responsibility and sustainability as the company itself. CPSEs are encouraged to initiate and implement measures aimed at 'greening' the supply chain.
- l. As mentioned in the Act, CPSEs should give preference to the 'local area' in selecting the location of their CSR activities. It is desirable that the Board of Directors of CPSEs define the scope of the 'local area' of their commercial units / plants / projects, keeping in view the nature of their commercial operations, the extent of the impact of their operations on society and environment, and the suggestions / demands of the key stakeholders, especially those who are directly impacted by the company's commercial operations / activities. The definition of 'local area' may form part of the CSR policy of the CPSE.
- m. After giving due preference to the local area, CPSEs may also undertake CSR activities anywhere in the country. The Board of Directors of each CPSE may also decide on an indicative ratio of CSR spend between the local area and outside it, and this may be mentioned in the CSR policy of the CPSE. CPSEs, which by the very nature of their business have no specific geographical area of commercial operations, may take up CSR activities / projects at any location of their choice within the country.
- n. As far as possible, CPSEs should take up the CSR activities in project, which entails planning the stages of execution in advance by fixing targets at different milestones, with pre-estimation of quantum of resources required within the allocated budget, and having a definite time span for achieving desired outcomes.
- o. CPSEs should devise a communication strategy for regular dialogue and consultation with key stakeholders to ascertain their views and suggestions regarding the CSR activities and sustainability initiatives undertaken by the company. However, the ultimate decision in the selection and implementation of CSR activities would be that of the Board of the CPSE.
- p. As per the CSR Rules, all companies are required to include an annual report on CSR in their Board's Report. The template / format for reporting CSR activities as provided by CSR Rules should be strictly adhered to.

However, CPSEs shall also have to include in the Board's Report a brief narrative on the action taken for the implementation of the Guidelines so that the stakeholders are informed of not only the CSR activities but also of the sustainability initiatives taken by the CPSEs.

CPSEs are further advised to prepare an Annual Sustainability Report, which would go a long way in imparting greater transparency and accountability to the company's operations, apart from improving the brand image.

- q. It is desirable that CPSEs get a baseline/ need assessment survey done prior to the selection of any CSR activity. It is also desirable that CPSEs should get an impact assessment study done by external agencies of the CSR activities / projects undertaken by them. Impact assessment is mandatory for mega projects, the threshold value of which can be determined by the Board of a CPSE and specified in its CSR and Sustainability policy.

However, the expenditure incurred on baseline survey and impact assessment study should be within the overall limit of 5% of administrative overheads of CSR spend as provided for under the CSR Rules.

- r. Within the provisions of the Act, Schedule VII of the Act, and the CSR Rules, CPSEs are encouraged to take up CSR activities / projects in collaboration with other CPSEs for greater social, economic, and environmental impact of their CSR activities / projects.
- s. CSR projects taken up by CPSEs in 2013-14 under DPE guidelines on CSR & Sustainability which were effective from 1st April 2013, may be continued till their completion. However, CPSEs to ensure that all new CSR activities / projects are in accordance with the CSR Rules.
- t. CPSEs which are statutory corporations should also comply with the provisions of the Act, CSR Rules, and the Guidelines.
- u. These guidelines will supersede the guidelines / circulars / instructions issued earlier by DPE about CSR and Sustainability.

### Guidelines for CSR Expenditure by CPSEs

CPSE conclave was conducted in the month of April, 2018 and the point in regards to utilization of CSR funds was deliberated upon in detail, based on the deliberations that took place during the CPSE conclave, the Department of Public Enterprises (DPE) has approved the following course of actions for undertaking CSR activities by Central Public Sector Enterprises (CPSES):

1. A common theme may be identified for each year for undertaking CSR by CPSES.
2. CSR expenditure for thematic programme should be around 60% of annual CSR expenditure of CPSES.
3. Aspirational Districts may be given preference.
4. The annual theme for the future will be decided by the DPE separately.

The DPE, herein after termed as Competent Authority has further entrusted to NITI Aayog the responsibility to pilot the programme.

Accordingly, the CPSE undertaking CSR activity in Aspirational districts would:

- (i) designate a senior level functionary as nodal officer to liaise closely with the District Administration of concerned Aspirational district
- (ii) furnish the details of nodal officer along with the name of selected aspirational district(s) to NITI Aayog, DPE and concerned administrative Ministry/Department of the CPSE
- (iii) furnish the details of projects funded by CPSE under CSR in an aspirational district to NITI Aayog, DPE and concerned administrative Ministry/Department of CPSE
- (iv) brief the concerned Central Prabhari Officer of Aspirational District (Joint Secretary/Additional Secretary nominated by GOI for aspirational district), about the CSR project being funded by CPSE. (The list of Central Prabhari Officer of Aspirational District can be extract out from website of DPE)

It will be the responsibility of the concerned CPSE to ensure that all the CSR activities being undertaken are in accordance with the relevant provisions of the Companies Act 2013, its Schedules and Rules issued under the said Act and there is no deviation from statutory provisions.

### CSR in Insurance Companies

India is at the forefront mandatory CSR prescription and has stipulated a 2% minimum spending on CSR activities by business above a certain threshold. This prescription made in the Companies Act 2013 is equally applicable

to Insurance companies. Further, the Insurance Act, 1938 stipulates Rural and Social Sector Obligations to be fulfilled by the insurers in the form of sale of certain number of policies as well as certain amount of premium to some identified sections of the society.

### **Role of CSR in Insurance Sector**

As we are aware that making profit only should not be the objective of any business. Focus should be laid on wellbeing of the society as that indirectly affects the profits therefore CSR is the DNA of business which incorporated would be beneficial to the business ensuring sustainable development. Despite the obvious recognition of CSR investment benefits, CSR is only an emerging phenomenon in the Indian Insurance market. Insurance companies needs to prove that it is more than just a profit-generating entity. It is important for insurers to highlight the essential responsibility they play in economic and societal development. CSR determines implemented in good times and in bad will develop the industry's reputation and strengthen stakeholder relationships.

### **Steps to Execute CSR in Insurance Sector**

For the accomplishment of CSR practices in the firm, the insurers must consider all their stakeholders such as customers, employees, intermediaries, suppliers, government, and the broader community. An insurance company can undertake following possible ways specific to corporate social responsibility in order to be sustainable in the competitive scenario.

#### **a. Paying Valid Claims Efficiently**

The yardstick to judge insurance company's efficiency is as to how quick the claim settlement is made. The less time consumption and fairness with which an insurer handles claims show the maturity of the company and may lead to great satisfaction of the client.

#### **b. Risk Minimization**

Insurers should focus to minimise risks both internally in their operations and externally for their clients and other stakeholders. Though external risk minimization is a difficult task, but insurers should try to minimise the same by reducing claims cost and frequency for clients and insured's will thus be incentivized to reduce the likelihood and severity of loss in order to lower their premiums. Insurers should, and often do, consider offering discounted premiums to insured's that take preventative measures.

#### **c. Strategic Philanthropy**

Strategic philanthropy involves associating with charities or similar non-profit organizations in the community. This type of corporate giving cannot only impact the community but also other stakeholders in the business. Insurers can also take part in disaster relief activities. Companies can provide substantial financial support to the victims of different catastrophes. Life insurance companies can relax the norms to ensure faster and easier claim settlement for the victims of disasters.

#### **d. Corporate Governance Initiatives**

Insurers should take initiative in designing and formulating some codes of conduct and ethics, some guidelines comprising the basic principles that should guide the activity of top and middle managers.

#### **e. Environmental Initiatives**

The companies can make financial investments in the environmental projects including energy conservation, environmental risk management and recycling operations of different natural resources.

**f. Legal initiatives**

The firm can perform numerous activities in order to improve the laws in the countries in which the corporation operates, to adapt them to the new trends of different markets, provide necessary assistance to the area regulation and supervision authorities, as well as to state authorities on different themes.

**g. Recognition for Human Rights**

Corporations develop a means to hold themselves accountable and to provide for remediation through grievance or other mechanisms. Companies should show enthusiasm for observing voluntary human rights codes of conduct usually operate in a business with the potential to considerably impact human rights.

### **Guidelines on Corporate Governance for insurance companies issued by the Insurance Regulatory and Development Authority of India (IRDAI)**

In view of the extensive changes to the governance of companies under the Companies Act, 2013, the nodal agency to regulate Insurance Sector the IRDAI decided to review the various guidelines relating to the governance of insurance companies.

On 18th May, 2016 the IRDAI has issued revised Guidelines on Corporate Governance for insurance Companies which, inter-alia, provides following provisions in respect of CSR by insurance Companies:

**a. Corporate Social Responsibility Committee ('CSR Committee') (mandatory)**

Section 135 of the Companies Act, 2013 requires constitution of a CSR Committee if certain conditions as mentioned in the said section are fulfilled. For Indian Insurance Companies, a CSR Committee is required to be set up if the insurance company earns a Net Profit of Rs. 5 crore or more during the preceding financial year.

Further the 'Net Profit' for this purpose shall be as under: "Net profit" means the "profit/(loss) before tax" as per its financial statements prepared in accordance with the applicable provisions of the Insurance Act, 1938 and the Regulations framed thereunder, but shall not include the following, namely-

- i. Any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
- ii. Any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Companies Act.

Provided that net profit in respect of a financial year for which the relevant financial statements were prepared in accordance with the provisions of the Insurance Act, 1938, shall not be required to be re-calculated in accordance with the provisions of the Companies Act.

In line with section 135(5) of Companies Act, 2013, the Board of Directors of the company shall ensure that the company spends not less than 2% of the three years' average Net Profits as defined above towards the CSR activities.

- (a) CSR will be based only on the average of the three years' profit as per the Statement of Profit and Loss Account as stated above.
- (b) The CSR Committee shall formulate a CSR Policy and get it approved by the Board. Constitution of CSR Committee will be as per Companies Act, 2013.
- (c) The expense incurred on CSR shall not be included for the purpose of calculation of ceilings on Expenses of Management under section 40B or section 40C, as the case may be.
- (d) The expenses incurred on CSR activities should not be charged to the Policyholders' Account."

## CSR Initiatives by Selected Private Sector Insurance Companies in India

### 1. SBI Life Insurance Co. Ltd.

- SBI Life's Corporate Social Responsibility initiatives have touched multiple dimensions of social issues in the realm of child education, healthcare, skill development, rural development, and environmental upgrade. The Company has partnered with genuine and dedicated organizations towards such causes and has created a sustainable impact for years in a row.
- SBI contributed towards the academic support of 1,200 underprivileged girls in Mumbai and 69 girls in Andhra Pradesh in partnership with Nanhi Kali.
- Organized Project 'Unnati' along with Smile Foundation and supported the educational needs of 25 young girls.
- SBI Life in association with GrowTrees.com plants a tree on the occasion of every employee's birthday. The trees are planted at various reforestation areas like Kanha National Park at Madhya Pradesh, periphery of Satkosia Gorge Wildlife Sanctuary, Angul, and Orissa etc. and are maintained at a high survival rate.
- SBI Life Chandigarh office identified an orphanage for girls - "Unique Homes for Girls", Jalandhar. The office distributed a set of uniform, bags and shoes to 45 girls.
- Provision of vocational training equipment to educational institution for the less fortunate students at Kolkata, West Bengal.
- Provision of a vehicle to a home for the mentally challenged children at Valsad, Gujarat.

### 2. Max Life Insurance Co. Ltd.

- The Company works closely with Max India Foundation, an independent social service organisation of Max India Group. The immunisation programme covers vaccines like BCG, Hepatitis B vaccine, Polio drops, DPT, D Tap, Measles vaccine, MMR, Typhoid, DT and TT.
- Max also organised artificial limbs and polio calliper camps. Through each camp beneficiary are provided artificial limbs or polio callipers. In each such camp around 350 beneficiaries are provided artificial limbs. Till date a total of 3,838 patients have been provided artificial limbs and polio callipers. Till date, 445 multi-speciality camps have been organized benefitting 1, 01,674 patients.
- Max Life supports 6 permanent health centres across Punjab, Uttrakhand and Delhi. These health centres provide comprehensive healthcare if required refer patients to closest Max Healthcare facilities for surgeries & treatments.
- The company has already adopted and initiated work in Dhakrani village in Dehradun district of Uttrakhand.
- Max Life Insurance started a new employee volunteering initiative - 'Pehal'. The initiative was formally launched with a cleanliness drive around the DLF Square building (DLF Phase II) with a motto to awaken each employee to contribute to the society and providing them with the opportunity to do so.

### 3. ICICI-Prudential Life Insurance Co. Ltd.

- ICICI Foundation, work with state governments and other not-for-profit organizations to improve the quality of education in government and municipal schools, which account for the vast majority of school-going children in the country.

- The ICICI Academy for Skills has been set up across the country to provide job-oriented skill training to youth. Several centres have been set up across the country.
- ICICI Foundation is also liaising with corporates and businesses to get the trained youth employed, through a job portal.
- The Company provides micro-insurance to India's low-income population, as part of its commitment to make life insurance accessible to low income groups and rural population, including the urban poor and migrant workers.

#### 4. PNB MetLife Insurance Co. Ltd.

- PNB MetLife has taken the first step in giving back to the local communities and launched its CSR initiative.
- The company has joined hands with bank partners, Jammu & Kashmir Bank Limited (JKB) and Karnataka Bank Limited (KBL) to support the cause of education and development of underprivileged children.
- As a part of Promotion of nationally recognized sports like Badminton company provide scholarships for talented underprivileged children to pursue their dream of excelling in the sport.
- Provide opportunity for children in identified locations to get access and help in getting education in schools, helping school drop-outs with skill training

#### 5. Exide Life insurance Co. Ltd.

- Say No to Plastics is a very unique initiative from Exide Life Insurance that educates the citizens of India on the negative effects of usage of plastics and encourages them to switch to environment friendly materials.
- In Association with SOS Children's Village, Exide Life Insurance is extending support for complete childcare requirements including education, health and nutrition, psychological and career development of 50 orphan & abandoned children across Bangalore, Chennai, Hyderabad, Delhi, Kolkata amongst other locations and also sponsor 1 family at Bangalore location.
- In partnership with Akshaya Patra Foundation, Exide Life Insurance is sponsoring distribution of mid-day meal to 1480 students of Government school across Bengaluru.

### CSR in Banking Companies

The Companies Act, 2013 has introduced the concept of CSR by mandating companies to set aside 2% of their net profits and utilize the same for approved CSR Activities. The private sector banks incorporated as company under the Companies Act, 2013 are covered by the provisions of section 135 of the Act, and accordingly required to ensure the compliance of CSR provisions.

Since the Nationalized Banks are not incorporated as a company under the Companies Act, 2013, they are not covered under section 135 of the Act and accordingly, the requirement to spend 2% of net profits on CSR activities remains voluntary for such banks. However, they are required to spend 1% of net profits through donations as specified by the Reserve Bank of India (RBI).

In terms of RBI circular no. RBI. No./ 2005-06/ 237, DBOD.No.Dir.BC. 50/13.01.01/2005-06 dated 21st December, 2005, donations by Banks are capped at 1% of the published net profit. Donations are plain contribution as



opposed to CSR which is a collaborative and monitored exercise. The said circular set the following guiding principles for donations by banks in India:

- i. The profit-making banks may make donations during a financial year aggregating upto 1% of the published profit of the banks for the previous year. In some cases, banks create funds for specific purposes to encourage research and development in fields related to banking. The Board of the banks may determine the amount of contribution to be made to such funds. The contribution made to such funds in a year will be reckoned for computation of the 1% ceiling.
- ii. The donations out of the research and development funds should normally be made for setting up professional chairs, granting fellowships/ scholarships for studies and research at universities and approved institutions and for commissioning special projects for investigation, analysis and research for areas pertaining to banking, finance, statistics, management, and economics, etc.
- iii. The donations to Prime Minister's National Relief Fund and subscriptions / contributions to professional bodies / institutions related to banking industry like Indian Banks' Association, National Institute of Bank Management, Indian Institute of Banking and Finance, Institute of Banking Personnel Selection and Foreign Exchange Dealers' Association of India may be excluded from the limit indicated in para (i) above.
- iv. Loss-making banks can make donations totalling Rs.5 lakh only in a financial year including donations to exempted entities / funds indicated in para (iii) above.
- v. Unutilised portion of the limit of 1% should not be carried forward to the next year.
- vi. The banks may continue to submit annual review of donations to their Boards of Directors.

At present, CSR is mandatory for only those corporate entities that are incorporated under the Companies Act, 2013. LLPs and public sector banks (PSBs) are outside its preview as they are governed by different laws—the LLP Act, 2008, and the Banking Regulation Act, 1949.

The government is considering a proposal to make it mandatory for limited liability partnership (LLP) firms and state-run banks such as State Bank of India (SBI) to spend 2% of their net profits in corporate social responsibility (CSR) activities by making appropriate amendments in the existing laws.

### CSR Activities of Selected Private and Public Sector Banks in India

Corporate social responsibility (CSR) is evolving as a new ground in supervision research. In India, numerous multinationals have taken the creativities of CSR performs which have met with varying needs of society. India, many organizations have taken the initiatives of CSR performs which have met with fluctuating needs of the society. Some selected banks as mentioned below:

1. **ICICI Bank:** is India's second-largest bank and largest private sector bank. It serves over 25 million corporate and merchandising clients with a wide variety of banking goods and monetary facilities. ICICI Bank's affiliates include India's largest private sector insurance companies, as well as some of the country's largest stock exchanges, mutual funds, and other financial institutions ICICI Bank now has an occurrence in 21 nations, including India. ICICI Bank sees its CSR initiatives as central to its core objective of providing value to investors, which includes investing in India's future and developing the country's talented individuals. "*Read to lead*" is an elementary education for poverty-stricken children aged 3 to 14, particularly girls and rural children from rural regions The Read to Lead initiative assists NGOs in developing and implementing initiatives that increase parent and communal participation in teaching, improve colleges, and allow children to enroll in and finish proper grade schooling.

**Details of CSR activities of ICICI bank during last 6 years**

<b>Sl. No</b>	<b>Year</b>	<b>Profit After Tax (Rs.)</b>	<b>CSR Spending (Rs.)</b>	<b>Major Activities</b>
1	2015	3,476	78.84	Subsidiary to free books distribution
2	2016	4,251	89.29	Livelihood Creation to needy people
3	2017	6,458	67.34	Encouraging Healthcare
4	2018	10,796	88.57	Talent Progress
5	2019	14,379	54.98	Environmental Sustainability
6	2020	16,067	98.45	Eliminating starvation, poverty, and malnutrition

- 2. HDFC Housing Development Financial Corporation:** Several projects for the betterment of society have been implemented by the Bank in recent years. Most the bank's social programs are focused on education to first-generation learners, etc.) as well as programs in the area of livelihood support and training. In the latter case, the bank collaborates with non-governmental organizations (NGOs) to provide nonformal vocational training health services, as well as skill ongoing development courses, to help financially deprived people to find long-term jobs and income. In addition, the bank's CSR efforts are coordinated with its microfinance and self-help group (SHG) financing. The bank has established partnerships with 112 microfinance institutions and provided credit to 1.62 million households, resulting in financial inclusion. For this aspect, the bank has recruited about 170 NGOs as business correspondents (BCs) across the country to provide SHG-bank linkage to help tribal, substantially disabled, drifters, and others to earn a living and integrate into society. More than 32,000 SHGs have been credit connected through the bank's direct SHG lineage scheme, bringing the total number of housings holds to about half a million.

**Details of CSR activities of HDFC bank during last 6 years**

<b>Sl. No</b>	<b>Year</b>	<b>Profit After Tax (Rs.)</b>	<b>CSR Spending (Rs.)</b>	<b>Major Activities</b>
1	2015	9,745	56.67	Hunger, Malnutrition, and Health
2	2016	12,296	194.81	environmental protection
3	2017	11,734	86.43	Social and environmental significances
4	2018	9,657	56.9	Reducing child mortality
5	2019	8,654	79.94	environmental protection
6	2020	7,456	65.23	Distribution of PPE kit

According to official data, private sector HDFC Bank alone spent ₹535.31 crore in 2019-20 on CSR activities. It is ranked in the top four companies in terms of mandatory CSR spent that year after Reliance Industries Ltd (₹908.71 crore), Tata Consultancy Services Ltd (₹602 crore) and state-run Oil and Natural Gas Corporation (₹582.35 crore).

- 3. Federal Bank:** Since the bank's inception, corporate social responsibility(CSR) has been an inherited and inbuilt part of its community. The first act of fostering banking habits in an agricultural society efficiently used idle money for productive resolutions, which was the first act of CSR in a federal bank. The second step included creating job opportunities for a large farming population. While doing business, the bank has a responsibility to ensure that its goods and services are in the best interests of society. The bank has approved a Maintainable Growth Agenda, which guarantees that the Bank's operations promote long-term social welfare. Furthermore, the Bank must directly engage in social events to assist in the growth of areas or parts.

Details of CSR activities of Federal bank during last 6 years

<i>Sl. No</i>	<i>Year</i>	<i>Profit After Tax (Rs.)</i>	<i>CSR Spending (Rs.)</i>	<i>Major Activities</i>
1	2015	852	8.27	Career Guidance program
2	2016	476	12.30	Support to HIV/AIDS Awareness programmes in Villages.
3	2017	947	15.10	Environmental protection
4	2018	10,442	11.20	Reducing child mortality
5	2019	872	8.22	Focus on health
6	2020	541	7.21	COVID-19 Vaccination

- 4. Bank of Baroda:** The bank has founded Swarozgar Vikas Sansthan, which provides free training to unemployed youth for gainful self-employment and entrepreneur skill growth, allowing them to improve their family's financial situation while also boosting the local economy. Thousands of people have benefited from financial inclusion because of the bank's associations with 91,536 SHGs, which have increased credit facilities worth Rs 636.00 crores. Dungarpur District in Rajasthan has also been adopted by the bank for complete integrated growth and 100 percent economic development. The PAT of Bank of Baroda, one of the country's most powerful public sector banks, has also risen in line with the image it has cultivated.

Details of CSR activities of Bank of Baroda during last 6 years

<i>Sl. No</i>	<i>Year</i>	<i>Profit After Tax (Rs.)</i>	<i>CSR Spending (Rs.)</i>	<i>Major Activities</i>
1	2015	453.6	3.89	Cancer Awareness Campaign
2	2016	546.23	5.50	Career Guidance program
3	2017	564.75	3.54	Environmental protection
4	2018	954.60	4.62	Women and girl children
5	2019	1934.69	8.34	Building School infrastructure
6	2020	1754.67	9.53	PPE kit distribution/ COVID-19 Vaccination

- 5. State Bank of India (SBI):** Corporate Social Responsibility has constantly been a part of the State Bank of India covering various social, environmental, and well-being actions [43]. The main determination of the Bank's CSR philosophy is to make a meaningful and measurable impact on the lives of economically, physically, and socially defied people of the nation. The State Bank of India has always prioritized corporate social responsibility, which includes a variety of social, conservational, and welfare initiatives. The Bank's CSR activities trace the survives of masses of the unfortunate and deprived across the extent and span of the country. In FY2019, the net profit of the bank stood at 862 crores and 1% of profit, that is 8.63 crores had been budgeted as a CSR fund for various initiatives under its commitments. Their CSR vision statement reflects their commitment to CSR.

Details of CSR activities of State Bank of India during last 6 years

Sl. No	Year	Profit After Tax (Rs.)	CSR Spending (Rs.)	Major Activities
1	2015	765	7.27	Rural development
2	2016	862	8.62	Educational support
3	2017	1023	5.33	Poverty eradication
4	2018	1154	4.29	Vocational training to unemployed
5	2019	2843	5.70	Building School infrastructure
6	2020	1984	7.22	PPE kit distribution

- 6. Canara Bank:** TRAM Campaign (Ten Rupees a Month) is a welfare initiative that aims to actively engage all employees in welfare activities. Students, patients with major disabilities, and the disabled from the poorer parts of society are helped by this scheme. Employees donate approximately Rs. 7.00 lakh per year to support the less fortunate. DONATION OF BLOOD every year, about 6,000 units of blood are donated by staff followers thanks to their active cooperation, which helps save several people. HEALTH CAMPS Canara Bank conducts different types of health camps in rural and semi-urban areas that lack medical facilities through its branches. PUPILS WELFARE ACTIVITIES More than ten lakh rupees are spent annually on primary education, including notebooks, school bags, uniforms, enlightening aids and so on.

Details of CSR activities of Canara Bank during last 6 years

Sl. No	Year	Profit After Tax (Rs.)	CSR Spending (Rs.)	Major Activities
1	2015	654	5.72	Rural Resource Development Centre
2	2016	1,352	7.28	Educational support
3	2017	4,860	4.57	Poverty eradication
4	2018	347.2	5.27	Rural Clinic Service
5	2019	365.6	6.98	Rural Service Volunteer Scheme
6	2020	2,557	6.43	PPE kit distribution

**ABCD Analysis of CSR Activities of the Banking Industry:**

ABCD analysis is a new analysis framework developed systematically in this century and used in different formats by many scholarly articles. ABCD analysis is used for stakeholders' analysis on a concept, system, strategy, product, service, etc. of an organization in a qualitative or quantitative manner. ABCD listing is a qualitative discussion of a given thing by identifying and listing the advantages, benefits, constraints, and disadvantages of an entity from different stakeholders' frames of reference.

*Advantages:*

- Inspires maintainable conduct by customers;
- Development of distinct business representations for numerous sections;
- Delivers real aids for the civilization as a whole;
- Generates developed operative enthusiasm, and higher performance levels;
- Makes banks more aware of their possible role in society;
- Generates confident publicity and enlarged brand credit.

*Benefits:*

- CSR grows employee engagement,
- CSR improves bottom-line financials,
- CSR supports local and global communities,
- Contributes to the United Nations' 17 Sustainable Development Goals,
- Increases investment opportunities,
- Presents fresh opportunities to serve society,
- Increases customer retention and loyalty,
- CSR improves employer branding.

*Constraints:*

- Lack of Community Contribution in CSR Activities,
- Need to Build Local Capacities,
- Issues of Transparency,
- Non-availability of Well Organized Non-Governmental Organizations for collaborations,
- Visibility Factor of the services provided,
- Narrow Perception towards CSR Initiatives.

*Disadvantages:*

- The first is that when a business seeks out and develops ways that are distinct from their typical way of operating in order to meet the CSR criteria, they must pay specific costs for adopting such a unique method of operation, that became expensive for the organization.
- The second way that expenditures are an unfavourable element is that they bring with them a variety of expenses that a firm must meet, such as staff training, investing in specific programs for the upliftment of society, and ensuring environmental safety.
- Conflicting business objectives.

The CSR activities can be divided into two types as inbound activities and outbound activities. Inbound activities are those activities which are performed using CSR funds with an objective and strategy of helping the organizations (banks) business activities indirectly.

**Below table lists some of the inbound CSR activities and outbound CSR activities of selected Indian banks in private and public sectors based on the information collected.**

Sl. No	Name of Bank	Inbound CSR activities with direct business benefits	Outbound CSR activities with indirect business benefits
1	ICICI Bank	(1) Solar ATM. (2) Online application, Virtual assistance. (3) Word pass to shift possession of (something) from one person to another. (4) Drupal: It is a free and open-source web development platform for user communities and online details.	(1) Financing more and more for environmental projects. (2) Improve our governance system by emphasizing ethics, openness, and accountability. (3) Through their numerous environmentally friendly actions, the ICICI Group Companies have saved around 30,000 trees and 16,000,000 gallons of water.
2	HDFC Bank	(1) Fraud detection systems: Identification of actual or expected fraud to take place. (2) Online application, Virtual assistance. (3) Solar ATM to reduce green gas emission. (4) Online banking; Save time and cost.	(1) Social Transformation. (2) The company is experimenting with renewable energy by constructing 20 solar ATMs, including one in Bihar. (3) They also deal with their leftovers by forming partnerships with suppliers who reprocess paper and are malleable.
3	Bank of Baroda	(1) <i>Email marketing</i> : Email marketing is the use of email to promote a company's products and services or to connect with customers. When it's done well, email marketing is an effective sales driver.	(1) Mitigation of poverty (2) BOB prefers green initiatives that are environmentally benign, such as windmills, biomass, and solar electricity, because they assist collect carbon credits.
4	Federal Bank	(1) <i>Website optimization</i> : Website optimization is the process of using tools, advanced strategies, and experiments to improve the performance of your website, further drive more traffic, increase conversions, and grow revenue. (2) <i>Fraud detection systems</i> : Fraud detection means the identification of actual or expected fraud to take place within an organization.	(1) Promoting education, (2) Health care (3) In a larger sense, banks can satisfy their CSR obligations by deciphering the notion of green banking and deploying pollution controlling equipment, for example, in a school or hospital.

<b>Sl. No</b>	<b>Name of Bank</b>	<b>Inbound CSR activities with direct business benefits</b>	<b>Outbound CSR activities with indirect business benefits</b>
5	State Bank of India	(1) <i>Data Encryption</i> : To ensure your data is safe, educate your organization on best practices for data use and sharing.	(1) Encourage gender equity, diversity, and employee wellbeing.  (2) Across the country, paperless banking is being encouraged and implemented.
6	Canara Bank	(1) <i>KYC software</i> : KYC software on demand for automated due diligence encompasses automates the manual due diligence process undertaken by KYC Analysts.	(1) Elementary Education.  (2) Livelihood Creation Skill Development & sustainable livelihoods.

### State Bank of India-Policy on Corporate Social Responsibility

#### 1. Preamble

State Bank of India (SBI) is India's largest Bank in public or private sector space with footprints not only across India but also at major commercial hubs of the world. State Bank of India is a diversified financial conglomerate with interest in corporate banking, retail banking, international banking, investment banking, government business, and treasury operations. SBI also has a stake in Life Insurance, General Insurance, Mutual Funds, Credit Card and Merchant Acquiring business through its subsidiaries. Being the Bank of choice for transforming India, SBI has been pioneering in Corporate Social Responsibility (henceforth referred to as CSR) in the Indian Banking Ecosystem.

The concept of CSR was introduced in the Bank as early as 1973, under the name 'Innovative Banking' with emphasis on assisting groups belonging to the weaker and downtrodden sections of the society by providing avenues for improvement of their economic condition. Innovative Banking involved participation in community activities such as blood donation camps, health camps, adult literacy, tree plantation etc. As the scope of activities increased, the Bank classified these activities as Community Services Banking. The CSR is now one of the activities through which Bank plays the role of a responsible Corporate citizen and discharges its social responsibility towards the community. The CSR at SBI aims to integrate economic, environmental, and social objectives to implement national priorities for social development.

Our Bank has been managing its CSR activities through the (i) Corporate Centre with the support of 17 Circles, Corporate Accounts group, Commercial Clients Group, Administrative Offices, Apex Training Institutes (ATIs), Branches etc. and (ii) SBI Foundation.

#### 2. Vision Statement

To be a Bank known for bringing about sustainable improvement in the lives of citizens of the country with focus on socially & economically disadvantaged communities.

#### 3. Objective

- To participate in activities which benefit community development, social responsibility, and environmental sustainability, so as to reach out to socially & economically disadvantaged sections of society.
- Accord primacy to support national priorities like Swachh Bharat Abhiyan, Jal Shakti Abhiyan, Beti Bachao Beti Padhao, River Rejuvenation etc.

#### 4. SBI Foundation

In order to smoothly carry out large CSR projects/programmes which require substantial funding & investment of time, SBI Foundation was established as a section 8 Company under Companies Act, 2013. SBI Foundation has been envisioned to undertake innovative and socially oriented programmes directly through strategic alliances and in collaboration with third parties. These activities are expected to be generally in tune with the activities mentioned in schedule VII of the Companies Act, 2013. SBI Foundation has its own CSR policy approved by the Board of Directors.

SBI Foundation is subject to audit by the Comptroller and Auditor General (CAG) of India. The SBI Foundation has its own independent Board which approves the Foundation's policy and reviews it from time to time. It also ensures efficient execution of programmes, projects and activities and compliance with all applicable laws and regulations.

As a parent company, the Bank's Corporate Social Responsibility Committee (CSRC) of the Board ensures a transparent monitoring mechanism for implementation of CSR projects / programmes / activities undertaken by the Foundation. The CSRC of the Board sets the direction of the activities of the SBI Foundation as per the CSR policy of the Bank and reviews the progress at quarterly intervals.

#### 5. Ceiling & Allocation of Budget

The Companies Act, 2013 brought the concept of Corporate Social Responsibility to the forefront by mandating Companies to set aside 2% of their net profits solely for social activities. Section 135 of the Companies Act, 2013 also framed the definition of CSR and guidelines of CSR spend. State Bank of India, however, is required to spend 1% of its previous year's published profits on CSR as per RBI Regulations vide DBOD.No.Dir.BC.50/13.01.01/2005-06/ dated 21.12.2005. The RBI instructions regarding limit of 1% is still applicable to Banks as confirmed by the letter no F.No.7/87/2019-BOA-I dated 30.09.2019 of Department of Financial Services, Ministry of Financial Services.

Accordingly, State Bank of India will make donations during the financial year aggregating up to one per cent of the published Net-Profit of the bank for the previous year.

**Note:** The donations to Prime Minister's National Relief Fund (PMNRF) and subscriptions / contributions to professional bodies / institutions related to banking industry like Indian Banks' Association, National Institute of Bank Management, Indian Institute of Banking and Finance, Institute of Banking Personnel Selection and Foreign Exchange Dealers' Association of India may be excluded from the limit of 1%.

With the approval from the competent authority, annual budgets will be allocated to different entities, as part of the Annual Action Plan of the Bank. With the inception of SBI Foundation, up to 65% of the CSR Budget will be allocated to the Foundation and the remaining budget will be utilised for CSR activities for Normal & National Donations through offices of the Bank. Out of the budget allocated to the Bank, Minimum 75 % of CSR Budget is to be allocated to Normal Donation (Donations granted to voluntary organizations / NGOs/ charitable institutions registered as Societies or Public Charitable Trusts for implementing the projects which benefit community development, social responsibility and environment responsibility) and maximum 25% is for National Donation (i.e. Donations granted to funds sponsored / recognized by Central or State Governments, like National Defense Fund etc. for relief / rehabilitation during natural calamities). The Bank shall not carry forward the unutilized amount of the permissible limit of any year for use in subsequent years.

#### 6. Eligibility

- It should be ensured that the CSR activities are undertaken by the Bank itself or through.
  - a) a company established under section 8 of the Act or a registered public trust or registered



- society, registered under section 12 A and 80 G of the Income Tax Act 1961, established by the company either singly or along with any other company; or
- b) a company established under section 8 of the Act or a registered society established by the Central Government or State Government; or
  - c) any entity established under an Act of parliament or a state legislature; or
  - d) a company established under section 8 of the Act or a registered public trust or registered society, registered under section 12 A and 80 G of the Income Tax Act 1961, and having an established track record of at least three years in undertaking similar activities.
- Every entity covered as above who intends to undertake any CSR activity shall register itself with the Central Government by filing the form CSR- 1 electronically with the Registrar with effect from the 01st day of April 2021. The Unique CSR Registration Number generated by this process will be mandatory for any CSR donation and to be mentioned in the Application Form.
  - Discretion to be exercised judiciously to ensure that assistance is extended for worthy causes to well established institutions / NGOs with proven track record, for socially oriented and environmentally safe projects. It should be ensured that donations are invariably made directly to institutions / NGOs without any involvement of agents/middlemen/consultants.
  - Donations should be given to institutions/ NGOs having a long unblemished record of public service. Before sponsoring of any project, appropriate and adequate due diligence on promoters/ trustees /persons behind the project need to be ensured to obviate any unwanted reputational risk. Donations are not to be given to individuals.
  - Request for donations from institutions having caste / religious / communal bias and/or political overtones should not be considered.
  - Donations to Government Departments or Organizations / Institutions funded exclusively by the Government should not be given as these institutions are expected to meet their financial requirements through government budgetary grants. Donations given for promotion of Information Technology / computer education and Sports are exceptions where proposals from Government aided Departments / Organizations / Institutions may also be considered.
  - Donations to institutions which are having their own funds and / or can raise, on their own, funds to meet costs of their project should be avoided.
  - In respect of donations to multi-branch organizations and repeat donations (within three years), Circles should obtain in-principle approval from CSR Department at Corporate Centre before considering donations to such institutions at Circle level.

## 7. Purpose

- “Corporate Social Responsibility (CSR)” means the activities undertaken by the Bank in pursuance of its statutory obligation in accordance with the provisions contained in Schedule VII of the Companies Act 2013, but shall not include the following, namely:-
  - i) Activities undertaken in pursuance of normal course of business of the Bank.
  - ii) Any activity undertaken by the Bank outside India except for training of Indian sports personnel representing any State or union territory at national level or India at International level.

- iii) Contribution of any amount directly or indirectly to any political party under section 182 of the Companies Act.
  - iv) Activities benefitting employees of the Bank.
  - v) Activities supported by the Bank on sponsorship basis for deriving marketing benefits for its products or services.
  - vi) Activities carried out for fulfillment of any other statutory obligations under any law in force in India.
- To have a lasting impact, donations are to be released preferably for purchase of some equipment for clearly identifiable projects to provide long term advantages to the target beneficiaries and are conducive to their sustained development.
  - Donations for construction activities/ acquiring of Real Estate should be discouraged. Only in very exceptional circumstances (like setting up homes and hostels for women or orphans; setting up old age homes, day care centers, constructions of Toilets), donations may be considered for construction activities provided it directly benefits the target beneficiaries. However, in deserving cases, the MD (R& DB) may allow permission based on recommendation from the Circle Authorities.
  - Donations should not be released as contribution towards corpus funds. In very exceptional and deserving cases, donations may be considered for augmentation of corpus fund or creation of endowment fund for awarding scholarships to meritorious and economically weaker students pursuing higher / technical / management education at reputed institutions like IIMs, IITs, etc. Such donations may, however, be granted on extremely selective basis and only to highly reputed institutions. In deserving cases, the MD (R& DB) may allow permission based on recommendation from the Circle Authorities.
  - Donations should be given for a specific activity / purpose rather than a general donation to discourage utilization of such funds at the discretion of the donee institution. Similarly, donations for too many small value sundry items (like bed sheets, pillow-covers, utensils, carpets, chairs, fans, mattresses, etc.) should normally be avoided as it becomes difficult to monitor utilization of such donations. Further, donations for such items do not yield desired publicity to the Bank.
  - The Circle should ensure that Donations are not limited to a few donee institutions rather the endeavor should be to benefit a large pool of institutions.
  - Donations should not be made for recurring expenses.
  - 'Chief Minister's Relief Fund' or 'State Relief Fund for COVID-19' is not included in Schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.

## 8. Areas of Engagement

The Bank has directed its CSR activities as per schedule VII of the Indian Companies Act covering the following areas:

### 8.1 Healthcare and Sanitation

Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.

### 8.2 Education

Promoting education, including special education and employment enhancing vocational skills

especially among children, women, elderly and the differently abled and livelihood enhancement projects.

### **8.3 Empowerment of Women and Senior Citizens**

Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.

### **8.4 Environment**

Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.

### **8.5 Protection of National Heritage**

Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up of public libraries; promotion and development of traditional art and handicrafts.

### **8.6 War Veterans**

Measures for the benefit of armed forces veterans, war widows and their dependents.

### **8.7 Sports**

Training to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports.

### **8.8 Contribution to Various Funds**

- Contribution to the Prime Minister's National Relief Fund, or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women
- Contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the 2013 and clarified vide general circular No. 10/2020 dated 23rd March, 2020.
- Contribution to Prime Minister's Citizen Assistance and Relief in Emergency Situation Fund (PMCARES).

### **8.9 Other Miscellaneous Areas**

- Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government.
- Contributions to public funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies\* engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).{\*The autonomous bodies should be established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defense Research and Development Organization (DRDO), Department of Science and Technology (DST), Ministry of Electronics and Information Technology} engaged in conducting research

in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

### 8.10 Rural Development

- Rural Development Projects.

### 8.11 Slum Area Development

- Slum area development. (For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.)

### 8.12 Disaster management, including relief, rehabilitation and reconstruction activities.

- Ministry of Corporate Affairs vide general circular No. 10/2020 dated 23rd March, 2020 has clarified that spending CSR funds for COVID-19 related activities shall qualify as CSR expenditure. It is further clarified that funds may be spent for various activities related to COVID-19 under items nos. (i) and (xii) of Schedule VII relating to promotion of health care including preventive health care and sanitation, and disaster management. Further, as per general circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.

## 9. Implementation

CSR activities will be undertaken by Corporate Centre Establishments, Circles, Administrative Offices, Corporate Accounts group, Commercial Clients Group, Apex Training Institutes (ATIs), Branches, RSETIs etc. and SBI Foundation within the allocated budget as per the approved policy. CSR Department at Corporate Centre will be the nodal point for monitoring the donations made.

- Bank may engage international organizations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.
- Bank may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programmes in accordance with CSR rules.

## 10. CSR Committee of the Board

The Bank has constituted Corporate Social Responsibility (CSR) Committee of the Board. The Committee consists of Two (2) Managing Directors of the Bank and Six (6) Independent Directors. The functions of the committee are to:

- Provide direction towards effective implementation of CSR Policies of the Bank.
- Meet at quarterly intervals to review the CSR activities undertaken in the previous quarter.
- Suggest ways and means to improve the functioning of CSR related activities.
- Deliberate upon and recommend all CSR proposals which are to be sanctioned by the ECCB.

## 11. Monitoring and Evaluation

### Monitoring

- CSR Department at Corporate Centre should be in close touch with the Circles for ensuring proper use of donations.
- Circles must report their spends on Monthly basis to CSR Department at Corporate Centre.

- Donations sanctioned within the discretionary powers of CGM of the Circle as per delegation of powers should be submitted to Corporate Centre for control purpose.
- Projects under SBI Foundations are subject to audit by the CAG.

### **Evaluation**

- Random checking of assets / scrutinizing documents & assessment of impact by the Circle/ Corporate Centre functionaries.
- For bigger projects, impact assessment may be done by the independent agencies.
  - Bank shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.
  - The impact assessment reports shall be placed before the Board and shall be annexed to the annual review on CSR.
  - For impact assessment bank may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less.

## **12. Other Social Responsibilities**

Besides mandatory CSR activities, Bank has created following two funds for the benefit of society at large:

- a) Research and Development Fund- (Detailed in Annexure I)
- b) SBI Children's Welfare Fund (Detailed in Annexure II)

Only interest earned on the funds/ corpus are utilized for social expenditure and this expenditure is not part of mandatory ceiling of 1% under CSR.

## **13. Conclusion**

The Bank ensures full disclosure of its CSR policy, composition of the CSR Committee of the Board and detailed expenditure. CSR policy of the Bank is available in public domain on its web site. The composition of the CSR Committee of the Board and annual expenditure is published every year in the Annual Report. Detailed annual expenditure will be made available on its website.

***Annexure I***

### **Research and Development Fund**

#### **Constitution**

The Bank set up the Research & Development Fund in 1977 with the primary objective of supporting research work relevant broadly to the activities of the Bank.

#### **Eligibility**

- Under the Fund, Research grants are extended to Universities / reputed academic and Research institutions for undertaking research projects which are of direct relevance to the Bank / Banking industry or having indirect relevance to the Bank or which relate to the emerging scenario in the Banking industry / Economy.
- Research grants should be considered only to the Universities or highly reputed academic institutions.

**Preference**

- Preference should be given for appropriate and well-conceived projects / studies or action programmes which could be completed over a period of 2 years.
- Projects related to Credit, Particularly AGRI/ SME & also in the fields of RENEWABLE ENERGY and SUSTAINABILITY will be given thrust.
- The chair may be renewed for a further period of 2 years, subject to satisfactory performance. The maximum period for which assistance could be considered for any project would be about 4 years.
- The Research Projects / Studies should be utilized properly by the relevant user department(s) in the Bank who will review the performance annually.

**R&D Fund Steering Committee**

- A Steering Committee will be formed to approve a project as under:
  - MD (Retail & Digital Banking)
  - MD (Global Banking & Subsidiaries)
  - DMD & CDO
  - CGM, STU
  - CEA

***Annexure II*****SBI Children's Welfare Fund**

The Bank constituted an SBI Children's welfare Fund as a Trust in 1983. The Corpus of the Fund is made up of contributions by staff members and matching contribution provided by the Bank. The Fund extends grants to institutions engaged in the welfare of underprivileged children like orphans, destitute, challenged and deprived.

Funds collected are kept as term deposits in State Bank of India and the projects are funded from the interest earned on the Corpus for the benefit of the Children

The Board of Trustees for the Children Welfare Fund consists of:

- a) Chairman
- b) MD (R & DB)
- c) One representative from SBI Officers
- d) One representative from SBI Award staff
- e) DGM (CSR), Managing Trustee

Projects recommended by the Circles under the Fund are sanctioned by the Trustees of the Children Welfare Fund.

**Note:** Any changes to the policy consequent to any changes in regulations or specific directions from regulator will be taken as a part of the policy with the approval of the vertical head and included in the policy at the time of next review.

CSR Policy Version 5.0 is valid for FY 2021-22 and reviewed at annual intervals.

### LESSON ROUND-UP

- Corporate Social Responsibility (CSR) is an initiative with the basic aim to include responsibility for the Company's actions and encourage a positive impact through its activities on the environment, consumers, employees, communities, stakeholders and society at large.
- In the modern world, a good and responsible corporate citizen recognizes that apart from the financial responsibilities / obligations it has important responsibilities/obligations towards the society, community, and the environment. Reaching out to the underserved & underprivileged section of communities is part of business responsibility.
- Government provides the broad framework of CSR through Section 135 of the Companies Act, 2013 enumerates the provisions regarding CSR; Schedule VII to the Companies Act, 2013 indicates the activities to be undertaken by the company under CSR, and Companies (CSR Policy) Rules, 2014 prescribes the manner in which companies shall comply with CSR provisions of the Act.
- The first guidelines on CSR were issued by Department of Public Enterprises (DPE) in April 2010 to make it mandatory for public sector enterprises to set aside a fixed percentage of their profits for CSR activities. Subsequently, DPE explored a new dimension of CSR as a form of responsible business to be adopted voluntarily by the companies. After extensive consultations with all key stakeholders, DPE issued revised guidelines on CSR and Sustainability, effective from 1st April 2013, which incorporated the global best practices but retained focus on the domestic socio- economic requirements of our country.
- The thrust of DPE guidelines on CSR and Sustainability has been on inclusive growth, development of backward regions, upliftment of the marginalized and under privileged and weaker sections of the society, empowerment of women, environment sustainability, promotion of green and energy efficiency technologies and sustainability development in all its diverse aspects.
- India is at the forefront mandatory CSR prescription and has stipulated a 2% minimum spending on CSR activities by business above a certain threshold. This prescription made in the Companies Act 2013 is equally applicable to Insurance companies. Further, the Insurance Act, 1938 stipulates Rural and Social Sector Obligations to be fulfilled by the insurers in the form of sale of certain number of policies as well as certain amount of premium to some identified sections of the society.
- Nationalized Banks are not incorporated as a company under the Companies Act, 2013, they are not covered under section 135 of the Act and accordingly, the requirement to spend 2% of net profits on CSR activities remains voluntary for such banks. However, they are required to spend 1% of net profits through donations as specified by the Reserve Bank of India (RBI).

### TEST YOURSELF

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)*

1. Write a detailed note on guidelines issued by DPE in regard to CSR for CPSEs.
2. How did banking sector contribute to CSR in last few years? Discuss.
3. CSR implementation is vital for banking companies' public figure. Discuss
4. What is ABCD Analysis of CSR in banking companies?

5. How government's proposal to add public sector banks under purview of CSR would affect the social responsibility of banks towards society?
6. How CSR spending pattern is different in private sector banks from public sector banks?

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### KEY CONCEPTS

■ Corporate Governance ■ Brand Building through CSR ■ Sustainable Development Goals ■ CSR and SDGs

### Learning Objectives

#### To understand:

- Governance and How CSR is Related to it?
- CSR and its Contribution in Brand Building
- CSR and Value Creation of Organisation
- Sustainable Development Goals (SDGs)
- Factors Influencing CSR

### Lesson Outline

- Meaning of Corporate Governance
- How CSR is related to Corporate Governance?
- Brand Building and value creation out of CSR activities
- Factors influencing CSR
- Sustainable Development Goals (SDGs)
- How SDGs and CSR are corelated
- CSR and Sustainability Reporting
- Case Studies
- Lesson Round-Up
- Test Yourself

## INTRODUCTION

Corporate or a Corporation is derived from the Latin term “corpus” which means a “body”. Governance means administering the processes and systems placed for satisfying stakeholder expectation. The root of the word Governance is from ‘gubernate’, which means to steer. When combined, Corporate Governance means a set of systems, procedures, policies, practices, standards put in place by a corporate to ensure that relationship with various stakeholders is maintained in transparent and honest manner and business is conducted ethically.

The phrase “corporate governance” describes “the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which companies, and those in control, are held to account.”

Corporate governance is the broad term used to describe the processes, customs, policies, laws and institutions that direct the organizations and corporations in the way they act or administer and control their operations. It works to achieve the goal of the organization and manages the relationship with the stakeholders including the board of directors and the shareholders.

Corporate governance means to steer an organization in the desired direction by determining ways to take effective strategic decisions. It also deals with the accountability of the individuals through a mechanism which reduces the principal-agent problem in the organization.

Corporate Governance has a broad scope. It includes both social and institutional aspects. Corporate Governance encourages a trustworthy, moral, as well as ethical environment. In other words, the heart of corporate governance is transparency, disclosure, accountability and integrity. It is to be borne in mind that mere legislation does not ensure good governance.

Good governance flows from ethical business practices even when there is no legislation. Good corporate governance promotes investor confidence, which is crucial to the ability of entities listed on stock exchanges to compete for capital. Good corporate governance is essential to develop additional values to the stakeholders as it ensures transparency which ensures strong and balanced economic development.

This also ensures that the interests of all shareholders (majority as well as minority shareholders) are safeguarded. It ensures that all shareholders fully exercise their rights and that the organization fully recognizes their rights. Some other definitions of Corporate Governance are given hereunder for better understanding: -

“Corporate Governance is the application of best management practices, compliance of law in true letter and spirit and adherence to ethical standards for effective management and distribution of wealth and discharge of social responsibility for sustainable development of all stakeholders.”

**The Institute of Company Secretaries of India**

“Corporate Governance is the acceptance by management of the inalienable rights of shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders. It is about commitment to values, about ethical business conduct and about making a distinction between personal and corporate funds in the management of a company.”

**Report of N.R. Narayana Murthy Committee on Corporate Governance constituted by SEBI (2003)**

“Corporate governance involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.”

**G20/OECD Principles of Corporate Governance**

“Corporate governance deals with laws, procedures, practices and implicit rules that determine a company’s ability to take informed managerial decisions vis-a-vis its claimants - in particular, its shareholders, creditors, customers, the State and employees. There is a global consensus about the objective of ‘good’ corporate governance: maximizing long-term shareholder value.”

**Confederation of Indian Industry (CII) – Desirable Corporate Governance Code (1998)**

### Need for Corporate Governance

Corporate Governance is integral to the existence of the company. Corporate Governance is needed to create a corporate culture of transparency, accountability and disclosure.



### Elements / Scope of Good Corporate Governance

Some of the important elements of good corporate governance are discussed as under:

#### 1. Role and Powers of Board

Good governance is decisively the manifestation of personal beliefs and values which configure the organizational values, beliefs, and actions of its Board. Board of Directors is the primary interface between the Company and its various stake holders.

Directors are elected by shareholders to represent them and are tasked with making important decisions,

such as corporate officer appointments, executive compensation and dividend policy. In some instances, board obligations stretch beyond financial optimization, when shareholder resolutions call for certain social or environmental concerns to be prioritized.

The Board as a main functionary is primary responsible to ensure value creation for its stakeholders. The absence of clearly designated role and powers of Board weakens accountability mechanism and threatens the achievement of organizational goals. Therefore, the foremost requirement of good governance is the clear identification of powers, roles, responsibilities and accountability of the Board, CEO, and the Chairman of the Board. The role of the Board should be clearly documented in a Board Charter.

## **2. Legislation**

Clear and unambiguous legislation and regulations are fundamental to effective corporate governance. Legislation that requires continuing legal interpretation or is difficult to interpret on a day-to-day basis can be subject to deliberate manipulation or inadvertent misinterpretation.

## **3. Management Environment**

Management environment includes setting-up of clear objectives and appropriate ethical framework, establishing due processes, providing for transparency and clear enunciation of responsibility and accountability, implementing sound business planning, encouraging business risk assessment, having right people and right skill for the jobs, establishing clear boundaries for acceptable behavior, establishing performance evaluation measures and evaluating performance and sufficiently recognizing individual and group contribution within the organisation.

## **4. Board Skills**

To be able to undertake its functions efficiently and effectively, the Board must possess the necessary blend of qualities, skills, knowledge and experience. Each of the directors should make quality contribution to the organizations policies, operations and management. Illustratively, a Board should have a mix of the following skills, knowledge and experience:

- Operational or technical expertise, commitment to establish leadership;
- Financial skills;
- Legal skills; and
- Knowledge of Government and regulatory requirement.

## **5. Board Appointments**

To ensure that the most competent people are appointed on the Board, the Board positions should be filled only after making an extensive search. A well-defined and open procedure must be in place for re-appointments as well as for appointment of new directors. Appointment mechanism should satisfy all statutory and administrative requirements. High on the priority should be an understanding of skill requirements of the Board particularly at the time of making a choice for appointing a new director. All new directors should be provided with a letter of appointment setting out in detail their duties and responsibilities. Orientation program for new directors should also be provided to apprise them about the company, its internal and external management and the expectations from the directors and the Board.

The role of the board of directors was summarized by the King Report (a South African report on corporate governance) as:

- to define the purpose of the company,
- to define the values by which the company will perform its daily duties,

- to identify the stakeholders relevant to the company,
- to develop a strategy combining these factors,
- to ensure implementation of this strategy.

## 6. Board Induction and Training

Directors must have a broad understanding of the area of operation of the company's business, corporate strategy and challenges being faced by the Board. Attendance at continuing education and professional development programmes is essential to ensure that directors remain abreast of all developments, which are or may impact their corporate governance and other related duties.

## 7. Board Independence

Independent Board is essential for sound corporate governance. This goal may be achieved by associating enough independent directors with the Board. Independence of directors would ensure that there are no actual or perceived conflicts of interest. It also ensures that the Board is effective in supervising and, where necessary, challenging the activities of management. The Board needs to be capable of assessing the performance of managers with an objective perspective. Accordingly, a portion of the Board members should be independent of both the management team and any commercial dealings with the company. At the same time a proper balance between independent and non-independent directors is also very important.

## 8. Board Meetings

Directors must devote sufficient time and give due attention to meet their obligations. Attending Board meetings regularly and preparing thoroughly before entering the Boardroom increases the quality of interaction at Board meetings. Board meetings are the forums for Board decision-making. These meetings enable directors to discharge their responsibilities. The effectiveness of Board meetings is dependent on carefully planned agendas and providing relevant papers and material to directors sufficiently prior to Board meetings.

## 9. Code of Conduct

It is essential that the organization's explicitly prescribed norms of ethical practices and code of conduct are communicated to all concerned and are clearly understood and followed by each member of the organization. Systems should be in place to periodically measure, evaluate and if possible, recognize the adherence to code of conduct.

## 10. Strategy Setting

The objectives of the company must be clearly documented in a long-term corporate strategy including an annual business plan together with achievable and measurable performance targets and milestones.

## 11. Business and Community Obligations

Though basic activity of a business entity is inherently commercial yet it must also take care of community's obligations. Commercial objectives and community service obligations should be clearly documented after approval by the Board. The stakeholders must be informed about the proposed and ongoing initiatives taken to meet the community obligations. Corporate Social Responsibility is rapidly becoming an integral part of the management's role and responsibility.

## 12. Financial and Operational Reporting

The Board requires comprehensive, regular, reliable, timely, correct, and relevant information in a form and of a quality that is appropriate to discharge its function of monitoring corporate performance. For this

purpose, clearly defined performance measures - financial and non-financial should be prescribed which would add to the efficiency and effectiveness of the organization.

The reports and information provided by the management must be comprehensive but not so extensive and detailed as to hamper comprehension of the key issues. The reports should be available to Board members well in advance to allow informed decision-making. Reporting should include status report about the state of implementation to facilitate the monitoring of the progress of all significant Board approved initiatives.

### **13. Monitoring the Board performance**

The Board must monitor and evaluate its combined performance and also that of individual directors at periodic intervals, using key performance indicators besides peer review. The Board should establish an appropriate mechanism for reporting the results of Board's performance evaluation. Companies Act, 2013 mandates Board evaluation of specified classes of Companies.

### **14. Audit Committee**

The Audit Committee is inter alia responsible for liaison with the management; internal and statutory auditors, reviewing the adequacy of internal control and compliance with significant policies and procedures, reporting to the Board on the key issues. The quality of Audit Committee significantly contributes to the governance of the company.

### **15. Risk Management**

Risk is an important element of corporate functioning and governance. There should be a clearly established process of identifying, analyzing and treating risks, which could prevent the company from effectively achieving its objectives. It also involves establishing a link between risk-return and resourcing priorities. Appropriate control procedures in the form of a risk management plan must be put in place to manage risk throughout the organization. The plan should cover activities as diverse as review of operating performance, effective use of information technology, contracting out and outsourcing.

## **Corporate Governance and CSR**

At its most basic, corporate social responsibility (CSR) is represented in the firm's choices of how it will operate within the social, political, legal, and ethical standards of the environments in which it finds itself, as well as choices about where it will and will not operate.

The conceptualization of CSR was, initially, purely in terms of philanthropy or charity. However, a fundamental shift has been seen from this philanthropy to integrated approach towards CSR which is gradually getting infused into companies' corporate governance practices.

Corporate Governance as a concept has CSR embedded in it, whereby companies not only consider their profitability and growth, but also the interests of society and the environment by taking responsibility for the impact of their activities on stake holders, environment, consumers, employees, communities, and all stake holders. Other members of the public sphere. The basic premise is that when the corporations get bigger in size, apart from the economic responsibility of earning profits, there are many other responsibilities attached to them which are more non-financial/social in nature.

Companies that practice good corporate governance are also those that are socially and environmentally responsible. That is to say, that unless there is good governance it is quite unlikely that there is a conscientious approach towards their social responsibility. Both Corporate Governance and CSR focus on the ethical practices in the business and the responsiveness of an organisation towards its stakeholders and the environment in which it operates.

### CSR as Organizational Brand Building

The importance of public and their respective targets is the key to building a strong brand and value creation and in today's economic scenario businesses are well aware of the importance of the public, especially their target audience, having a positive perception of them. Of course, their social responsibility, first and foremost, is to deliver value for money goods/services, followed by providing perfect after-sales support, customer service, involvement in civic causes, and generally performing acts that demonstrate that company cares about their customers, the environment, and the society as a whole.

Organisations with good and strong Corporate Social Responsibility policies get more & better media coverage and able to garner more customer confidence which is considered to be one of the best ways to create the brand image of the company. The brand value of the organisation is built not only through offering value good and services to its customers and other stakeholders, but one of the strong pillars of building strong brand value and creating trust amongst stakeholders is how the organisation is catering to the needs of the society at large through its social responsibility policies and projects.

A company demonstrates by being socially responsible, that it incorporates ethical practices in conducting itself, how it does the business. Customers are becoming more aware about the local, national and global issues, and there is no denying that their decisions are now being greatly influenced by these matters. Therefore, they tend to avail the goods & services from the companies that show their concern and their action over issues that also resonates greatly with the customers.

Businesses regard their name and their brand to be one of their most valuable assets and, by showing that they take their social responsibility seriously, they are also encouraging the public to take them seriously. Consumers are willing to spend more money on the products and services of a company that has proven itself to be socially responsible.

A company's workforce, for example, is inclined to feel more motivated to put in their best at work when they know they are contributing to a cause which helps the society as a whole the greater good. Social responsibility definitely helps in boosting the morale of employees, in turn, does wonders in increasing their productivity. It is a foregone conclusion that everyone – individuals and entities alike – have a responsibility to society.

There is a moral obligation inherent in everyone, and companies are not exempt from doing their part. Potential investors also look into a company's social responsibility, using it as one of their criteria in deciding whether to put money into the company or not. It is also instrumental in improving companies' stock prices, since it inspires confidence among associates and business partners.

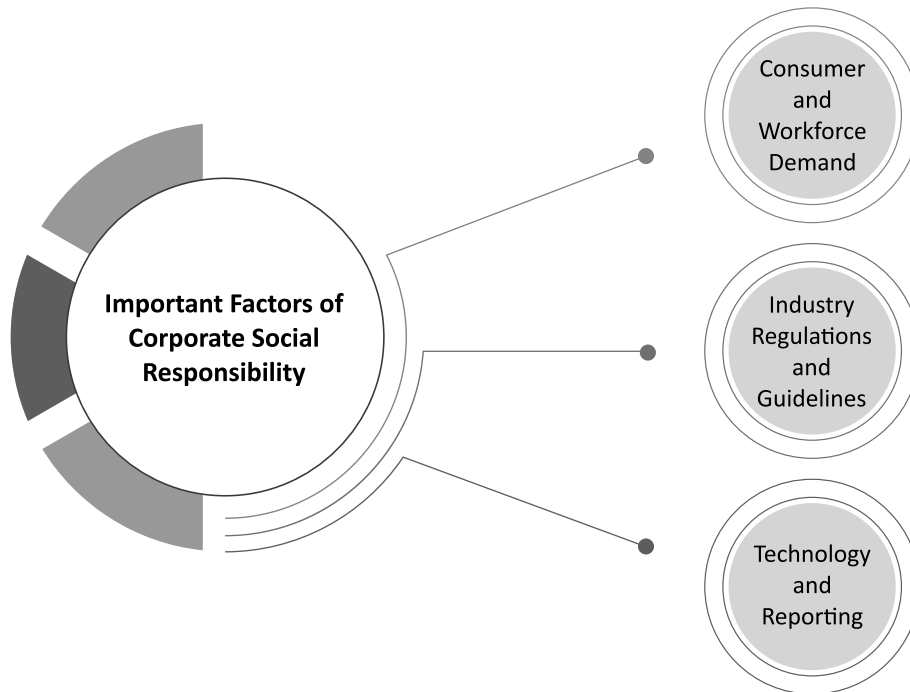
*When Starbucks entered the Chinese market, they confronted strong hostility among Chinese consumers who are proud of their traditional tea culture and against the Western, especially the American, culture.*

*Starbucks actively implemented the CSR programs (e.g. charity projects to areas with poor education, improve benefits for the local employees, various activities for local communities, development of the first China-source coffee) and successfully builds up their brand image to be more favourable to local consumers and becomes the dominant market leader in the Chinese market (Ferrell and Hartline, 2011).*

*CSR becomes the core branding strategy for Starbucks worldwide and it is the key driver that makes Starbucks the most recognizable and respected global brand.*



## Factors influencing CSR



Many factors, including the following, have led to increasing attention being devoted to CSR:

- (i) Globalization coupled with focus on cross-border trade, multinational enterprises and global supply chains is increasingly raising CSR concerns related to human resource management practices, environmental protection, and health and safety, among other things.
- (ii) Governments and regulatory bodies, legal prescription, international organisation such as the United Nations, the Organisation for Economic Co-operation and Development and the International Labour Organization have developed declarations, guidelines, principles and other instruments that outline social norms for acceptable conduct.
- (iii) Advances in communications technology, such as the Internet, cellular phones and personal digital assistants, are making it easier to track corporate activities and disseminate information about them. Nongovernmental organizations now regularly draw attention through their websites to business practices they view as problematic.
- (iv) Consumers and investors are showing increasing interest in supporting responsible business practices and are demanding more information on how companies are addressing risks and opportunities related to social and environmental issues.
- (v) Breaches of corporate ethics have contributed to elevated public mistrust of corporations and highlighted the need for improved corporate governance, transparency, accountability and ethical standards. There is increasing awareness of legal and regulatory initiatives to promote the CSR. Citizens in many countries demands that corporations should meet standards of social and environmental care, no matter where they operate.
- (vi) Businesses are recognizing that adopting an effective approach to CSR can reduce risk of business disruptions, open up new opportunities, and enhance brand and company reputation.

CSR in developing countries like India has played a significant role as the majority of the population living here is deprived of economic and social growth status. Such an idea of social responsibility is also evolved in the modern corporates too.

For the new generation of corporate leaders, profit optimization is more important than only profit maximization. Hence there is a shift in accountability from shareholders to stakeholders (including employees, consumers, and affected communities) and this paradigm shift in approach of corporates from shareholders to stakeholders ignite the CSR activities more relevantly and appropriately.

Below are some factors due to which CSR implementation & execution may be hindered in developing economies like India:

- 1. Lack of Community Participation in CSR Activities:** Majorly, communities who are intended beneficiaries of a CSR program show less interest which will affect their participation and contribution. Also, very little efforts are being made to spread CSR within local communities and instill confidence in the people. The situation is further aggravated by inadequate communication between the organization and the community at the grassroots level.
- 2. Issues of transparency:** Lack of transparency is one of the key issues. There is a perception that partner NGOs or local implementation agencies do not share adequate information and make efforts to disclose information on their programs, address concerns, assess impacts and utilize funds. This perceived lack of transparency has a negative impact on the process of trust building between companies and local communities, which is key to the success of any CSR initiative.
- 3. Lack of Consensus:** There is a lack of consensus amongst local agencies regarding CSR project needs and priorities. This results in lack of consensus often result in duplication of activities by corporate houses in the areas of their intervention. The consequence results in unhealthy competitiveness spirit among local implementing agencies, which goes against the necessity to have rather than building collaborative approaches on important issues. This factor limits organization's abilities to undertake an impact assessment of their initiatives from time to time.
- 4. Civil Society Strengthening:** Capacity for strong performance in the community is the foundation for lasting social benefits. Worldwide, civil society is an important social and economic force with the potential to create a more free, fair, and just global order. The collective nature of civic action helps to ensure that the interests of all citizens—including women, the poor and other marginalized groups—are adequately weighed by public institutions that make policy and allocate resources. Many civil society organizations face common challenges that limit their effectiveness namely, the ability to manage human and financial resources, weak advocacy abilities, and insufficient management ability to scale up promising innovations and results to achieve wider impact.
- 5. Social Impact Management:** This addresses the issue of inclusive growth is more than mere poverty alleviation. It seeks to address the problem of equity through the enhancement of opportunities for everybody.

### Sustainable Development Goals and CSR

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity.

The 17 SDGs are integrated—they recognize that action in one area will affect outcomes in others, and that development must balance social, economic, and environmental sustainability.

Countries have committed to prioritize progress for those who are furthest behind. The SDGs are designed to end poverty, hunger, AIDS, and discrimination against women and girls.

The creativity, knowhow, technology, and financial resources from all of society is necessary to achieve the SDGs in every context.

Businesses cannot prosper in a world plagued with poverty, inequality, violence and environmental stress. Hence, for companies, doing well and doing good simultaneously is of paramount importance.

The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future.

At its heart are the 17 Sustainable Development Goals (SDGs), which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

SDGs were adopted on 25th September, 2015 in Paris where 193 countries, including India, ratified and signed the convention to accomplish 17 SDGs. The SDGs have a much longer history of evolution but there is considerable evidence to support the claim that even globally, CSR co-evolved with the sustainable development movement.

Below picture depicts 17 SDGs with respective objectives:

**SUSTAINABLE DEVELOPMENT GOALS**

**1 NO POVERTY**  
 We are supporting those people in greatest need in the UK to eat well and have access to good food.

**2 ZERO HUNGER**  
 Our work supports greater access to high quality nutritious meals for all, produced through a fair and sustainable food system.

**3 GOOD HEALTH AND WELL-BEING**  
 We are preventing diet related ill health and supporting farming systems that are much better for the health of farm workers through reduced exposure to pesticides.

**4 QUALITY EDUCATION**  
 We promote, support and deliver education on healthy and sustainable food and farming.

**5 GENDER EQUALITY**  
 We enable gender equality by encouraging greater uptake of Fairtrade produce, which actively supports gender equality.

**6 CLEAN WATER AND SANITATION**  
 We enhance access to drinking water, encourage water saving, and support farming systems that reduce contamination.

**7 AFFORDABLE AND CLEAN ENERGY**  
 We support and encourage organizations to save energy and make use of renewable energy.

**8 DECENT WORK AND ECONOMIC GROWTH**  
 We support local economic growth through good procurement practices and connecting farmers and food businesses with access to local markets, creating social value and supporting local jobs.

**9 INDUSTRY, INNOVATION AND INFRASTRUCTURE**  
 We facilitate farmer-led innovation which helps to future-proof the food systems.

**10 REDUCED INEQUALITIES**  
 We work to a vision of Good Food for All. Everyone has access to good food, wherever or whenever you are.

**11 SUSTAINABLE CITIES AND COMMUNITIES**  
 Our work promotes and facilitates economic, social and environmental networks and partnerships through good food.

**12 RESPONSIBLE CONSUMPTION AND PRODUCTION**  
 We support responsible management of natural resources through our schemes.

**13 CLIMATE ACTION**  
 We deliver and promote food and farming practices that strengthen resilience against and help to mitigate the climate crisis.

**14 LIFE BELOW WATER**  
 We support marine conservation through responsible sourcing, and help develop more sustainable models for aquaculture.

**15 LIFE ON LAND**  
 We facilitate sustainable farming and forestry that supports healthy soils, wildlife, and the natural world.

**16 PEACE, JUSTICE AND STRONG INSTITUTIONS**  
 We hold institutions accountable to mandatory standards around food and democratic and citizen lead approach to action around food.

**17 PARTNERSHIPS FOR THE GOALS**  
 We work in partnership with other organisations and share learning where possible through international projects, connections and conferences.

Source: <https://www.foodforlife.org.uk/about-us/our-impact/un-sustainable-development-goals>

### SDGs and CSR: Co-relation

SDGs and the Indian CSR regulation both were implemented around same time and seemingly have a tremendous potential to develop a cohesive sustainable growth model. Moreover, SDGs and CSR thematic development areas share a lot of overlap in terms of activities needed to achieve either.

CSR plays a vital role in attaining sustainable development. The Company has a social and moral responsibility towards protecting the environment. Recently this social and moral responsibility is been backed by rules and regulations. Many companies is focusing on environmental issues for their CSR activities.

In the Indian context, the CSR leadership can quite easily correlate the prescribed areas of CSR spending with the 17 SDGs. Each of the areas prescribed for CSR expenditure enlisted in Schedule VII of the Companies Act, 2013 are coherent with SDGs.

For example, CSR on eradicating hunger, poverty, malnutrition and promoting healthcare and sanitation may be linked to SDG goals 1 (No Poverty), 2 (Zero Hunger), 3 (Good Health & Well Being) and 6 (Clean Water & Sanitation).

Also, CSR on promoting education including special education and employment enhancing vocation skills and livelihoods enhancement projects, could be correlated with SDGs 1 (No Poverty), 2 (Zero Hunger), 4 (Quality Education) and 8 (Decent Work and Economic Growth).

It is need of the hour that the Companies need to broaden the horizon of their CSR policies and activities to align with global or national priorities and goals. Aligning CSR activities with global sustainability goals encapsulated within the 17 UN SDGs provide businesses the opportunity to achieve these social and business objectives. Few of the benefits are as below:

- Aligning CSR activities with SDGs establish direct contributions to national and global targets of social, environmental and economic development/growth. A good economy or socially developed communities expand the market and people's purchasing power increases, which ensure further growth of markets.
- The measurable contribution with larger goals can enhance corporate reputation, which can add great value to help establish a responsible brand. The socially conscious millennial consumer is vying for responsible brands and do not hesitate to spend extra bucks to buy the product with such a reputation.
- Sustainable business practices and ethical business are increasingly becoming mandatory requirements to enter and grow in the mature markets globally. Adopting sustainability practices aligned with CSR initiatives can help grow business globally.

The Ministry of Corporate Affairs (MCA), Government of India, released a set of guidelines in 2011 called the National Voluntary Guidelines on the Social, Environmental and Economic Responsibilities of Business (NVGs). This was expected to provide guidance to businesses on what constitutes responsible business conduct. In order to align the NVGs with the Sustainable Development Goals (SDGs) and the 'Respect' pillar of the United Nations Guiding Principles (UNGP) the process of revision of NVGs was started in 2015. After, revision and updation, the new principles are called the National Guidelines on Responsible Business Conduct (NGRBC). As with the NVGs, the NGRBC has been designed to assist businesses to perform above and beyond the requirements of regulatory compliance.

The NGRBC are designed to be used by all businesses, irrespective of their ownership, size, sector, structure or location. It is expected that all businesses investing or operating in India, including foreign multinational corporations (MNCs) will follow these guidelines. Correspondingly, the NGRBC also provide a useful framework for guiding Indian MNCs in their overseas operations, in addition to aligning with applicable local national standards and norms governing responsible business conduct. Furthermore, the NGRBC reiterate the need

to encourage businesses to ensure that not only do they follow these guidelines in business contexts directly within their control or influence, but that they also encourage and support their suppliers, vendors, distributors, partners, and other collaborators to follow them.

### NGBRC Principals & Its Core Elements

#### **Principle 1: Businesses should conduct and govern themselves with integrity, and in a manner that is ethical, transparent, and accountable.**

Core Elements:

1. The governance structure should develop and put in place structures, policies and procedures that promote this Principle, prevent its contravention and effect prompt and fair action against any transgressions.
2. The Governance Structure should ensure that the Principles of these Guidelines are understood, adopted and implemented throughout the operations of their business.

#### **Principle 2: Businesses should provide goods and services in a manner that is sustainable and safe.**

Core Elements:

1. Businesses should, in designing, producing and making available goods and services, endeavour to ensure that resource-efficient and low-carbon processes and technologies are deployed to minimize adverse environmental and social impacts.
2. Businesses should provide stakeholders across the value chain with adequate information about environmental and social issues and impacts across product life cycle from design to disposal. This may be done through appropriate and relevant tools such as certifications, labels, ratings and other communication and disclosure platforms including reports, websites, etc.

#### **Principle 3: Businesses should respect and promote the well-being of all employees, including those in their value chains.**

Core Elements:

1. The Governance Structure should ensure that the business complies with all regulatory requirements pertaining to its employees, and that there are systems and processes in place to enable this to be done by its value chain partners.
2. Businesses should ensure equal opportunities at the time of recruitment, during the course of employment, and at the time of separation without any discrimination.

#### **Principle 4: Businesses should respect the interests of and be responsive to all its stakeholders.**

Core Elements:

1. Governance Structures should ensure that the business acknowledges, assumes responsibility, and is transparent about the impact of their policies, decisions, products and associated operations on all stakeholders, and the natural environment.
2. Businesses should develop systems, processes and mechanisms to identify its stakeholders, understand their expectations and concerns, define the purpose and scope of the engagement, consult with them in developing policies and processes that impact them, and commit to resolving any differences and redressing grievances in a just, fair and constructive manner.

**Principle 5: Businesses should respect and promote human rights.**

## Core Elements:

1. The Governance Structure should ensure that the business undertakes to make its employees aware of the human rights content of the Constitution of India, relevant national laws and policies, and the International Bill of Human Rights and their application to businesses as outlined in the United Nations Guiding Principles for Business and Human Rights. It should further ensure that the responsibility for addressing such impacts is assigned to the appropriate level and function within the business.
2. The Governance Structure should ensure that the business has in place such policies, structures and procedures that demonstrate respect for the human rights of all stakeholders impacted by its business. This includes carrying out human rights due diligence to identify, prevent, mitigate and account for how they address adverse human rights impacts.

**Principle 6: Businesses should respect and make efforts to protect and restore the environment.**

## Core Elements:

1. The Governance Structure should ensure that the business formulates appropriate policies, procedures and structures to assess, measure and address its adverse impacts on the environment at all its locations, at all stages of its life cycle from establishment to closure. Special care should be taken where these impacts occur in eco-sensitive areas.
2. Businesses should develop appropriate strategies for sustainable and efficient use of natural resources and manufactured materials, giving due consideration to expectations and concerns of all stakeholders.

**Principle 7: Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent.**

## Core Elements:

1. The Governance Structure should ensure that its advocacy positions are consistent with the Principles contained in these Guidelines and publicly disclosed.
2. Businesses should, to the extent possible, undertake policy advocacy through trade and industry chambers and associations, and other similar collective platforms

**Principle 8: Businesses should promote inclusive growth and equitable development.**

## Core Elements:

1. The Governance Structure shall ensure that the business takes appropriate actions to minimize any adverse impacts that it has on social, cultural and economic aspects of society including arising from land acquisition and use, construction of facilities and operations.
2. Businesses should assess, measure and understand their impact on social, and economic development, and respond through appropriate action to minimize and mitigate its negative impacts on society

**Principle 9: Businesses should engage with and provide value to their consumers in a responsible manner**

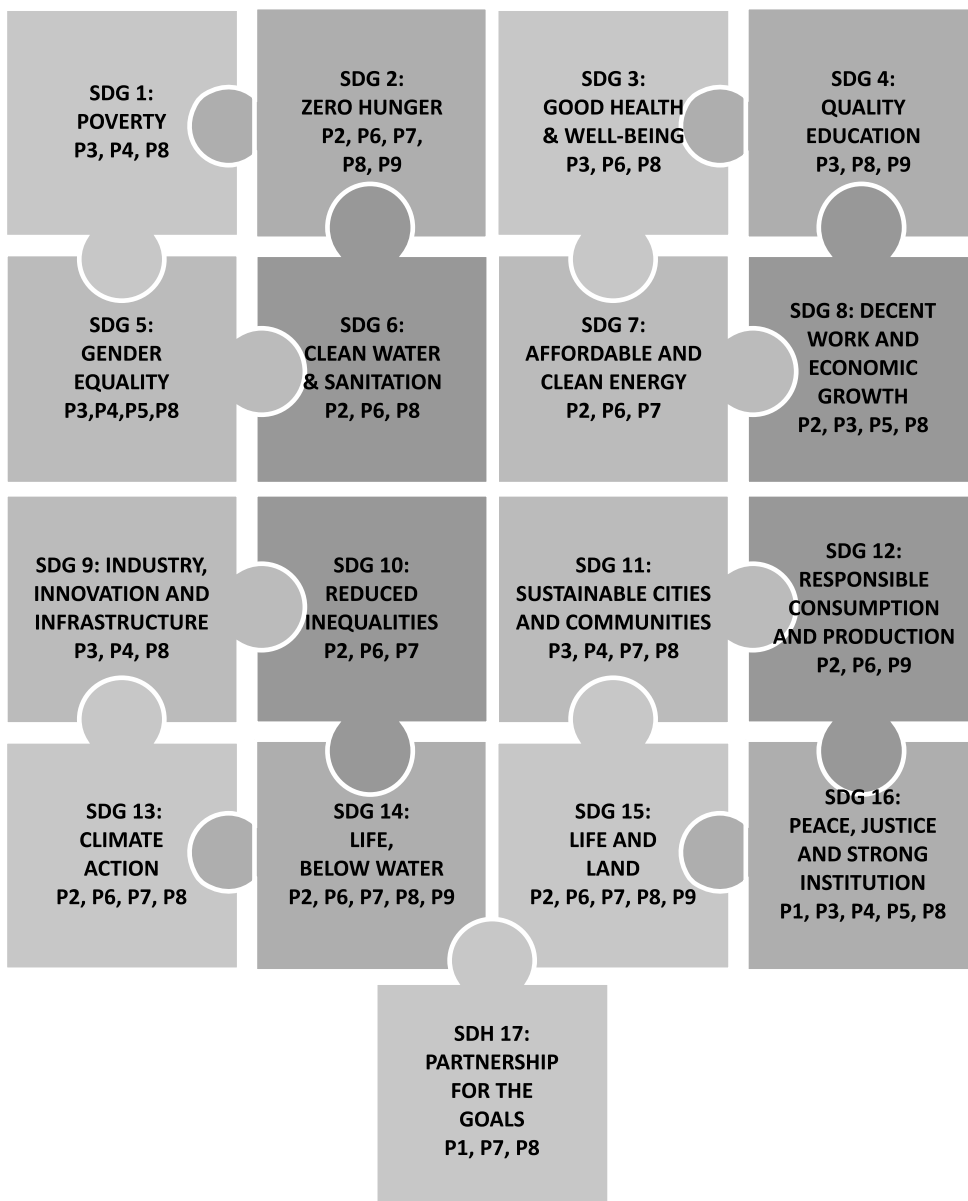
## Core Elements:

1. Governance Structures should ensure that the business minimizes and mitigates any adverse impact of its goods and services on consumers, the natural environment and society at large.
2. Businesses should ensure that they do not restrict the freedom of choice and free competition in any manner while designing, promoting, and selling their products.

Indian businesses have been voluntarily committed towards philanthropy since ages but after 2013, since CSR provisions included in the Companies Act, CSR practices are evolving as a specialized professional manner. Now the corporates need and are looking for more impactful, long lasting, and innovative activities touching more lives through their CSR interventions. This can be possible only when their CSR activities, though catering to a certain geography or community, align with much wider objectives and goals for the wellbeing of the nation and the world.

Having sustainable business practices besides CSR activities and linking to the (Sustainable Development Goals) SDGs is the need of the hour for businesses to reap the benefits of such initiatives. “Better Business, Better World”, a report by the Business and Sustainable Development Commission reveals that sustainable business models could offer a compelling growth strategy, opening up an economic prize of at least US\$1 trillion by 2030 for the Indian private sector and over 73 million new jobs could be created in India by 2030.

National Guidelines on Responsible Business Conduct (NGRBC) presents the Sustainable Development Goals mapped against the NGRBC Principles. The chart as given below demonstrates an indicative alignment SDGs and relevant principles of the NGRBC.



### Mapping of SDGs with Schedule VII of the Companies Act 2013

The High-Level Committee on the Corporate Social Responsibility, in its report released in August 2019, has presented an analysis of the alignment of Sustainable Development Goals with the CSR activities as given in the Schedule VII of the Companies Act, 2013. The analysis not only maps the SDGs against each of the relevant activities as given under the Schedule VII but it also provides an analysis of the activity wise expenditure made by companies under CSR after notification of the mandatory CSR in India.

The High level Committee on Corporate Social Responsibility constituted by the Government of India, in its report, concludes that the framework for CSR, NGRBCs, UNGPs and NAP for Business and Human Rights, together constitute the institutional framework for achieving the SDG agenda of 2030. Alternate models and pilots need to be encouraged at all levels: partnership governance structures, funding models, and innovative impact assessment of scaling best practices. With the institutional framework in place, this committee recommends that another committee be set up in three to five years to further consolidate the learnings in this sphere. Incentives for high-impact social development programs/projects that enable us to move the needle on SDG s should be considered by the next committee.

There is need to align Corporate Social Responsibility, National Guidelines on Responsible Business Conduct (NGRBC) and some of the key International CSR Standards to Sustainable Development Goals to devise an effective framework that allows companies to operate sustainably across multiple jurisdictions.

### CSR and Sustainability Reporting

A business entity incorporated with an objective to earn profits has certain responsibilities towards its stakeholders. These stakeholders may include investors, employees, suppliers, customers etc. The stakeholders track the developments in the company by means of the disclosures which such incorporated entities are mandated to make under laws applicable to them. The disclosures to be made by such entities are of two kinds viz, financial, and non-financial. The financial disclosures include various documents like the balance sheet, profit and loss account, cash flow statements etc. Whereas the non-financial disclosures include the Boards' Report, Corporate Social Responsibility reporting and various Corporate Sustainability Reporting. These disclosures enable stakeholders to make informed decisions.

It has become a prerequisite for every company to create better CSR reports. CSR or Sustainability Reporting is a means for corporate disclosures, companies need to disclose to its stakeholders, the adverse impact they are making and potential risks to society, economy, and environment by their operations. Not only the adverse impacts, but companies need to disclose the remedial and preventive measures being taken by them in order to address issues arising out of their operations. These disclosures not only help companies to take competitive advantages but also assist in attracting investments, value creation for share-holders and business stakeholders, attracting and retaining consumers/customers, positive branding, and competitive market advantages.

Measuring the adverse impact a business is making on social, economic and environmental spheres through its existence and processes, and also measuring the initiatives being taken by the business in terms of protecting and taking remedial measures is utmost important. CSR and Sustainability Reporting is a way through which companies can disseminate their efforts towards social, economic, and environmental sustainability and can win trust of different segments of business stakeholders.

### Integrated Reporting

Even though companies were reporting through a range of mechanisms—sustainability reports, triple bottom line, and CSR reports—these methods of reporting were seen as fragmented and not integrating the financial and non-financial information into one report. Also, the methods “failed to make the connection between the organization’s strategy, its financial performance and its performance on environmental, social and governance issues.”



In response to these criticisms, the International Integrated Reporting Council (IIRC) was formed in 2010, touting Integrated Reporting as a solution to the shortfalls of financial reporting. Its intent is to act as a catalyst for behavioural change and long-term thinking, bringing together financial, social, and environmental and governance information in a clear, concise, consistent and comparable format.

The goals of Integrated Reporting are to:

- Improve the quality of information provided to investors and lenders
- Communicate the full range of factors that materially affect the ability of an organization to create value over time by using a more cohesive and efficient approach to corporate reporting which draws on different reporting strands.
- Enhance accountability and stewardship for the broad base of six capitals (financial, manufactured, intellectual, human, social and relationship, natural) and promote understanding of their interdependencies.
- Support integrated thinking, decision-making and actions so as to create value

As outlined, the Integrated Reporting framework identifies six broad categories of capital used by organizations which are: financial, manufactured, intellectual, human, social and relationship, and natural.

Whether information should be prepared and presented, that is, whether it is material in its inclusion is determined by:

- Identifying relevant matters based on their ability to affect value creation—that is how it increases, decreases, or transforms the capitals caused by the organization’s activities. This may be value created for the organization itself or for stakeholders, including society itself.
- Evaluating the importance of relevant matters in terms of their known or potential effect on value creation. This includes evaluating the magnitude of an occurrence’s effect and its likelihood of occurrence.
- Prioritizing those matters based on their relative importance so as to focus on the most important matters when determining how they should be reported

Determining what information to disclose about material matters. This may require some judgment and discussion with stakeholders to ensure that the report meets its primary purpose.

Integrated Reporting has been adopted by several companies throughout the world and is mandatory for listed companies in South Africa and Brazil. So far, it has been slow to take hold in the U.S., however, several companies have implemented Integrated Reporting, including Clorox, Entergy, General Electric, Jones Lang LaSalle, PepsiCo, Prudential Financial, and Southwest Airlines.

### **CASE STUDY – TATA GROUP – EXAMPLES OF SUSTAINABLE CSR**

#### **Commitment to UNGC Principles**

Forty-two Tata companies are signatories of UN Global Compact in India, the highest in the world from a single business group, these companies do report as per guidelines set by the Global Reporting Initiative.

The Tata city Jamshedpur was selected for the UN Global compact Cities pilot project programme in 2004, The other five were Melbourne (Australia), Porto Alegre (Brazil), Tianjin (People’s Republic of China), Nairobi (Kenya) and San Francisco (USA). Jamshedpur represented South Asia. The reason Jamshedpur has been nominated is the exceptional record of Tata Steel in the field of community development, and their close involvement in the city’s development and services. Through this effort, Tata Steel developed the best practical solutions to contemporary urban issues existing in the city of Jamshedpur and also shared the

city's best practices and proven solutions with other cities in the world facing similar problems. While talking about the best practices of the city, it is fair to mention that the town division of the company, which provides municipal and civic facilities, has been certified ISO 14001 for its Environment Management System, the first in the country. This pilot programme also helped in tackling issues involving multiple stakeholders and seeks to have human as well as tangible impacts.

### **The Tata Council for Community Initiatives (TCCI)**

The Tata Council for Community Initiatives (TCCI) is a unique initiative that lends structure to the Tata group's approach of sustainable development while driving its community engagement and improvement programmes. It is a centrally administered agency whose purpose is to help Tata companies and employees engaged in developing the community through specific processes. TCCI is also involved in assisting Tata companies address sustainability reporting as per guidelines set by the Global Reporting Initiative. It is the focal point for the UN Global Compact in India, which has 42 Tata companies as signatories, the highest in the world from a single business group.

### **The Tata Index for Sustainable Human Development (TISHD)**

The Tata index for sustainable human development is a pioneering effort aimed at directing, measuring, and enhancing the community work that Tata group enterprises undertake. The index provides guidelines for Tata companies looking to fulfil their social responsibilities, and is built around the Tata Business Excellence Model, an open-ended framework that drives business excellence in Tata companies.

### **Tata Group and the SDGs**

The Tata group believes that the role of business is not just about giving back to society from its profits but also about ensuring that the processes it employs to earn these profits are ethical, socially responsible and environmentally sound. Sustainability is built into the Tata group's business processes through a well-defined policy, a value system committed to social expenditure and environmental preservation, and through a governance structure that engages employees and other key stakeholders.

The Tata Group contributes to the realisation of the SDGs by supporting sustainable and meaningful actions in the communities in which it operates. The group also employs sustainability levers in its business operations and offers products and services that help create value for customers and stakeholders. Tata group companies' activities are contributing to the realisation of the SDGs either through their business or through CSR. Besides, it describes the measurable impact that these activities can have on improving the quality of life and enhancing stakeholder value across communities they touch. The SDGs have now become a blueprint to help achieve and contribute to corporate responsibility.

### **Why are the SDGs Important for Business?**

Businesses have been facing increasing expectations from stakeholders in the past few years to include social, environmental and governance dimensions in their corporate strategies. They have started to define and formulate broader responsibilities, and sustainability has become an increasingly critical consideration for corporations. The 2030 Agenda for Sustainable Development and the SDGs provide a good opportunity for businesses to align their strategic goals with globally agreed sustainability principles.

### **How Can Businesses Contribute to the SDGs?**

Businesses are essential drivers for sustainable development and human prosperity, especially because they have the resources to push growth by providing employment, technology, innovation, research and funding. Business can leverage these capabilities and catalyse sustainable, profitable growth.

**LESSON ROUND-UP**

- Corporate or a Corporation is derived from the Latin term “corpus” which means a “body”. Governance means administering the processes and systems placed for satisfying stakeholder expectation. The root of the word Governance is from ‘gubernate’, which means to steer. When combined, Corporate Governance means a set of systems, procedures, policies, practices, standards put in place by a corporate to ensure that relationship with various stakeholders is maintained in transparent and honest manner and business is conducted ethically.
- Good governance flows from ethical business practices even when there is no legislation. Good corporate governance promotes investor confidence, which is crucial to the ability of entities listed on stock exchanges to compete for capital. Good corporate governance is essential to develop additional values to the stakeholders as it ensures transparency which ensures strong and balanced economic development.
- Corporate Governance is integral to the existence of the company. Corporate Governance is needed to create a corporate culture of transparency, accountability and disclosure.
- Clear and unambiguous legislation and regulations are fundamental to effective corporate governance. Legislation that requires continuing legal interpretation or is difficult to interpret on a day-to-day basis can be subject to deliberate manipulation or inadvertent misinterpretation.
- It is essential that the organization’s explicitly prescribed norms of ethical practices and code of conduct are communicated to all concerned and are clearly understood and followed by each member of the organization. Systems should be in place to periodically measure, evaluate and if possible, recognize the adherence to code of conduct.
- Organisations with good and strong Corporate Social Responsibility policies get more & better media coverage and able to garner more customer confidence which is considered to be one of the best ways to create the brand image of the company.
- The brand value of the organisation is built not only through offering value good and services to its customers and other stakeholders, but one of the strong pillars of building strong brand value and creating trust amongst stakeholders is how the organisation is catering to the needs of the society at large through its social responsibility policies and projects.
- The conceptualization of CSR was, initially, purely in terms of philanthropy or charity. However, a fundamental shift has been seen from this philanthropy to integrated approach towards CSR which is gradually getting infused into companies’ corporate governance practices.
- Globalization coupled with focus on cross-border trade, multinational enterprises and global supply chains is increasingly raising CSR concerns related to human resource management practices, environmental protection, and health and safety, among other things.
- The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity.





### KEY CONCEPTS

■ Impact of CSR ■ Other Arms of Business ■ Branding ■ Value Addition ■ Models & Approaches ■ Impact Assessment Reporting

### Learning Objectives

#### To understand:

- Impact of CSR on other arms of business
- CSR affects branding strategy of business
- CSR adds value to organisation
- CSR Impact Assessment and approaches
- Reporting of CSR Impact

### Lesson Outline

- CSR and its impact on other facets of business
- Value addition and CSR
- Models and Approaches of CSR Impact Assessment
- CSR Impact Assessment Reporting
- Impact Assessment Reporting and Best Practices of Corporates
- Lesson Round-Up
- Test Yourself
- References

## INTRODUCTION

Today's modern consumer expects companies to recognize the social responsibility of business and think beyond profit. With the increased spotlight on corporate social responsibility (CSR), in the news and on social media, companies are facing more scrutiny than ever to effect change in their communities. Business will find hard to justify CSR spending, if there is no clear and specific impact of Corporate Social Responsibility on business profitability along with impact on society as whole.

One of the major impacts of Corporate Social Responsibility on business can be observed in the form of consumer spending. Over the past few decades consumers chosen to purchase from the companies that do good for the society. Inversely, most consumers are also willing to stop purchasing products from companies whose values do not align with theirs; especially on polarizing issues such as education, racial equality, and women's rights.

Communicating the impact of CSR activities of the organisation to the perspective stakeholder is imperative and essential to create brand value and to assist the businesses to garner customer loyalties. Many companies view CSR as an integral part of their brand image, believing that customers will be more likely to do business with brands that they perceive to be more ethical. In this sense, CSR activities can be an important component of corporate public relations. At the same time, some company founders are also motivated to engage in CSR due to their convictions.

The movement toward CSR has had an impact in several domains. For example, many companies have taken steps to improve the environmental sustainability of their operations, through measures such as installing renewable energy sources or purchasing carbon offsets. In managing supply chains, efforts have also been taken to eliminate reliance on unethical labor practices, such as child labor and slavery.

Although CSR programs have generally been most common among large corporations, small businesses also participate in CSR through smaller-scale programs, such as donating to local charities and sponsoring local events in form of dental health check-ups, distribution of books amongst under-privileged kids, promoting healthy lifestyle amongst women etc.

As important as CSR is for the community, it is equally valuable for a company. CSR activities can help forge a stronger bond between employees and corporations, boost morale, and aid both employees and employers in feeling more connected to the world around them. Aside from the positive impacts to the planet, here are some additional reasons businesses pursue corporate social responsibility.

Some of the important benefits of CSR on other facets of business includes:

- a. **Brand Recognition:** consumers are more likely to act favorably towards a company that has acted to benefit its customers as opposed to companies that have demonstrated an ability to deliver quality products. Customers are increasingly becoming more aware of the impacts companies can have on their community, and many now base purchasing decisions on the CSR aspect of a business. As a company engages more in CSR, they are more likely to receive favorable brand recognition.
- b. **Investor Relations:** In a study by Boston Consulting Group, companies that are considered leaders in environmental, social, or governance matters had an 11% valuation premium over their competitors. For companies looking to get an edge and outperform the market, enacting CSR strategies tends to positively impact how investors feel about an organization and how they view the worth of the company.
- c. **Human Resource Sustainability:** CSR-related values that align firms and employees serve as non-financial job benefits that strengthen employee retention. Workers are more likely to stick around a company that they believe in. This in turn reduces employee turnover, disgruntled workers, and the total cost of a new employee.

- d. **Risk Mitigation:** Consider adverse activities such as discrimination against employee groups, disregard for natural resources, or unethical use of company funds. This type of activity is more likely to lead to lawsuits, litigation, or legal proceeds where the company may be negatively impacted financially and be captured in headline news. By adhering to CSR practices, companies can mitigate risk by avoiding troubling situations and complying with favorable activities.

## CSR and Its Types



CSR initiatives can be of four types i.e., environmental, philanthropic, ethical and economic activities wherein business can choose to plan its CSR activities keeping any one of the four types its central point and target the stakeholder accordingly.

- Environmental activities focus on prevention of natural resources for example, conducting & organising educational & training programs for farmers to spread awareness about use of organic material for farm production instead of using chemical fertilizers to safeguard the quality of soil.
- Philanthropic activities focus on donating to causes and sections of society which is not directly related to business activities. For example, donating food and other material to flood affected areas, donation of PPE kits during COVID times etc.
- Ethical activities are more focused to honest and fair business practices. It involves conducting business in most true and fair manner along with complying with all applicable rules and regulations in true letter & spirit
- Economic activities primarily targets to promote and assist in fiscal growth of all above goals.

### Examples

- **Starbucks:** it has long been known for its keen sense of corporate social responsibility and commitment to sustainability and community welfare. According to its 2020 Global Social Impact Report, these milestones include reaching 100% of ethically sourced coffee, creating a global network of farmers and providing them with 100 million trees by 2025, pioneering green building throughout its stores, contributing millions of hours of community service, and creating a ground breaking college program for its employees. Here the company is fulfilling its CSR responsibility through environmental & ethical services.
- **Home Depot:** as part of its annual reporting on ESG, Home Depot highlighted its achievements on focusing on its employees, operating sustainably, and strengthening its communities. In fiscal year



2020, it invested over \$2 billion in increased salaries and benefits to enhance its employee well-being. It also reduced energy consumption by 14% from the year prior and are on track to reduce company-wide emissions by 40% by 2030.

- **General Motors:** In 2021, General Motors was placed on the Bloomberg General Equality Index for a fourth consecutive year as well as being placed in Diversity Inc.'s top 50 companies for diversity for a sixth consecutive year. In addition, it has planned for a \$35 billion investment from 2020 to 2025 in electric vehicles and aims for 100% renewable electricity at U.S. sites by 2025.

### Triple Bottom Line (TBL) Approach

Most of CSR theories admit that the foundation of the idea is the Triple Bottom Line (TBL) concept that was introduced in 1987 in Brundtland Commission. This theory is also known as 3Ps or three pillars. It states that a business should be responsible towards three main points i.e., Profit, People and Planet, that is economic, social, and environmental responsibility.

Only if a company cares for all three aspects of Triple Bottom Line, can it be called sustainable, because all of them are extremely closely related. Caring for Profit and for People makes it equitable and fair, but omitting environmental protection dooms the Planet. On the other hand, tending only to Planet and People, and forgetting about the Profit, makes CSR policy bearable, but business needs profits to survive. Again, if a company pays attention to Profit and Planet, discarding the People, in the long term it can lead to the fall of employees' morale and the breach of social contract, which in turn would lead to less consumer engagement and loyalty.

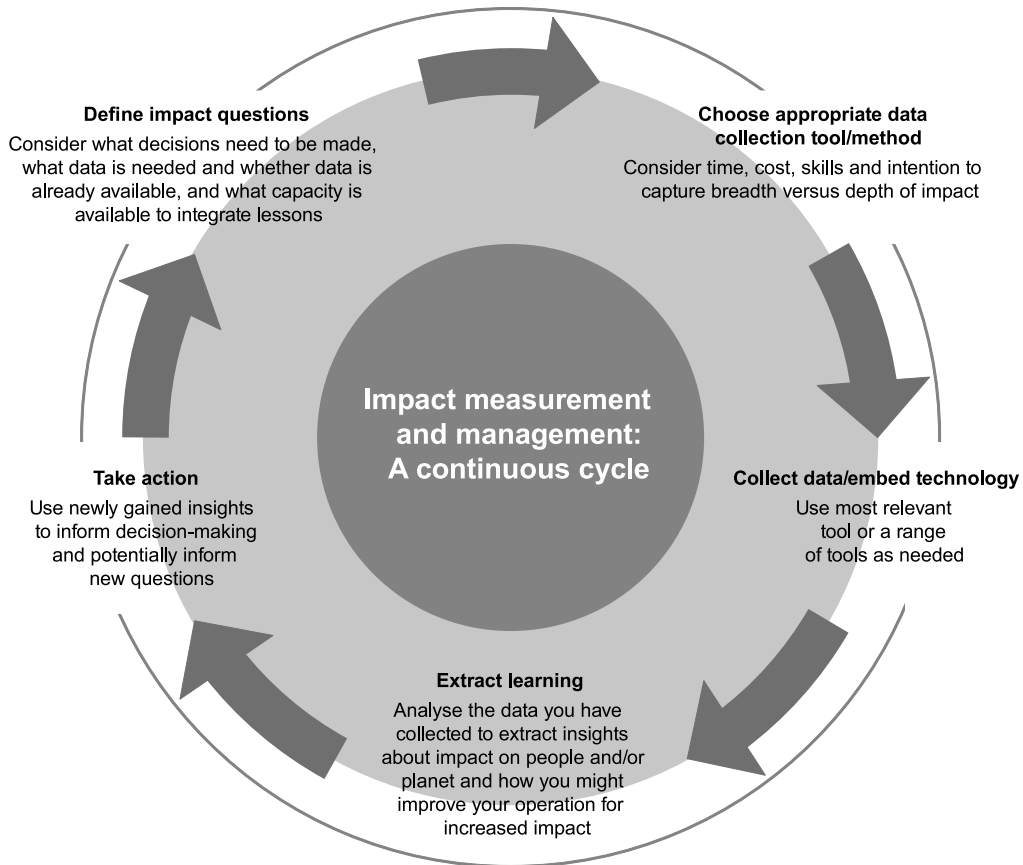
Many companies are also mapping down their own division of CSR areas and use them in their reports. The example can be the Bridgestone Corporation's report, where there are four groups of CSR activities: fundamental, business, environmental and social. It might seem like the TBL, nevertheless the business activities include responsibility towards shareholders, suppliers and customers, therefore people. The fundamental CSR pursuits according to Bridgestone are: securing stable profits as a business, ensuring a thorough understanding of and adherence to compliance, ensuring business continuity and communicating with stakeholders, hence the activities the Triple Bottom Line would mostly count as economic responsibility (Bridgestone CSR Report, 2012).

### CSR Impact Assessment

On January 22, 2021, the Ministry of Corporate Affairs amended the earlier CSR Rules of 2014 and notified the Companies (Corporate Social Responsibility Policy) Amendment Rules 2021 to make impact assessment mandatory for companies undertaking CSR activities and CSR expenditure above a specified threshold. This move of MCA aims to create accurate parameters in assessing the impact of CSR activities over the community as whole and on individuals as well by shifting the focus from expenditure alone to impact assessment, and improve the quality of CSR projects while enhancing accountability and transparency towards CSR spending and inform the members of company on the spending of funds of company.

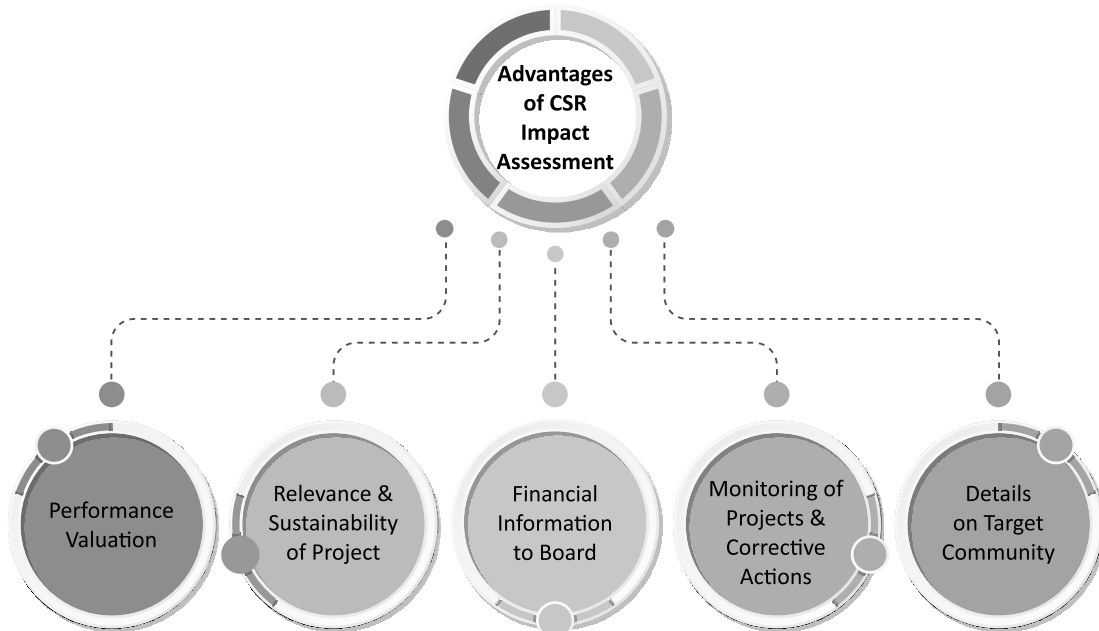
Impact assessments help funders, grant-makers, and companies to understand and evaluate the impact of their social investments in programmes and projects on their target beneficiaries or society. The findings of an assessment also help funders and companies to make evidence-based decisions in implementation and identify hurdles, allowing for programme continuity, scale, sustainability, efficiency, etc.

Impact assessment is continuous cycle and that can be depicted in below picture:



Source: CDC\_ Impact Measurement Handbook

**Advantages of CSR impact assessment**



The following are the most important benefits of conducting an impact assessment of a CSR project: -

- a. Provides Insight into Development of the Community:** The provisions for impact assessment have come into effect from 22nd January, 2021. Hence, companies are required to undertake impact assessment of the CSR projects completed on or after January 22, 2021. However, as a good practice the board of a company may undertake impact assessment of completed projects of previous financial years as well.

A big reason to do that is to gauge how the CSR project and activity may have impacted the community the project took place in. For instance, if a company were to decide to promote girls education in a village situated in district of Uttar Pradesh, an impact assessment of CSR project would answer the questions like:- i) How many girls are there in village who are not going to schools, Number of school functional in village, how the project going to impact the lives of such girls.

The answers to these questions will help the company understand the current situation in the select community so that they can create a bigger and more targeted impact in the future.

- b. Highlights the Gaps in the Project and Ways to Improve It:** Not every CSR project is implemented optimally. There may be certain areas that require more attention for greater impact. A CSR impact assessment study will help the company identify these gaps so that they can focus on bridging the same to deliver results as hoped.

Let us take the example of an educational CSR endeavour, where a company is opening a first of its kind special children school for the kids with special needs in rural Bengal. However, even though the school is built, teachers are recruited, and study material is distributed, the school witnesses a very poor attendance record. If the company conducts a CSR impact assessment report, they might discover that the lack of attendance is due to the lack of incentive to attend school for the children who come from underprivileged backgrounds. Thus, if free lunches are introduced in the school, the attendance is likely to soar.

- c. Calculates Detailed Financial Information for the Board:** The CSR impact assessment can provide insight into past year's performance to current stakeholders. It can help the founder, funder, or the business owner understand how effective their CSR donation was.

For instance, if a company donated Rs. 50 lakhs to establish cancer hospital in rural area that help the cancer patients of such area to have timely & appropriate treatment of deadly disease, a CSR impact assessment report can give you detailed insight on how the amount was divided to carry forth the project. The report might suggest that 60% of the amount was used to purchase diagnostic machines, and that the remaining 40% was used for construction activities etc.

Through this data derived from the CSR impact assessment report, the board can work towards reducing their operational costs and finding more efficient ways of carrying out the processes.

- d. Facilitates Performance Valuation for the Management:** Since success of a project is highly subjective, a CSR impact assessment report helps quantify the project from start to finish so that one can easily determine its result. Instead of a general statement like, "the literacy rates in the slums of Mumbai increased since the start of the CSR project," the CSR impact assessment will allow businesses to provide credibility to the performance statement through numbers. It could say, "the number of students enrolled in schools in the slums of Mumbai have increased by 56%, and the number of grade 12 students that passed out saw an increase by 15%. Moreover, the number of child marriages in the community fell drastically by 45% of which 300 students found full-time jobs in the city."

- e. **Evaluates the Relevance and Sustainability of the Project:** The success of the project is an all-rounded measure of its holistic results. A CSR project might claim to increase farming in a specific part of the country, but if it is doing so at the cost of an increase animal cruelty or environmental degradation, is the project really successful? It probably is not.

*A CSR impact assessment report gives a holistic insight into the sustainability and the relevance of the project keeping in mind the environment, people, animals, and the ecology that is affected by the implementation of the project.*

### CSR Impact Assessment: Eligibility Criteria

- a. According to the January 2021 amendment, impact assessment is mandatory for companies with a CSR budget of INR 10 crore or more in any fiscal year and all projects with outlays of INR 1 crore or more.
- b. These impact assessments must be undertaken by an independent agency.

### Timelines for Conducting Impact Assessment

- a. Companies falling in above criteria must undertake Impact Assessment at least one year after programme implementation is complete.
- b. As per Rule No. 8, if companies have multi-year programmes (say 3 years), impact assessment needs to be conducted after completion of three years of the programme.

Additionally, a follow up assessment needs to be conducted one year after the completion of the programme to better understand the programme's after effects.

- c. The Impact Assessment should be conducted for those projects, which have completed one year or for on-going projects (period more than three years).

### CSR Impact Assessment Expenditure

- a. Impact assessment related expenditure may be booked as a CSR expense as long as it does not exceed 5% of the total CSR spending or INR 50,00,000, whichever is less.
- b. The limit of expenditure is applicable on the total CSR budget of the financial year.
- c. Under the amended rules, "Administrative overheads" will now mean expenses incurred by the company for 'general management and administration' of Corporate Social Responsibility functions in the company but shall not include the expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular Corporate Social Responsibility project or programme.

Further, a Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five per cent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less.

### CSR Impact Assessment: Models & Approaches

An "Impact Assessment" is study and a process of identifying the outcomes of current or proposed future actions. It is the process of identifying the anticipated or actual impacts of proposed CSR project on those social, economic and environmental factors which the CSR project is supposed to affect or may inadvertently affect.

Impact Assessment may be conducted prior, during and after completion of a project. Those undertaken prior to commencing a development initiative forecast the potential impacts of the programme and help in planning and designing of the programme. An Impact Assessment conducted post the completion of a programme identifies

the actual impacts during and after implementation to enable/ ascertain corrective action if necessary and provide information for improving the design of programme of future interventions.

The IAIA (International Association of Impact Assessment) Defines – Impact assessment (IA) is a structured a process for considering the implications, for people and their environment, of proposed actions while there is still an opportunity to modify (or even, if appropriate, abandon) the proposals.

The process of Impact Assessment involves the identification and characterisation of the most likely impacts of proposed project and an assessment of the social significance of those impacts (impact evaluation).

Under Impact Assessment, the first systematic attempt is to assess the impact and measure the contribution of CSR to the social, economic and environmental goals of the Country.

The main questions addressed through the process of CSR Impact Assessment: -

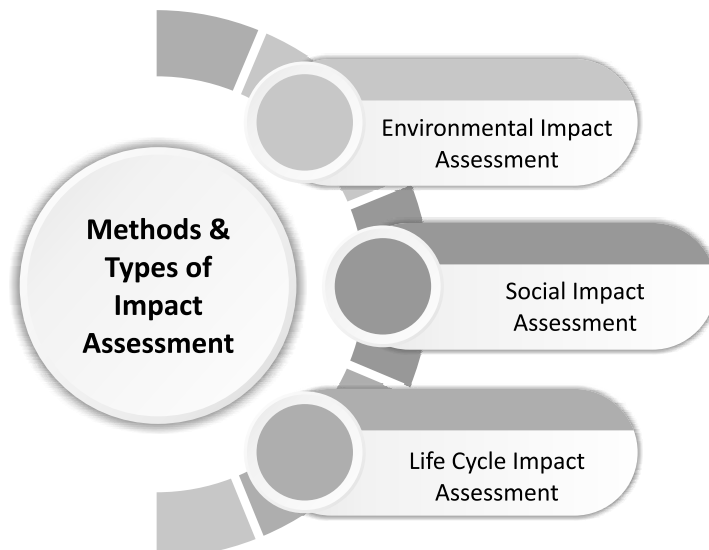
- What benefits and impacts does CSR actually bring to the economy and society outside the company?
- How can all stakeholders better measure and evaluate the impacts arising from CSR?
- How this can be used for integrating the public policies with corporate strategy?

### Principals of Impact Assessment

Following principals should be followed and adhered to while conducting Impact Assessment of any project:

- a. The focus area of Impact Assessment study should be to carved out significant impact rather than common impact of proposed project on the target stakeholders.
- b. The impact assessment study should incorporate appropriate measures and information to drive unambiguous results.
- c. Impact assessment study should provide for quantification wherever feasible and possible.
- d. The study should present data in the form which can be easily understood by the decision makers and common layman to take informed decisions.

### Methods & Types of Impact Assessment



## 1. Environmental Impact Assessment

The International Association of Impact Assessment (IAIA) simply defined, is the process of identifying, predicting, evaluating, and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made.

The Association lays down the Principal Objectives of Environmental Impact Assessment as follows;

- i. To ensure that the environmental considerations are explicitly addressed and incorporated into the development decision making process;
- ii. To anticipate and avoid, minimise or offset the adverse significant biophysical, social and other relevant effects of development proposals;
- iii. To protect the productivity and capacity of natural systems and the ecological processes which maintain their functions; and
- iv. To promote development that is sustainable and optimises resource use and management opportunities.

There are eight guiding principles that govern the entire Environment Impact Assessment (EIA) process:

- a. *Participation*: The process of EIA should provide ample opportunities to involve the interested and affected stakeholders, and their inputs and concerns should be addressed explicitly in the documentation and decision making.
- b. *Transparency*: The process should have clear, easily understood requirements for EIA content, ensure that information gathered and analysed should have public access, identify the factors that are considered in decision making and acknowledge limitations and difficulties.
- c. *Efficient*: The Process should impose the minimum cost burdens in terms of time and finance on proponents and participants consistent with meeting accepted requirements and objectives of EIA.
- d. *Accountability*: The accountability of the decision made and action taken based on EIA should be upon the decision makers and appropriate environmental protection should be taken care off, any violation in same should be answered by the decision maker.
- e. *Credibility*: The process should be carried out with professionalism, rigour, fairness, objectivity, impartiality, and balance and be subject to independent checks and verification.
- f. *Cost-Effective*: The process should achieve the objectives of EIA within the limits of available information, time, resources, and methodology.
- g. *Integrated*: The process should address the interrelationships of social, economic, and biophysical aspects.
- h. *Practicality*: The process should result in information and outputs which assist with problem solving and are acceptable to and able to be implemented by proponents. Information/outputs readily usable in decision making and planning is important.

*Significance of Environmental Impact Assessment in CSR Projects:*

To make EIA contribute to sustainable development through harnessing its full potential at the local levels, corporate social responsibility (CSR) should be integrated into or linked to the EIA process. This is

imperative since resource conflicts are persisting in developing nations like India. A CSR fund dedicated to community development should have conducted EIA.

Through the interaction between CSR and EIA, a comprehensive assessment of not only the impacts of a project but also its benefits could be extracted and documented. The improvement of social wellbeing of the wider community, i.e. through the internalisation of CSR by corporate entities, could minimize conflicts, enhance reputation and long-term viability of a company. However, the gains of CSR should be made independent of the governmental authorities who are likely to add the benefits to their already bloated portfolio of entitlements.

CSR projects if planned and executed with full knowledge of impact it will have over the environment will lead to its successful implementation and results would be as planned, this objective can only be attained through conduct of Environmental Impact Assessment. EIA does not only give the impact the project will have on environmental resources but its comprehensive nature would also document how the project will impact & affect the environment as whole and that can lead the project in both negative & positive aspects.

## 2. Social Impact Assessment

As per International Institute of Sustainable Development, “A Social Impact Assessment is a process of research, planning and the management of social change or consequences (positive and negative, intended and unintended) arising from policies, plans, developments and projects”.

In other words, Social Impact refers to net effect of the proposed project on stakeholders. This may include impact on community as whole or on individuals or upon a single family or set of families, organisations, or industries.

The net effect of any project upon people’s life would term as Social Impact and detailed assessment of such impact upon lives of community or individual would help the originator of CSR projects to plan and execute such projects more properly.

Examples of Social Impact includes:

- People’s way of life – that is, how they live, work, play and interact with one another on a day-to-day basis.
- Their culture – that is, their shared beliefs, customs, values and language or dialect.
- Their community – its cohesion, stability, character, services, and facilities.
- Their political systems – the extent to which people can participate in decisions that affect their lives, the level of democratization that is taking place, and the resources provided for this purpose.
- Their health and well-being – health is a state of complete physical, mental, social, and spiritual well-being and not merely the absence of disease or infirmity.

From above listed examples it is quite clear that social impact assessment should not only assess the impact of projects on lives of people but also should carve out the impact on natural resources, environmental impact, and interactions between such environmental factors.

*For Example: if the planned project impacts the availability of ventilator beds in an rural hospital, then the social impact assessment study should extract the number of ventilator beds per 1000 population in the area.*

### Social Impact Indicators

- a. The best way to define organisation's social impact indicators is to refer back to its social model's theory of change and theory of action.
- b. These elements of organisation's social model should outline the key activities and interventions that it might wish to measure and the corresponding outcome it aiming to achieve.
- c. The purpose of organisation's social impact indicators is to measure output and outcomes achieved by the organisation, creating a clear evidence based on its social model

#### **Examples of Indicators:**

- Female Workforce Participation
  - Indicator: Proportion of women in whole workforce in the community aged between 18-64
- Cost of Living
  - Indicator: Consumer Price Index for the community
- Occupational Structure
  - Proportion of total labour force in the community holding professional, executive, managerial, official, or technical jobs.
- Voter Registration
  - Indicator: Proportion of population age 18 and older who are currently registered voters in the community.

### Social Impact Assessment Framework

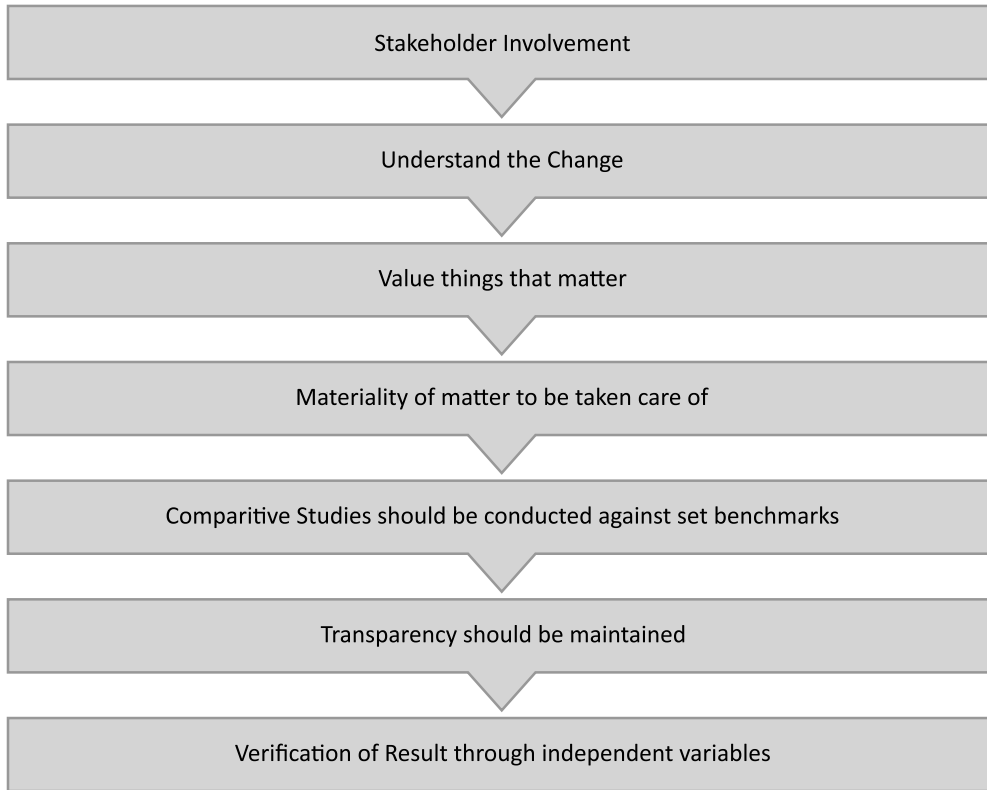
To understand the probable impact of the proposed project, it is imperative to understand past behaviour of target individuals and community to whom the project will affect and towards whom the same is targeted. Also, if any project is proposed to be implemented at location B, then social impact assessment of similar project as already being executed at location A can be undertaken to understand the probable impacts it will have on society at location B.

### Social Return on Investment (SRoI)

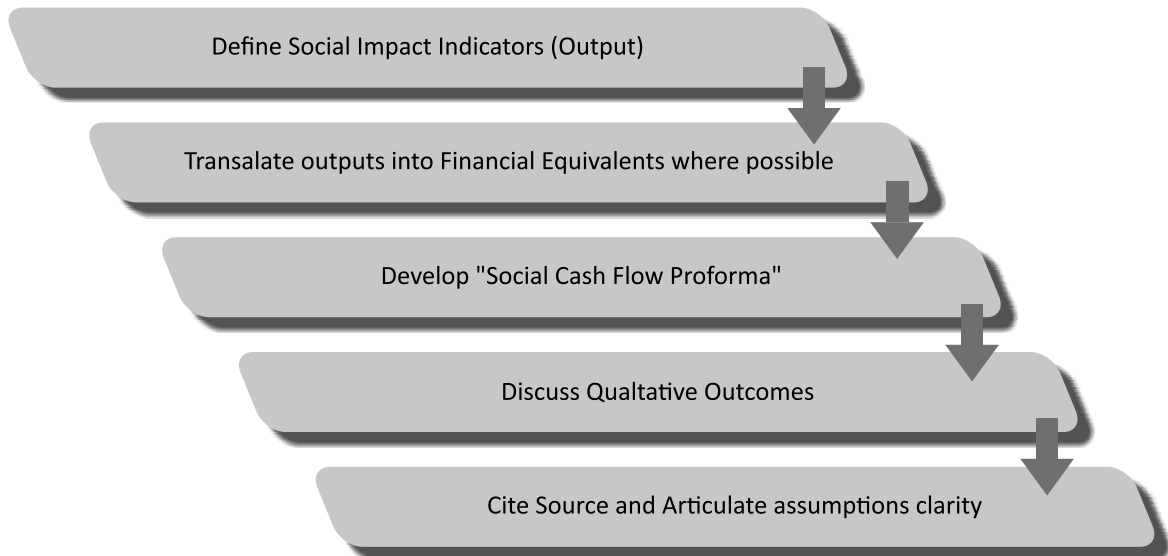
SRoI is a method of monetizing the non-financial Social and Environmental value created by enterprise. It is a principle-based method that provides a consistence approach to understanding and managing an organisation's impact. Since the Social Value created is more likely to be qualitative in nature it may difficult to monetize it.



Principals of Social Return on Investment: There are 7 core principals of SRoI as depicted below:



**Important Steps in Calculation of Social Return on Investment**

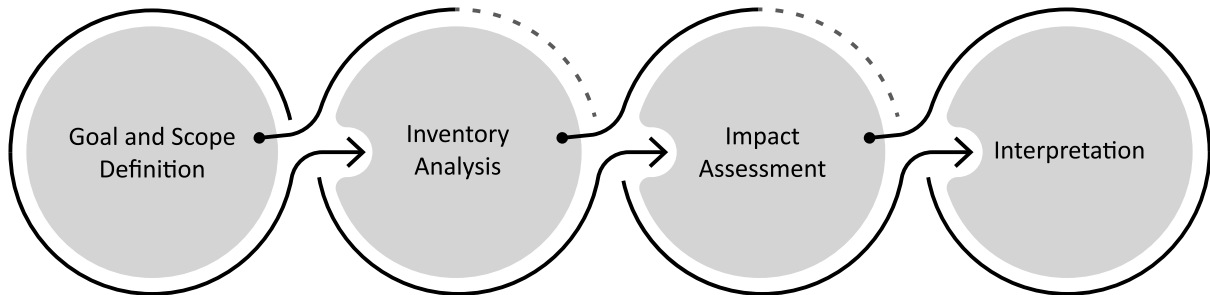


**3. Life Cycle Impact Assessment**

Life Cycle Impact Assessment is a technique adopted to assess the environmental impacts associated with all stages of a products life cycle from cradle to grave. The primary aim of this Assessment is to compare the full range of environmental effects assignable to products and services as to improve process, support policy and provide a sound basis for informed decisions.

Life cycle assessment (LCA) is a multi-step procedure for calculating the lifetime environmental impact of a product or service. The complete process of LCA includes goal and scope definition, inventory analysis, impact assessment, and interpretation. The process is naturally iterative as the quality and completeness of information and its plausibility is constantly being tested.

### Life Cycle Impact Assessment Framework



*It is to be taken care of while choosing correct mix of impact assessment techniques, consideration should be given to transparency and public accountability, stakeholder involvement, reliability of the information obtained, reliability of inference for policy improvement, cost and skills requirements.*

*Also the decision makers should concentrate on facts & figures derived out of impact assessment study and take well-informed decision in regards to implementation of proposed CSR project and should be remain accountable for its decision.*

### CSR Impact Assessment Reporting

Rule 8(3) of the Companies (CSR Policy) Rules, 2014 requires that the impact assessment be conducted by an independent agency. The Board has the prerogative to decide on the eligibility criteria for selection of the independent agency for impact assessment.

Rule 8(3)(b) of the Companies (CSR Policy) Rules, 2014 provides that impact assessment reports shall be placed before the Board and shall be annexed to the report on CSR. It is clarified that web-link to access the complete impact assessment reports and providing executive summary of the impact assessment reports in the annual report on CSR, shall be considered as sufficient compliance of the said rule.

### Impact Assessment and Reporting Guidelines

Impact Assessment study would be incomplete and irrelevant if the results of such study could not reach to the decision makers i.e., the board & management, the perspective & targeted stakeholders, and members of company at a large. The result & findings of such impact assessment study as per rules of the Companies Act, 2013 are to be encapsulated in form of proper structured report and such report should be annexed to annual report of company.

For preparation of such structured report to present the findings of impact assessment study before the its various users following are broad guidelines to be adhered to:

#### a. Involvement of Public

Target community should be identified and all potential affected group of people should be involved in impact assessment study, the same should be included in the report and it should specifically portray the community the impact assessment study targeted.

#### b. Analysis of Impact Equity

The impact assessment report should clearly specify the winners and losers of the proposed project and should clearly mention how the project will affect the target group in both negative and positive parlance.

**c. Focus on Assessment**

The report should lay down the clear and specific concerns of public that really count in the proposed project. The report should not only mention common pointers of the impact assessment study but clearly mention specific points to be considered for making the decision on implementation of project.

**d. Methods, Assumptions and Significant Information**

The methodology used in conducting impact assessment process along with all tools and techniques being taken into account while performing impact assessment should be included in report with complete information.

Further, the premise on which the impact assessment study was based upon should be clearly mentioned in the reports along with base to have such assumptions.

All the information in the report should be significant and essential to take informed decision, rather than redundant information or data that will confuse the decision makers.

**e. Feedback**

The report should contain the feedback of community for the proposed project as the same will form base for the decision makers to finalise the plan & implementation of proposed project. Unambiguous feedback will also assist the other stakeholders such a government and other authorities to take informed decision on policies and development works in the community.

**f. Monitoring**

The impact assessment report should also have specific mention on monitoring framework and the ways in which the project will be monitored to have correct and realistic feedback on implemented process and activities. The uncertainties that may occur in execution of proposed project should also form part of this section of report.

**g. Risk Mitigation**

Risks are inevitable part of any project and impact assessment report should mention the probable risks associated with the project and also the mitigation measures for such risks.

**h. Provision for Data Gaps**

Gap in data collection may happened while conducting impact assessment for a project due to non-information or less information, incomplete information etc., in such cases the report should lay down the provision for gap in data and decision methodology to be adopted in such cases.

**Structure of Impact Assessment Report**

Following is the broad structure of Impact Assessment Report and following pointers to be included in impact assessment report:

**1. Brief Introduction of Company:**

- Background of Company, its history and current status should be included under this head to give stakeholders a brief background about the company and its operations.

**2. Brief about CSR Activities of Company**

- Company's CSR activities and projects should be mentioned in brief
- Company's CSR Policy
- CSR Initiatives of Company.

**3. Approach of Impact Assessment**

- Methodology used in conducting impact assessment should be clearly included in report
- Objective of Impact Assessment in detail should be laid down.

**4. Sustainable Development Goals**

- Alignment of Company's CSR Policy and SDGs should be included in report
- How Company is taking care of SDGs while formulating CSR Policy.

**5. Observations and Recommendations**

- Observations of impact assessment should be incorporated in report
- Recommendations of impact assessment study should also form part of report.

**6. Concluding Remarks**

- Conclusion of impact assessment study in respect of result of process should be mentioned.

All the above pointers should be included in the impact assessment report and for each project for which impact assessment process is conducted above points should be included in report.

For each project following flow should be adhered to while preparing report of impact assessment:

- Inputs: in form of data & information gathered from the community as whole through interviews, questionnaires etc.
- Methodology: the method used to analysis of collected data
- Output: Result of analysis of data with facts and quantifiable data
- Impact: impact of project over community or target stakeholders.

**CSR Impact Assessment Report and Best Practices Followed by Top Companies****Best Practice followed by top Companies in Reporting Impact Assessment****1. HDFC Bank**

The HDFC Bank CSR under its 'Focussed Development Projects (FDP)' designed and supported projects focusing on specific focus areas of development such as Skill Development & Livelihood, Education, Health, etc. The aim of this FDP was of economic enhancement of small holder farmers through introducing systemic changes in the farming practice and enabling access to affordable farm inputs, extension services, training and demonstration, technology etc. The FDP was implemented in fifty villages of Angul and Dhenkanal districts of Odisha between March 2017 and Feb 2020

- Company for its CSR project 'Focussed Development Projects' followed an experimental design using mixed methods for the Impact Assessment Study and captured the effect of project activities on farmers by comparing the program impact indicators between two timelines i.e. status before beginning of the program and status after the project implementation. The reference year taken for before the program is 2017 and after the program is 2021.
- Post completion of the implementation of the HDFC Bank CSR supported "Focused Development Program (FDP)" in Angul and Dhenkanal districts of Odisha, Independent agency "NRMC" was assigned to undertake an impact assessment study to assess the impact of the program over beneficiary farmers targeted in fifty villages of twenty Gram Panchayats (GP) of four blocks.

The assessment primarily focused in the areas of

- a) Changes in gross income of farmers over the program duration.
- b) Changes in input/ investment cost of farmers
- c) Processes followed for establishment of Farmers Producer Companies (FPC) and its sustainability
- d) Stabilisation of farmer income attributing to the project's interventions.

In addition, company's impact assessment tried to understand the overall processes undertaken by organisation and partner organization in implementing the project activities, key milestones achieved, impact created by these activities, challenges faced, and the way such challenges were handled.

- The impact assessment study also focused on limitations of study and following limitations were notified:
- Tools such as Computer Assisted Personal Interviews (CAPI) were used to conducted quantitative household survey in form of structured questionnaire to collect information on program outcome & impact indicators as per program goal, objectives, and interventions.
- For gathering qualitative data, in depth Interviews (IDI), Focused Group Discussions (FGD), Key Informant Interviews (KII) with relevant stakeholders (the HDFC project team, the partner NGO, key government staff, local leadership, PRI and beneficiaries etc.) were conducted.
- In addition to primary data collection, various project documents including HDFC's CSR Policy, Project design document, Project implementation reports, Communication and Documentation Products and other relevant reports/ literature related to the projects were studied.
- For collection of samples, a two-stage sampling method was adopted for the impact assessment study. The first stage was selection of village which was done primarily based on the secondary data organized from Census 2011, SECC 2011 and other state government sources like district statistical handbook against specific parameters.
- For data analysis, the collected data through the CAPI devise was synced to the data server daily to ensure timely submission of data of desired quality. The downloaded data from the data server was cleaned and data tables are generated by mapping each data point to the agreed indicators using the SPSS software application.
- The assessment of the project efficacy, effectiveness and sustainability is based on the mapping of the output and outcome indicators assessed between two-time ranges, on a scale of 1 to 5, where 1 least and 5 is most preferred score.
- Parameters and Indicators both quantitative and qualitative were mentioned in the report as annexure and the data was presented before and after implementation of CSR Program.

## 2. NHPC

NHPC's CSR project on 'Electrification of hamlets in Alchi village of Leh district, implemented by NHPC'. This project was developed and implemented for electrification of two hamlets of Alchi village which were deprived of electricity supply.

- The impact assessment result for the company's CSR project are derived from quantitative and qualitative data collected and analyzed using ZOHO analytics along with success case studies and stories.

- The assessment team comprised of subject experts, experienced CSR professionals from public sector enterprises, social scientists, environmentalists, health professionals, energy experts in renewal energy domain etc.
- The study was initiated with the preparation of research tools and methodology based on the guidelines given by the CSR & SD division of company. There were 7 households who are the direct beneficiary of the project and other people including farmers or small business owners from other villages are the indirect beneficiaries of the project. Impact Assessment team has covered consulted with family heads of all the households.
- For conducting impact assessment, ZOHO survey tool for conducting the survey and its real time monitoring were used. Video-graphic and Photographic records of the progress, achievements and impacts are systematically documented.
- Stakeholder consultations with implementing partners, local representatives and other line departments were conducted to understand more about the projects, its impact and sustainability strategy to ensure long term goals. Impact Assessment agency has used the OECD DAC framework for evaluating the impact created by the CSR projects of company.
- The agency scores all the projects under study based on its relevance, effectiveness, efficiency, impact and sustainability parameters. The project efficiently utilized the inputs (funds, expertise etc.) to achieve the intervention outcomes and had a target achievement rate between 90-100%.
- Explorative research was conducted to understand the nature, design, and aspects of implemented projects for which impact assessment must be done. This was completed primarily through desk study. Various literatures are referred to get a comprehensive knowledge about CSR project implemented areas and objectives, parameters, goals, structure, and sustainability criteria of the implemented project.
- The literature review of secondary data and literature available such as NHPC website, baseline reports, sample monitoring and evaluation report, implementation agencies, beneficiary data and CSR Annual Reports of NHPC, media reports etc.
- The assessment process which involves segregation of data and data analysis, evaluation, or comparison with the planned guidelines and the standards available.
- Weighted scores were used to develop a 6-point scale. Following criteria is applied while rating the sustainability score of CSR project impact assessment.
  - i. 85-100 % -> Extremely satisfactory
  - ii. 70-84% -> Satisfactory
  - iii. 55-69 %-> Moderately satisfactory
  - iv. 40-54 %-> Marginally satisfactory
  - v. 20-39 %-> Dissatisfactory
  - vi. < 20 % -> Extremely dissatisfactory
- Mixed method research design was used in order to have a comprehensive approach in data collection and stakeholder consultation. Both the qualitative and quantitative research techniques were used. Quantitative techniques like survey questionnaire were extensive in nature and covered minimum no. of sample size as per the research standards. Qualitative

research tools were used focusing on the public consultation and in-depth engagement with project beneficiaries.

- After data collection, it was processed for analysis using Zoho survey analysis tool, MS Excel, and SPSS.
- Informed consent is an important principle for all research endeavours and the same was maintained during the study. The respondents and key stakeholders of the study were informed about the purpose of the study. Further an assurance about confidentiality of the interview was given to all the respondents. They were free to choose to not answer any question while conducting survey or interview.
- Sustainable Development Goals are designed to be a blueprint to achieve a better and more sustainable future for all. The CSR Activities of NHPC are aligned with the SDG's. This initiative is compliant with the SDG 7

### 3. REC Limited (Formerly known as Rural Electrification Corporation Limited)

The impact assessment agency conducted the impact assessment 21 CSR projects of REC Foundation, the CSR arm of REC Limited.

- The study was based on an analytical approach to understand the impact of REC Foundation's programmes on beneficiaries. The agency has adopted IRECS assessment framework for its analysis.

IRECS is used to provide overall feedback on the efficacy of implementation as well as its efficiency in terms of achievement of the desired outcome of the projects.

The IRECS framework evaluates the projects based on five fundamental questions

- How inclusive the projects are for beneficiaries from all backgrounds?
- How relevant are the projects to the current needs of the beneficiaries?
- How effective are the projects in meeting the needs of the beneficiaries?
- How the projects are convergent or aligned towards the concurrent government programmes?
- How the projects can be sustained after the implementation process is completed?
- IRECS framework measured the performance of programme on five parameters – Inclusiveness, Relevance, Effectiveness, Convergence and Sustainability.
- For the study, impact assessment agency reviewed the documents and data provided by the REC Foundation team to understand the objective and impact generated by the programs. Documents reviewed included the MoA signed with REC Foundation for the projects, baseline and end-line assessment reports, audited utilization certificates, completion reports, etc., basis availability of the documents. The team also conducted interactions with the project stakeholders to further understand the projects, its objective and impact, as well as the sustainability strategy for ensuring benefits.
- Data collection was conducted both virtually and on field as per the categorization of company. The team collected data from beneficiaries and other stakeholders. Data from programme documents available on-site were also collected. Interaction with the implementing partners, beneficiaries and other project stakeholders were held for understanding the projects' impact, as well as the sustainability aspect of the programme and long-term benefits.

- Guided by the overall IRECS framework as presented earlier, the study took a cohesive and integrated approach to assess the socio-economic impact of CSR projects implemented by the company and assessed its impact on the lives of communities or beneficiaries.
- Impact assessment team initiated the assignment by conducting an inception meeting with the company personnel. Post the inception meeting, impact assessment agency prepared a formal request for information including the required list of documents for desk research to validate as well as augment our understanding about the RECF projects. The impact assessment agency also discussed with RECF their desired outputs for the projects, documented understanding of the same before proceeding to next phase of the evaluation.
- To further understand the overall mechanism of how the programme is being implemented on ground by company, impact assessment team reviewed and understood the implementation processes from the Foundation team and the implementing partners.
- The documents available with the company (i.e., Memorandum of Agreement, baseline report, audited utilization certificate and project completion certificate etc.) were shared and impact assessment team started the desk review of the project documents. Basis the desk review of the documents, the team developed the tools for data collection and field visit plan. At the same time, impact assessment team started interacting with the project implementing agencies to sensitize them on the impact assessment requirements and communicating the dates for field visit.
- Interactions were planned for all projects after mapping key stakeholders and focus group discussions and in-depth interviews and Key informant interviews were done.

#### 4. THDC India Limited

THDC India Limited is a Joint Venture of Govt. of India and Govt. of Uttar Pradesh. SEWA-THDC: THDC INDIA LTD has formed a company sponsored Non-Government Organization, "SEWATHDC" under Society Registration Act, 1860 on dated 17.03.2009; for implementation of the CSR-Sustainability activities of the Company.

By assessing the impact of CSR initiatives of THDCIL, the major focus of this assessment was to take a holistic view of the targeted beneficiaries of the six different blocks of Tehri and Rishikesh where the THDCIL has implemented its CSR projects and to see how these initiatives of the company have helped the local people in improving their socio-economic standards.

- The present study is exploratory in nature. Exploratory research is defined as the initial research into a hypothetical or theoretical idea. This is where a researcher has an idea or has observed something and seeks to understand more about it. An exploratory research project is an attempt to lay the groundwork that will lead to future studies or to determine if what is being observed might be explained by a currently existing theory.
- Since educational background of the targeted beneficiaries was not very high rather most of the villagers are illiterate even today, it was therefore decided to use focused group interviews and unstructured questions in the local language i.e. Hindi to elicit more views of these beneficiaries.
- Focused group interviews were conducted for the beneficiaries and in-depth interviews were conducted with the company officials who assisted the team in conducting the Impact Assessment in different locations.



- The sample size was different in each project. This is due to the nature of the project. In some cases, unstructured questions were asked to the beneficiaries till the saturation point has not reached. Whereas, in some cases the sample was certain and definite.
- The study is based both on the primary and secondary data obtained from the selected geographical areas where the CSR initiatives were taken up the company.

##### **5. Tata Consumer Product Limited**

The company is having a robust CSR Policy and active CSR Committee in place, has empanelled independent impact assessment agency to conduct an Impact Assessment study of its eight CSR Projects for the year under review to comply with the recent 'CSR Amendments Rules 2021' under the Companies Act 2013 regarding Impact Assessment of CSR projects.

The CSR projects of the Company are focused on the Tea Communities of Assam and Munnar (Kerala), Coffee Communities of Kodagu (Karnataka) and Communities of Mithapur (Gujarat), and Paonta Sahib (HP).

- The impact assessment agency planned an experimental design to understand the impact of selected CSR projects on different beneficiaries. The agency also planned monitoring and evaluation of a few of the projects depending on the priority of the organization.
- The evaluation approach has been designed in line with the objectives and scope of the project. A consultative approach for the impact assessment has been adopted.
- The findings have been triangulated based on interactions with key stakeholders, supplemented by primary and secondary research, and complemented by domain knowledge and field expertise as per the project-specific research objective.
- The research broadly involves a review of the literature of every project, interaction with the key stakeholders for each project, development, and validation of questionnaire. The methodology of this study included designing the data points to be analysed and developing questionnaires for all eight projects.
- The survey takes place in a hybrid mode with individual and focus group discussions. It is a blended mode on onsite and virtual assessment. The questionnaires were shared through one-on-one interviews and during focus group discussions. Document review and physical verification were also conducted at the site.
- Further data cleaning, analysis and interpretation had been done using statistical data analysis software.
- Representative samples & stratified random sampling method were used at 95% confidence level and 10% confidence interval respectively.
- Transparency was maintained throughout the study, the data and analysis represented in this report are from primary sources and collected by agency's trained resources. The secondary information used is collected from the authentic sources shared by respected project coordinators.
- Quality Assurance Interventions were also mentioned in report:
  - i. development of questionnaires had been reviewed to check the alignment with the research objectives and confirm the data points;

- ii. review of sampling plan in terms of completeness;
- iii. training of enumerators and sample data fill-up;
- iv. on-site random witness (where planned);
- v. data cleaning and data accuracy checking;
- vi. review and validation of the first set of samples being analysed;
- vii. stage review of outcome analysis and interpretation;
- viii. final review by review team/mentor group.

### LESSON ROUND-UP

- One of the major impacts of Corporate Social Responsibility on business can be observed in the form of consumer spending. Over the past few decades consumers chosen to purchase from the companies that do good for the society. Inversely, most consumers are also willing to stop purchasing products from companies whose values do not align with theirs; especially on polarizing issues such as education, racial equality, and women's rights.
- CSR initiatives can be of four types i.e., environmental, philanthropic, ethical and economic activities wherein business can choose to plan its CSR activities keeping any one of the four types its central point and target the stakeholder accordingly.
- Most of CSR theories admit that the foundation of the idea is the Triple Bottom Line (TBL) concept that was introduced in 1987 in Brundtland Commission. This theory is also known as 3Ps or three pillars. It states that a business should be responsible towards three main points i.e., Profit, People and Planet, that is economic, social, and environmental responsibility.
- The CSR impact assessment can provide insight into past year's performance to current stakeholders. It can help the founder, funder, or the business owner understand how effective their CSR donation.
- A CSR impact assessment report gives a holistic insight into the sustainability and the relevance of the project keeping in mind the environment, people, animals, and the ecology that is affected by the implementation of the project.
- An "Impact Assessment" is study and a process of identifying the outcomes of current or proposed future actions. It is the process of identifying the anticipated or actual impacts of proposed CSR project on those social, economic and environmental factors which the CSR project is supposed to affect or may inadvertently affect.
- The International Association of Impact Assessment (IAIA) simply defined, is the process of identifying, predicting, evaluating, and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made.
- As per International Institute of Sustainable Development, "A Social Impact Assessment is a process of research, planning and the management of social change or consequences (positive and negative, intended and unintended) arising from policies, plans, developments and projects".

**TEST YOURSELF**

*(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation.)*

1. How CSR impacts Human Resource Management of the organisation? Discuss in detail.
2. “Customer Retention is prime goal of any business.” Justify the statement in context of CSR with examples.
3. What are various types of CSR and how can business align its types with business CSR Policy. Discuss in brief.
4. What is Impact Assessment and how the same is dealt in Indian legislative framework?
5. What are the types of Impact Assessment? How Environmental Impact Assessment is linked with CSR? Discuss.

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**PART II**

**SOCIAL GOVERNANCE**





### KEY CONCEPTS

■ Social Governance ■ ESG ■ CSR ■ Social Risks ■ Product Liability ■ Environmental and Social Impact Assessment ■ Gender Diversity ■ Work Life Balance

### Learning Objectives

#### To understand:

- Social Governance – its evolution, importance, limitations
- Framework of social governance
- Social governance issues over various organizational practices and policies impacting their employees and stakeholders at large

### Lesson Outline

#### Social Governance

- Introduction
- Examples
- Evolution
- Benefits
- Limitations

#### Social Governance Framework

- Components
- Formation and Implementation

#### Company's behaviour regarding Social Issues

- Employment equality and gender diversity,
- Employee health and safety,
- Product safety concerns and liability
- Human rights & its development
- Lesson Round-Up
- Test Yourself
- Further Readings and other References

## INTRODUCTION

Social governance is a term that describes the various ways in which societies and communities are managed and organized to address social problems, promote social well-being, and ensure social justice. It encompasses a wide range of activities and initiatives, including government policies and programs, community-based organizations, civil society groups, and citizen participation.

The aim of social governance is to ensure that all members of society have access to basic needs, rights, and opportunities. This includes addressing issues such as poverty, inequality, discrimination, social exclusion, and environmental degradation, among others. Social governance involves engaging citizens and communities in decision-making processes, promoting innovation and collaboration, and using data and evidence to inform policy and decision-making.

Effective social governance is essential for building a more just, equitable, and inclusive society that promotes the well-being of all its members. By engaging citizens, promoting innovation, and fostering collaboration, social governance can help address the complex social challenges we face and create a brighter future for all.

Social governance requires

- a holistic approach that takes into account the interconnectedness of social, economic, and environmental factors;
- a combination of formal and informal mechanisms which can reach across people;
- collaboration and cooperation across different sectors and stakeholders, including business, academia, and the media.

The guiding ethic of social governance is human affinity by which we understand that as humans we share one humanity and live on one earth and that our values, our decisions and our choices affect others, not only those near to us, but also in our world of globalized trade, those who are far away and often unprotected by the laws and regulations of our own land. It requires solidarity, fairness and responsibility. Through accountability and audit, we address our responsibility to others and the environment. Through responsibility, we give meaning to human life.

Social sustainability involves the creation of policies that mitigate social inequality and promote equal opportunities for all humans to live a high quality of life, regardless of their socio-economic or cultural backgrounds. Building socially sustainable communities and institutions requires the executive bodies to factor equity, diversity, human rights, social cohesion, and labor rights into all decision-making processes and value chains. These tactics aim to create a better social climate for current and future generations.

At an organizational level, Social governance refers to the processes and structures that organizations use to manage and address social issues. This can include issues related to the environment, human rights, labor practices, community development, and other social issues that impact people and the planet. Social Governance is sometimes seen as one of the pillars of ESG, and sometimes as an alternative to ESG encompassing all three components of ESG being – Environmental, Social and Governance.

Social governance involves taking a proactive approach to identifying, addressing, and managing social risks and opportunities, as well as engaging with stakeholders to understand their concerns and perspectives.

### Examples of Social Governance

Social factors can range from employee treatment to boycotts to labor violations to product recalls. These issues are diverse, qualitative, and can often impact all of a company's stakeholders at once, from workers and customers to suppliers and local communities. The ability to maintain healthy, positive, fair, and ethical relationships with these stakeholders is critical to the success of a company.

Some examples of social governance practices include

- Diversity, equity, & inclusion
- Customer satisfaction
- Data protection & privacy
- Employee engagement
- Community relations
- Wage equality
- Labor standards
- Human rights
- Working & safety conditions
- Training & workforce development
- Ethical supply chain practices.

Few more examples of social governance are given below for better understanding of this concept –

- ❖ *Participatory budgeting*: Participatory budgeting is a social governance approach that involves citizens in the decision-making process for how public funds are spent. This approach aims to increase transparency, accountability, and citizen engagement in local governance.
- ❖ *Community-based health interventions*: Community-based health interventions involve engaging communities in the design, implementation, and evaluation of health programs. This approach aims to address social determinants of health and promote health equity by involving community members in decision-making and program delivery.
- ❖ *Open data initiatives*: Open data initiatives involve making government data publicly available and accessible to citizens. This approach aims to increase transparency, accountability, and citizen participation in governance by enabling citizens to access and analyze government data.
- ❖ *Multistakeholder partnerships*: Multistakeholder partnerships involve collaborating across different sectors and stakeholders to address complex social challenges. This approach aims to promote innovation, inclusiveness, and sustainability by bringing together diverse perspectives and expertise.
- ❖ *Social impact bonds*: Social impact bonds involve private investors providing upfront funding for social programs and receiving financial returns based on the social outcomes achieved. This approach aims to promote innovation and accountability in social service delivery by tying funding to performance outcomes.





*Examples of Social Governance*

## EVOLUTION OF SOCIAL GOVERNANCE

The genesis of Corporate Social Responsibility (CSR), Environmental, Social & Governance (ESG) standards and social Governance, is the same – adoption of practices and policies by corporations that are intended to have a positive influence on the world. Companies have historically looked at options to operate in ways that enhances society and the environment, instead of contributing negatively to them.

However, through the course of last few years, the focus has shifted from a purely outward-looking analysis to a more dynamic approach focusing on both internal and external factors of an organisation. Social governance has evolved over time in response to changing societal and business needs.

As the business environment of the 21st century has evolved and globalization has created companies and marketplaces that are increasingly integrated and interdependent, the social scope has gradually broadened. All company stakeholders are affected by social concerns, and a corporation's ability to avoid hurting its relationships and reputation can be critical to maintaining a long-term competitive advantage.

Here are some key stages in the evolution of social governance:

- *Early stage:* In the early days of capitalism, businesses were primarily focused on generating profits and did not consider their social and environmental impact. There were few regulations or social expectations governing corporate behavior.
- *Emergence of corporate social responsibility (CSR):* In the mid-20th century, the concept of CSR emerged, which called on businesses to take responsibility for their impact on society and the environment. This

led to the development of codes of conduct, reporting standards, and other mechanisms to promote corporate responsibility.

- *Focus on stakeholder engagement:* In the 1990s and 2000s, there was a growing recognition of the importance of stakeholder engagement in corporate governance. This led to the development of stakeholder theory, which put forth those businesses should be accountable not only to shareholders, but also to a wide range of stakeholders, including employees, customers, suppliers, and communities at large.
- *Integration with sustainability:* In recent years, social governance has become increasingly integrated with sustainability. Businesses are recognizing that social issues are an integral part of sustainable development, and are adopting social governance practices as part of their broader sustainability strategies.
- *Focus on systemic issues:* More recently, there has been a growing focus on systemic issues, such as income inequality, climate change, and human rights abuses. Companies are being called upon to play a more active role in addressing these issues, and social governance is evolving to address these complex challenges.

## BENEFITS OF SOCIAL GOVERNANCE

Effective social governance can bring several benefits to organizations, including improved reputation, enhanced stakeholder engagement, increased employee satisfaction and retention, and reduced risks related to social issues. Social governance can also contribute to the development of more sustainable and equitable societies, as companies work to address social issues and support the well-being of communities and the environment. By integrating social governance into their operations and decision-making processes, organizations can help ensure that they are contributing to a more sustainable and just world.

Social risks and opportunities have direct impact on a company's financial performance and public perception as a responsible corporate citizen.

Some of the benefits of social governance at a broader societal level are as follows –

- ❖ *Improved decision-making:* Social governance involves engaging citizens and communities in decision-making processes, which can lead to more informed, inclusive, and effective decision-making. By incorporating diverse perspectives and experiences, social governance can help identify and address social challenges more effectively.
- ❖ *Increased accountability:* Social governance promotes transparency and accountability in decision-making, which can help build trust and confidence in government and other institutions. By engaging citizens in monitoring and evaluating policies and programs, social governance can help ensure that they are delivering on their intended outcomes.
- ❖ *Enhanced innovation and creativity:* Social governance encourages collaboration and cooperation across different sectors and stakeholders, which can lead to new ideas, approaches, and solutions to social challenges. By fostering innovation and creativity, social governance can help identify new and more effective ways to address social problems.
- ❖ *Improved social outcomes:* Social governance can lead to improved social outcomes by promoting social justice, economic growth, and sustainability. By addressing social challenges and promoting social well-being, social governance can help create a more equitable and sustainable society for all its members.
- ❖ *Stronger communities:* Social governance involves engaging citizens and communities in decision-

making processes, which can help build trust, relationships, and social capital. By promoting active citizenship and community engagement, social governance can help create stronger and more resilient communities.

From an organizational standpoint, the benefits of social governance can be witnessed in the form of –

- ❖ *Builds a more productive workforce:* Social sustainability improves employee morale, leading to a more productive and engaged workforce.
- ❖ *Positive consumer reputation:* Consumers are more aware than ever of the social impact of the businesses they choose to patronize. This awareness makes them more likely to work with a business that prioritizes a good quality of life for its employees and less likely to work with ones that don't.
- ❖ *Creates a more secure supply chain:* Prioritizing the well-being of workers helps prevent supply chain disruptions. Providing workers with proper training, a living wage, and safe working conditions decreases the chance of product defects and staff shortages.
- ❖ *Improves risk management:* Companies ignoring social governance are more likely to create inferior products or make costly mistakes that can harm their long-term economic growth. For instance, suppose a shipping company forces its truck drivers to drive unreasonably long hours without rest. This decision increases the risk of a sleepy driver getting into a costly accident resulting in employee and/or civilian casualties, destroyed goods, and decreased sales due to bad publicity.
- ❖ *Lays the groundwork for other aspects of sustainability:* Organizations often overlook the social dimension of sustainability in favor of economic and environmental issues. However, addressing economic and environmental concerns without first building social capital and prioritizing basic human needs can make a company fall short of its full positive potential.

## LIMITATIONS OF SOCIAL GOVERNANCE

While social governance has many benefits, it is not free from limitations. A few of these limitations are discussed below -

- ❖ *Limited resources:* Social governance requires resources, including funding, expertise, and time, which may be limited or inadequate. This can make it difficult to address complex social problems effectively and sustainably.
- ❖ *Political barriers:* Social governance may face political barriers, such as resistance from powerful interest groups, lack of political will, and conflicting agendas. These barriers can make it difficult to implement policies and programs that address social challenges effectively.
- ❖ *Inadequate participation:* Social governance relies on citizen participation and engagement, which may be limited or inadequate in some communities. This can make it difficult to incorporate diverse perspectives and experiences into decision-making processes and to identify and address social challenges effectively.
- ❖ *Complex social problems:* Social problems are often complex and interconnected, which can make it difficult to address them effectively. Social governance may require a comprehensive and holistic approach that addresses the root causes of social problems, which can be difficult to identify and address.
- ❖ *Limited impact:* Social governance may have limited impact on social problems, especially in the short term. Social problems may be deeply rooted in society, and addressing them may require long-term and sustained efforts.

## SOCIAL GOVERNANCE FRAMEWORK - COMPONENTS

A social governance framework is a set of guidelines and practices that organizations can use to manage and address social issues. A social governance framework typically includes the following components:

- *Social risk assessment:* Companies can identify and prioritize social issues that are relevant to their operations and stakeholders, and assess the potential impact of these issues on their business.
- *Stakeholder engagement:* Companies can engage with stakeholders to understand their concerns and perspectives on social issues, and incorporate this feedback into their decision-making processes.
- *Policy development:* Companies can develop policies and standards that outline their commitments to addressing social issues, and establish clear expectations for their employees and suppliers.
- *Implementation and monitoring:* Companies can implement their social governance policies and standards, and monitor their performance to ensure that they are meeting their commitments and achieving their goals.
- *Reporting and transparency:* Companies can report on their social governance performance, including their progress towards achieving their goals and any challenges or opportunities that they have identified.

## SOCIAL GOVERNANCE FRAMEWORK - FORMATION AND IMPLEMENTATION

The formation and implementation of social governance within a company requires a deliberate and systematic approach. Here are some key steps in the process:

- *Identify and prioritize social issues:* Companies should conduct a social risk assessment to identify and prioritize social issues that are relevant to their operations and stakeholders. This can involve consulting with stakeholders, analyzing data and trends, and reviewing regulations and industry standards.
- *Develop policies and standards:* Once social issues have been identified, companies should develop policies and standards that outline their commitments to addressing these issues. This can involve consulting with stakeholders, benchmarking against industry peers, and aligning with relevant regulations and international standards.
- *Communicate policies and standards:* Companies should communicate their social governance policies and standards to employees, suppliers, and other stakeholders. This can involve training programs, supplier codes of conduct, and other communication mechanisms.
- *Implement policies and standards:* Companies should implement their social governance policies and standards, which may involve changes to their operations, supply chain management, and other business processes. This can involve establishing performance indicators and targets, monitoring progress, and integrating social governance into decision-making processes.
- *Monitor and report on performance:* Companies should monitor their social governance performance and report on their progress to stakeholders. This can involve collecting and analyzing data, conducting audits, and reporting through sustainability reports, annual reports, and other communication channels.
- *Continuously improve:* Companies should continuously improve their social governance practices over time, based on feedback from stakeholders, changes in social and regulatory environments, and emerging best practices. This can involve regular reviews of policies and standards, engagement with stakeholders, and ongoing monitoring and reporting.

Overall, the formation and implementation of social governance within a company requires a comprehensive and ongoing effort, involving stakeholder engagement, policy development, communication, implementation, monitoring, and continuous improvement.

### Ways to practice Social Governance in an organization

Given below are some simple, actionable steps organizations can take to practice social sustainability / governance:

*Cultivate a healthy work-life balance:* Giving workers ample time to cultivate a healthy family and social life in order to heighten morale and prevent burnout. Examples: instituting half-day Fridays, encouraging employees to take mental health days when needed, making it an option to work remotely from home whenever possible.

*Contribute to social causes:* Philanthropy might constitute donating money to a worthy social cause, but it can also consist of donating services or goods. For example, a business that sells shoes might consider donating one pair to an unhoused person for every hundred pairs sold.

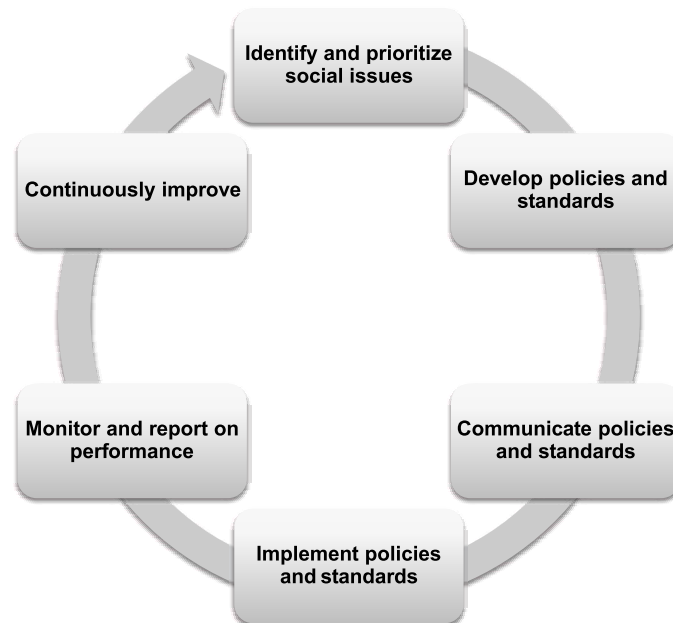
*Emphasize the importance of health and safety:* Safe working conditions should always take precedence over any other business imperative, especially a company's bottom line. For example: regularly inspecting all equipment to ensure everything is in safe condition, considering upgrading when safer options become available, using caution when evaluating safety protocols and creating policies encouraging employees who feel sick to stay home.

*Give back to your local community:* Seek out methods to create positive community engagement that allows the company to engage with its external stakeholders. These methods can involve using supplies from local businesses and building partnerships with them, creating a program that rewards your employees for volunteering, or reducing your company's environmental impact.

Partner with advocacy groups. Your organization can work with many general labor rights and advocacy groups to create a better work environment or improve specific issues. For instance, a business could work with a disability advocacy organization to make its workplace more accommodating for those with disabilities.

Prioritize diverse hiring practices. A diverse staff is a key element of building a socially sustainable business. You can achieve this by setting diversity hiring goals, expanding your recruitment net to incorporate a more diverse talent pool, creating policies and employment opportunities appealing to diverse candidates, and using more inclusive language in job postings.

Prioritize employee rights. Establish initiatives to ensure that your business is not sacrificing employee rights in favor of economic growth. Guarantee your employees a living wage, equal pay for equal work, reasonable hours, paid sick leave and holidays, and other basic rights.



*Social Governance Framework*

## COMPANY'S BEHAVIOUR REGARDING SOCIAL ISSUES

Companies are increasingly ramping up their focus on social responsibility, whether they are championing women's rights, protecting the environment, or attempting to obliterate poverty, on local, national, or global levels. From an optics perspective, socially responsible companies project more attractive images to both consumers and shareholders alike, which serves to positively affect their bottom lines.

Corporate social purpose is broader than traditional corporate social responsibility; it is how a business makes a positive economic, social, and environmental impact in the world. It is how an organization devotes meaningful effort, time, and experience toward public well-being. It can help strengthen national economies, help people be healthier and better educated, and help societies become more resilient.

Embracing socially responsible policies goes a long way toward attracting and retaining customers, which is essential to a company's long-term success.

According to Harvard Business School, nearly 70% of employees say they would not work for a company without a strong purpose. Ninety percent of employees who work at companies with a strong sense of purpose say they're more inspired, motivated, and loyal, and 92% of employees who work at a socially responsible company say they would be more likely to recommend their employer to those in their network who are looking for a job.

Different stakeholders may prioritize different causes or initiatives, so there are several ways corporate social purpose can manifest itself, including:

- ❖ Prioritizing the human rights and environmental performance of the supply chain and vendors
- ❖ Supporting diversity in areas such as hiring, training, and pay equity
- ❖ Protecting the environment through strong compliance and sound practices
- ❖ Being active in their communities through educational, recreational, and cultural activities; advocacy of human rights; and other issues
- ❖ Demonstrating board oversight of the company's role in political spending and government affairs.

Social responsibility works as a platform for companies and consumers alike to make a positive impact on local and global communities. Businesses that implement a social responsibility initiative that's in line with their values have the opportunity to increase customer retention and loyalty.

Community-oriented companies often enjoy a leg up on their competition as well, thanks to superior brand imaging. For example, Tesla Inc. (TSLA) CEO Elon Musk has successfully attracted environmentally-minded consumers with his line of cutting-edge electric cars and green automotive products.

A successful social purpose model is one where everyone within the organization is able to participate and allows the company to build on initiatives that are already important to it. For example, recruiting and attracting diverse talent, engaging in efforts that are important to specific markets, and building on client relationships where there is shared interest and commitment to the same social issues.

### KEY TAKEAWAYS

- Social responsibility empowers employees to leverage the corporate resources at their disposal to do good.
- Being a socially responsible company can bolster a company's image and build its brand.
- Social responsibility programs can boost employee morale in the workplace and lead to greater productivity, which has an impact on how profitable the company can be.

- Businesses that implement social responsibility initiatives can increase customer retention and loyalty.

A social governance framework is a set of guidelines and practices that organizations can use to manage and address social issues.

## EMPLOYMENT EQUALITY AND GENDER DIVERSITY

Equality in the workplace means equal job opportunities and fairness for employees and job applicants.

People must not be treated unfairly because of reasons protected by discrimination law ('protected characteristics'). For example, because of a person's sex, age or race.

The most basic form of equality in the workplace is a lack of discrimination. Different countries design laws and definitions to prevent discrimination. As an example, the U.S. Equal Employment Opportunity Commission says that *"it is illegal to discriminate against a job applicant or an employer because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability, or genetic information."* The Commission goes on to say that it's also illegal to retaliate against an employee who speaks out about discrimination, files a charge, or participates in an investigation of lawsuit about discrimination.

Indian constitution encapsulates social safeguard measures for all citizens of India in Article 15 and Article 16. Article 15 mandates prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. Article 16 mandates equal opportunity in matters of public employment. Article 16(2) further states that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Right of Persons with Disabilities Act, 2016 gives fundamental rights to all disabled people in the country for the equal opportunity. The Act provides for both preventive and promotive aspect of rehabilitation like education, employment and vocational training, research, manpower development, creation of barrier free environment, reservation, rehabilitation of persons with disability, unemployment allowance for the disabled, special insurance scheme for the disabled employees and establishment of homes etc.

There cannot be equality in the workplace when discrimination is allowed to exist. Discrimination takes many forms, including, but not limited to, discrimination based on traits such as: Gender, Sexual orientation, Race, Age, Physical and mental disabilities, Pregnancy and Religious beliefs. A business discriminates when they pay employees in the same position different salaries based on any of the traits listed above. Businesses also discriminate if they deny compensation or benefits based on traits, and if they exclude certain people during recruitment and promotions. Equality in the workplace is also threatened when a company allows harassment and/or a culture of hostility towards certain employees. While the business is not necessarily directly involved in this type of discrimination, it has not taken steps to protect employees or establish consequences for those responsible.

When equality in the workplace is being discussed, diversity in the workplace often comes up at the same time. Is there a difference? Technically, yes, but for a workplace to be truly equal, it must also remember diversity. Diversity acknowledges peoples' differences, so instead of being ignored or used as a justification for discrimination, the differences are celebrated. Workplaces that value diversity understand that a variety of backgrounds, experiences, and skills improve work teams and business. Diversity expands the workplace's collective mindset and philosophy, making the environment more creative and productive. True equality embraces diversity as much as it stands against discrimination.

Inclusive employment practices offer businesses an opportunity to enhance social responsibility – while reaping a range of other benefits. Inclusive staffing and customer engagement practices are needed to

ensure businesses are non-discriminatory. Embedding inclusion within a social responsibility strategy helps deliver equal opportunities regardless of individual attributes such as race, culture, gender, age, and disability.

Being an ethical corporate citizen is not only the right thing to do – it makes good business sense. A business's current and future employees, corporate partners, and customers all respond to strategies that foster diversity through social responsibility.

Companies can demonstrate their commitment to employment equality through a variety of actions, including:

- *Diversity and inclusion policies:* Companies can develop policies and practices that promote diversity and inclusion in the workplace, such as recruiting from diverse talent pools, providing training on unconscious bias, and creating employee resource groups.
- *Equal pay policies:* Companies can ensure that all employees are paid fairly and equally for comparable work, regardless of their gender, race, or other personal characteristics.
- *Non-discrimination policies:* Companies can establish policies that prohibit discrimination in hiring, promotions, and other employment practices, and provide training to managers and employees on these policies.
- *Flexible work arrangements:* Companies can offer flexible work arrangements, such as remote work, flexible schedules, and job sharing, to support employees with caregiving responsibilities and other personal needs.
- *Social impact initiatives:* Companies can support social impact initiatives that address employment equality, such as providing job training and support to disadvantaged communities or partnering with non-profit organizations that focus on workforce development.

By demonstrating a commitment to employment equality and other social issues, companies can build trust and confidence with their employees, customers, and other stakeholders, and contribute to a more just and equitable society.

A workplace encouraging equality, diversity and inclusion can help:

- ❖ make it more successful
- ❖ keep employees happy and motivated
- ❖ prevent serious or legal issues arising, such as bullying, harassment and discrimination
- ❖ to better serve a diverse range of customers
- ❖ improve ideas and problem-solving
- ❖ attract and keep good staff.

An inclusive workplace means everyone feels valued at work. It lets all employees feel safe to:

- come up with different ideas
- raise issues and suggestions to managers, knowing this is encouraged
- try doing things differently to how they've been done before, with management approval to adopt an "Equal Opportunity Policy" (EOP) containing details of amenities that will be provided to their differently-abled employees.



## EQUAL EMPLOYMENT OPPORTUNITY – TATA GROUP

Section D of Tata Code of Conduct contains as below:

1. We provide equal opportunities to all our employees and to all eligible applicants for employment in our company. We do not unfairly discriminate on any ground, including race, caste, religion, color, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin, disability or any other category protected by applicable law.
2. When recruiting, developing and promoting our employees, our decisions will be based solely on performance, merit, competence and potential.
3. We shall have fair, transparent and clear employee policies which promote diversity and equality, in accordance with applicable law and other provisions of this Code. These policies shall provide for clear terms of employment, training, development and performance management.
4. Dignity and respect.
5. Our leaders shall be responsible for creating a conducive work environment built on tolerance, understanding, mutual cooperation and respect for individual privacy.
6. Everyone in our work environment must be treated with dignity and respect. We do not tolerate any form of harassment, whether sexual, physical, verbal or psychological.
7. We have clear and fair disciplinary procedures, which necessarily include an employee's right to be heard.
8. We respect our employees' right to privacy. We have no concern with their conduct outside our work environment, unless such conduct impairs their work performance, creates conflicts of interest or adversely affects our reputation or business interests.

### Statement

Tata group is committed to providing equal opportunities in employment and creating an inclusive work environment. We endeavor to –

- A. provide equal and fair opportunities for employment to all qualified applicants;
- B. maintain a work environment free from harassment based on age, colour, physical ability, marital status, parental status, ethnic origin, religion, sexual orientation, or gender identity;
- C. make employment relationship decisions solely on the basis of individual ability and qualifications, subject only to occupational requirements, seniority and other appropriate non-discriminatory criteria;
- D. adhere to applicable law pertaining to equal employment opportunities and fair employment practices; and
- E. inform staff of certain behaviour that is unacceptable, and measures that the Company may take for deviant behaviour towards employees.

### Non-Discrimination

We shall not discriminate directly or indirectly against any employee or job applicant on any grounds including on the grounds of age, color, physical ability, ethnic origin, nationality, religion, gender, family status, marital status, pre-natal status, gender re-assignment, or sexual orientation.

We will make reasonable accommodation, whenever necessary, for qualified employees or job applicants who have disabilities.

Reasonable accommodation means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others.

### **Bullying and Intimidation**

We promote a harmonious working environment in which our employees will be treated with dignity and respect. We have a zero-tolerance policy towards bullying and harassment.

### **Commitment to Diversity and Inclusion**

We are committed to strengthening diversity and inclusion at the workplace through an enabling environment, supportive work life policies for employees and a culture that welcomes differences and creates a sense of belonging. We strive to create a work environment where all employees can develop and grow to achieve their full potential. We are an equal opportunity employer and are committed to maintaining respect and dignity for all.

## **EMPLOYEE HEALTH AND SAFETY**

The workforce of today has identified a culture of health as a key factor in career decisions, and investors are increasingly aware that good health is smart business. For more than a decade, we've known that a healthier workforce is a more productive workforce.

Every company has a "health footprint," and frameworks are useful in understanding the broad influence that an organization may have knowingly or unknowing on health and well-being. By embracing employee health and well-being as a pivotal piece of Social Governance strategy, organizations will be better able to create a resilient, agile workforce that's well-positioned for the future.

One of the easiest ways to understand workforce health and well-being is to examine the organization's role in addressing the social determinants of health (SDoH), the economic and social conditions that influence individual and group differences in health status.

It's easy to see how workplaces can affect or influence SDoH, and companies can address each of these through thoughtful policies, procedures, programs and resources:

- *Health and health care:* Do employees and dependents have access to affordable healthcare benefits? Is dental and vision included? Does the company offer an employee assistance program? How robust are parental leave policies? Is management supportive of work/life balance? Is the work environment tobacco-free?
- *Neighborhood and built environment:* Do the location, structure, features and operations of the workplace support a healthy and safe environment? Are there procedures in place to prevent workplace injuries? Are physical movement and ergonomics prioritized? Is there good ventilation with access to fresh air and clean water? Are there environmental sustainability efforts?
- *Economic stability:* Does the company have a stable workforce and do employees feel a sense of job security? Is pay fair and equitable regardless of race, ethnicity or gender? Are there onboarding orientations and developmental plans in place for employees to learn new skills and grow? Are there adequate opportunities for mentorship and advancement? Does the company offer a savings plan or 401K? Are financial literacy programs available?
- *Education:* Does the company offer educational assistance such as tuition reimbursement, college planning or support for external training or certification courses? Are there academic affiliations and internship opportunities? Are there retraining and reskilling programs for mothers or other employees returning to work after an absence?

- *Social and community context:* Are there affinity groups that employees may join to share experiences and best practices, volunteer together or gather for social engagement? Do employees feel a sense of belonging? Does the company measure employee engagement and management support? Is there engagement with local community programs? Are there efforts to diversify the hiring pipeline and succession plans?

Other factors that affect health outcomes include social marginalization and healthcare inequities, which we've seen recently play out through instances of racial injustice and pandemic-related health disparities, for example. Employers are encouraged to examine the health of their workforce through a comprehensive diversity, equity and inclusion (DEI) lens to address health inequities among their employees and those working in their supply chains.

Mental wellbeing is another factor increasingly recognized as an important component of overall health. While this recognition started to enter the mainstream prior to the COVID pandemic, the pandemic put the spotlight not only on physical health (i.e. coronavirus infections) but also on mental health as most people suffered from stress and/or other mental health challenges during the pandemic. For example, a 2020 survey from Morneau Shepell found that 81% of Canadians felt the pandemic negatively impacted their mental health. Similarly, a 2020 survey from the American Psychological Association found that 78% of Americans felt the pandemic was a significant source of stress in their life.

Here are some examples of how companies can address employee health:

- *Health and safety policies:* Companies can develop and implement health and safety policies and procedures to promote a safe and healthy work environment. These policies can include guidelines for workplace safety, employee wellness programs, and policies for managing workplace hazards.
- *Employee benefits:* Companies can provide employee benefits that support employee health, such as health insurance, access to healthcare, and sick leave policies. These benefits can help employees manage their health and prevent illness.
- *Ergonomics:* Companies can address ergonomic issues in the workplace, such as uncomfortable chairs, desks, or computer screens. This can help prevent musculoskeletal disorders and improve overall employee well-being.
- *Mental health support:* Companies can provide mental health support services, such as employee assistance programs and counseling services, to support employees' mental health and well-being. This can include providing training to managers on how to recognize and support employees who may be struggling with mental health issues.
- *Work-life balance:* Companies can promote work-life balance by providing flexible work arrangements, such as telecommuting and flexible work hours. This can help employees manage their stress levels and improve their overall well-being.

Overall, companies that prioritize employee health can benefit from improved employee satisfaction, retention, and productivity. By addressing employee health as a social issue, companies can contribute to creating a more sustainable and equitable society.

The Constitution of India provide detailed provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which set an aim to which the activities of the state are to be guided.

These Directive Principles provide

- for securing the health and strength of employees, men and women;
- that the tender age of children are not abused;
- that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

- just and humane conditions of work and maternity relief are provided; and
- that the Government shall take steps, by suitable legislation or in any other way, to secure the participation of employee in the management of undertakings, establishments or other organisations engaged in any industry.

On the basis of these Directive Principles as well as international instruments, Government is committed to regulate all economic activities for management of safety and health risks at workplaces and to provide measures so as to ensure safe and healthy working conditions for every working man and woman in the nation. Government recognizes that safety and health of workers has a positive impact on productivity and economic and social development. Prevention is an integral part of economic activities as high safety and health standard at work is as important as good business performance for new as well as existing industries.

Government of India firmly believes that without safe, clean environment as well as healthy working conditions, social justice and economic growth cannot be achieved and that safe and healthy working environment is recognized as a fundamental human right. Education, training, consultation and exchange of information and good practices are essential for prevention and promotion of such measures.

The Government of India enacted the Occupational Safety, Health and Working Conditions Code, 2020. This is an Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto.

### TOSHIBA GROUP'S EMPLOYEE HEALTH AND SAFETY

(Source: <https://www.global.toshiba/ww/sustainability/corporate/performance/social/safety.html>)

“It is vital for each and every employee to maintain and strengthen both his and her mental and physical health in order to shine and flourish professionally. This is only possible in a safe and comfortable work environment. We place the top priority to human life, safety and legal compliance, and support the occupational health and safety (OHS) of employees.”

KPIs to Be Addressed and Achievements		
<b>Fatality due to work-related accidents</b>		
FY2021 Achievement		1
FY2022 Target	Zero (no accidents)	
FY2023 Target	Zero (no accidents)	
<b>Severity rate of work-related accidents<sup>1</sup></b>		
FY2021 Achievement		0.05
FY2022 Target	0.01 <sup>2</sup> or less	
FY2023 Target	0.01 <sup>2</sup> or less	
<b>Ratio of employees with metabolic syndrome<sup>1</sup></b>		
FY2021 Achievement		34.3 %
FY2022 Target	28.6% of less <sup>3</sup> by the end of FY2025; The targets for each year up to FY2025 should be at the same value as the previous fiscal year or less.	
FY2023 Target		

### Occupational Health and Safety (OHS) Management Policy

The Toshiba Group OHS Management Policy was established in 2004 in response to the declaration of commitment to OHS by the top management with a goal of all employees sharing the commitment. The content was revised together with revision of The Essence of Toshiba in 2018 and the new content specifies our consideration of the people working in diverse conditions related to our business, including independent contractors as described in item 4 of the Toshiba Group OHS Management Policy, based on the requirements of ISO 45001, a new standard for OHS management systems.

At the Toshiba Group, we implement sustainability management, including Occupational Health and Safety, in accordance with the Basic Commitment of the Toshiba Group. While according full respect to the culture and customs of the societies in which we operate, we conduct business activities that contribute to realization of a sustainable society.

To realize this, in our all-business conduct, we place the highest priority on human life, safety and compliance, and we make concerted efforts throughout our operations to create safe and healthful workplace environments.

1. We position health and safety as one of the most important priorities for management, and strive to prevent occupational injury and disease in the workplace by continual improvements in occupational health and safety management.
2. We comply with legally mandated requirements and also with other requirements to which Toshiba Group companies voluntarily subscribes that relate to our occupational health and safety hazards.
3. We set objectives and targets and act decisively to achieve the following:
  - (1) Eradication of occupational accidents and disease in the workplace, elimination of hazards, and the mitigation of risks that may cause such accidents and disease.
  - (2) Maintenance and promotion of physical and mental health in order to enable all employees to bring their individual capabilities into full play.
4. We commit to ensure appropriate consultation and participation, on occupational health and safety initiatives of workers and their representatives in various positions, who are involved in the Toshiba Group's business.
5. We contribute to society's enhancement of health and safety management standards through various communication on occupational health and safety matters.

### **WIPRO'S GLOBAL STATEMENT ON HEALTH & SAFETY**

(Source: <https://www.wipro.com/content/dam/nexus/en/sustainability/pdf/health-and-safety-policy.pdf>)

#### **Our commitment**

At Wipro, the well-being and safety of our employees is of utmost importance. Well-being refers to a state characterised by good health and happiness.

#### **Scope/applicability**

We are committed to providing a safe, healthy and hygienic work environment for all our employees, contractors, customers and visitors at our premises. We also extend our commitment across our value chain through our partners and suppliers.

#### **Material aspects for our business**

At Wipro operated and customer operated locations, occupational health impacts arising from the nature of work environment are key material aspects. Primary among these are ergonomic health impacts, communicable diseases, food safety and commute/business travel safety.

**With respect to our supply chain**, identification and control of risks arising out of unsafe occupational environments and work practices are material aspects. These include issues like health & safety impacts arising out of improper/non-usage of protective personal equipment, unsafe handling methods of waste, among others.

### Governance

Wipro's Global leadership assumes responsibility for effective, efficient and safe operations at Wipro premises worldwide, legal compliance, including health and safety. The global leadership is supported by the location and geography heads who drive health and safety programs, and legal & compliance teams at their respective locations / geographies.

Additionally, all employees in their respective capacities as individuals, managers and functional owners (human resources) are responsible for maintaining and promoting a safe, healthy and hygienic workplace. Health and Safety aspects are integrated into the Corporate Governance Structure, and the Audit, Risk and Compliance Committee overseas this.

### PRODUCT SAFETY CONCERNS AND LIABILITY

Product safety is the capacity of a product to be considered safe for its intended use. In this context, policies aimed to safeguard humans from the dangers of product usage is referred to as product safety. In the event that a product is not safe, it can lead to severe and even life-threatening harm. Strangling, amputations, broken bones, choking risks, lacerations, and other injuries are all examples of potential harm from products. Because of this, producers must make an effort to ensure that all items are safe for consumers. Every business's stage of the production process is critical to a company's commitment to product safety. When it comes to safety and preventing injuries, it's always essential to take precautions. Consumers and sellers alike benefit from product safety. Engineers that specialize in product safety conduct in-depth investigations into workplace illnesses, accidents, and injuries that may have a connection to a product's use. It is up to them to find strategies to prevent or limit potential hazards while on the job and to conduct research to evaluate the safety levels of items.

A product's safety is a top priority for any seller or manufacturer because any damage caused by the product could lead to legal actions being filed against them. Design and formulation can have an impact on an item's inherent safety. For instance, non-toxic children's crayons are better than a product containing dangerous chemicals.

Product safety needs to be ensured in every stage of the product manufacturing process, as unsafe causes can occur at any phase. Potential causes of a product being unsafe include:

**Design defect:** A design defect occurs when a product is designed with potential danger. This could happen, for example, if a product was created with a sharp edge and no protection, or if a child's toy was designed with lead paint.

**Manufacturing defect:** This kind of defect occurs during the manufacturing phase. The parts of any product need to be developed and assembled correctly, otherwise it could become a hazard for injury.

**Failure to warn:** Manufacturers are required to include a warning if the product has potential danger or could cause a hazard to the consumer. For example, flammable warnings or choking hazard warnings.

These issues are increasingly global. They arise across the world, and the changes internationally are happening at an increasing pace. The growing work and prominence in this area of international organisations such as the OECD, the United Nations, the Association of Southeast Asian Nations (ASEAN), and the International Consumer Products Health and Safety Organization (ICPHSO) in the field of product safety demonstrates the growing importance of this area internationally. This gives rise to very practical challenges for all companies.

In India, the Consumer Protection Act deals with the issues of product harm and liability. The term 'product liability' was first defined under the Consumer Protection Act, 2019 as the *"responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto."*

In addition to the consumer protection laws, there exists multiple general and sector specific laws that form part of the legal framework governing product liability in India which, in certain instances, may overlap depending on the sector and facts of the case.

### Importance of product safety

At all stages of the manufacturing process, breaches or contamination can occur. This can lead to serious problems, such as food poisoning or hardware malfunctions, which not only reduce the value of your products but endanger consumers.

Here are some specific reasons why product safety is crucial:

#### 1. Reduces the Risk of Foodborne Illness

The food sector is in particular need of following safety standards. Food products can come in contact with particles and pathogens at any point in the production cycle. Consumption of these products may result in food poisoning with common symptoms like nausea, vomiting, stomach cramps, and diarrhea. Some people are highly susceptible to this, including young children, pregnant women, older adults, and those with compromised immune systems because of medical conditions like diabetes and liver disease.

#### 2. Eliminates the Potential to Cause Serious Harm

In the tech sector, using poor-quality parts and incorrect assembly may lead cause serious harm. Stories of smartphones exploding and injuring people proliferated in the news in 2016. This was due to electrolytes in the batteries producing gas that eventually built up and made the phones burst. This led to some buyers getting burns and other injuries.

#### 3. Protects the Company's Standing

Inadvertently causing harm to consumers is something that shouldn't happen. Business owners are morally obliged to keep their products in the best condition for consumer use. Once the clients lose their trust in the business, company will have difficulty regaining that trust back, and even the most loyal customers might think twice or thrice about buying from the company.

Here are some examples of how companies can address product and employee safety:

- *Product testing:* Companies can implement rigorous product testing procedures to ensure that their products are safe for consumers. This can involve conducting testing at various stages of the product development process and addressing any safety concerns that are identified.
- *Safety labeling:* Companies can provide clear and accurate safety labeling on their products, including warning labels and instructions for use. This can help ensure that consumers are aware of any potential hazards associated with the product.
- *Product recalls:* Companies can implement a process for recalling products that are found to be unsafe. This can involve identifying and contacting consumers who have purchased the product and providing them with instructions for returning the product for a refund or replacement.
- *Liability insurance:* Companies can obtain liability insurance to protect themselves from potential lawsuits related to product safety concerns. This can help ensure that the company is financially able to cover any damages that may result from product safety issues.
- *Quality control:* Companies can implement quality control procedures to ensure that their products meet established safety standards. This can involve monitoring the manufacturing process, conducting regular quality checks, and addressing any issues that are identified.

Companies that prioritize product safety can benefit from improved consumer trust and loyalty. By addressing product safety concerns and liability as social issues, companies can contribute to creating a more sustainable and equitable society.

**PROCTER & GAMBLE - POLICIES & PRACTICES - PRODUCT SAFETY & COMPLIANCE**

(Source: <https://in.pg.com/policies-and-practices/product-safety-and-compliance/>)

Procter & Gamble ensures the safety of our products, packages and operations for our employees, consumers and the environment. We consider this to be a requirement for conducting responsible business, and an essential element of building and maintaining public trust in our products. We carefully evaluate the safety of all products and ingredients before they go to market, using well-established risk assessment methods to understand both hazards and potential exposures. These evaluations are a mandatory part of the company's product development process, and begin during the early stages of a product's design. The same safety standards are used everywhere we sell or make products. As a guide, we administer our product safety programs by following these policies and principles:

- The Company's products and packages will be safe for consumers and the environment when used as intended.
- The Company will seek to ensure that our operations are safe for our employees, neighbours and the environment.
- The Company will meet or exceed all applicable legislative and regulatory requirements with respect to product safety and labeling.
- The Company will provide interested parties with relevant and appropriate factual information about the safety of our products and packaging.

**Our Safety Heritage**

- Household consumer products provide a variety of benefits to society, such as cleaner homes and improved health and personal hygiene, thus enabling an overall better quality of life. One additional expectation of all consumer products is that they will be safe, that is, that their use will not adversely affect human health or the environment. Throughout our history, P&G has believed that the safety of our products is a prerequisite for responsible business. Our co-founder, James Gamble, stated in the mid-1800s that "if you cannot make pure goods and full weight, go to something else that is honest, even if it is breaking stone." Today, this philosophy is reflected in our Statement of Purpose: "We will provide branded products and services of superior quality and value that improve the lives of the world's consumers, now and for generations to come." Safety is an intrinsic part of our products' quality and value.

**Fulfilling our Commitments**

Our commitment to safety is reflected in the more than 700 in-house experts devoted globally to ensuring the environmental and human safety of all our ingredients and products before they go to market, as well as ensuring that they comply with laws and regulations in each of the markets where they are sold. P&G also consistently promotes research that enhances understanding of product safety. Our scientists have helped to develop numerous new methods and approaches to advance the science necessary to evaluate safety. This is an ongoing process that requires us to stay on the leading edge of new scientific knowledge in such diverse areas as analytical chemistry, biostatistics, computer science and modeling, environmental science and engineering, genomics, molecular biology, systems biology, and toxicology.

**We use a Science-based Approach to Evaluate Safety**

The reputation of every P&G product depends upon the trust of consumers that they are safe. Our approach is based on broadly accepted practices for the scientific assessment of safety. We first evaluate the potential for an ingredient to cause adverse effects using published and accepted scientific methods. We also consider



susceptible populations such as children. These data are used to determine what levels of an ingredient are safe for humans and the environment, using conservative assumptions that are recommended by regulatory agencies and scientists around the world. We then evaluate potential exposures for people and the environment, considering worst-case product use scenarios based on our understanding of how our products are actually used, as well as how they may reach the environment. Only products that are well within safe levels make it through our evaluation process. Finally, we also build into our assessments an understanding of the environmental aspects of the product's life cycle, from manufacturing through their use and disposal.

## **UNILEVER - PRODUCT SAFETY AND QUALITY**

(Source: <https://www.unilever.com/planet-and-society/responsible-business/product-safety-and-quality/>)

Consumers trust us to provide them and their families with high-quality products. We design and manufacture our products so they're safe for their intended use.

### **Innovating responsibly**

Our Product Safety & Product Quality Code Policy sets out our commitments to Responsible Innovation. This means providing branded products and services that are safe and high quality, and innovating based on sound science. We also have mandatory policies and standards in place to ensure that we meet our safety and quality commitments.

### **Safety first**

Our long-established Safety & Environmental Assurance Centre (SEAC) works with teams across Unilever to assess the safety and environmental sustainability of our products. The Centre also evaluates the processes used to manufacture our products. As part of our Responsible Innovation approach, we design safety and sustainability into our products and manufacturing processes using the best science available.

### **Striving for continual improvements**

We want to be able to proactively address any potential product safety or quality issues. So we monitor and track consumer and customer feedback. Sometimes mistakes can be made in the end-to-end value chain. A product might, for example, have a quality defect. Or there may be a contamination of the raw materials, or a mislabelling of ingredients. If this happens, protecting consumers' safety is our number one priority. When necessary, we will recall such products from the marketplace.

### **Lessons learned**

We track the number of our product incidents globally. We classify them into those that could potentially impact consumers' safety, and incidents that could potentially seriously impact product quality. Wherever and whenever mistakes occur, we investigate them fully. We identify the root cause and send a 'lessons learned' document throughout the value chain to prevent a recurrence.

We are committed to continually improving our quality performance – and our improvement programmes therefore cover all aspects of our value chain (suppliers, manufacturing, route to market). We also improve the way we track and respond to consumer feedback. As a result of this approach, we have reduced the number of marketplace incidents by more than 70% over the last five years.

### **Sharing our knowledge with others**

We don't keep our knowledge to ourselves. We share our safety research with the global scientific community through Unilever's SEAC safety sciences in the 21st century website. SEAC also engages on a wide number of issues such as animal testing, plastic packaging and the ingredients we use.

We work with external organisations and authorities to develop more rigorous product vulnerability risk assessments. And we develop counter measure programmes that will help prevent malicious or economically motivated adulteration.

As well as conducting our own pioneering scientific research, we work closely with leading authorities around the world – including regulators, government scientists and academic experts. This ensures we're always using the most up-to-date science within our safety and environmental sustainability assessments.

#### **Focus on quality**

As well as ensuring we have robust improvement programmes in place internally, we recognise the importance of external quality and/or product safety certification. This helps to provide an additional layer of assurance.

Many of our Home Care, Beauty & Wellbeing and Personal Care sites are externally certified to relevant quality and/or product safety standards. (These depend on the type of product being supplied). We also have a programme in place to extend external certification to our remaining sites in future.

#### **Quality expertise**

We are committed to ensuring that we have the right quality capability for the business, not only for today but also for the future. We use our internal 'Quality Business School' to enable our employees to build deep quality expertise as well as to develop key business skills – and thus ensure we deliver high-quality, safe and sustainable products every single day to our consumers.

#### **Listening to consumers, acting fast**

We want to know what consumers think of our products – the good and the bad. What they struggle with, what they are hooked on, how they'd like things to change and where we can make a difference for them.

By listening to the 'digital voice of the consumer', we're constantly reviewing the feedback people kindly provide on our brands. We do this, for example, through our consumer engagement centres, product ratings and reviews on social media and then we act fast. For example, our Turkish customers told us they didn't like the smell of our Domestos bleach so we launched a new variant with a softer, less chemical smell.

## **HUMAN RIGHTS AND ITS DEVELOPMENT**

Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

The responsibility to respect human rights requires that business enterprises:

- Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts.

The actions of business enterprises can affect people's enjoyment of their human rights either positively or negatively. Indeed, experience shows that enterprises can and do infringe human rights where they are not paying sufficient attention to this risk.

Enterprises can affect the human rights of their employees and contract workers, their customers, workers in their supply chains, communities around their operations and end users of their products or services. They can have an impact – directly or indirectly – on virtually the entire spectrum of internationally recognized human rights.

Examples of how companies can address human rights and their development:

- **Human rights policies:** Companies can develop and implement policies that promote human rights, including respect for labor rights, protection of workers' health and safety, and respect for the rights of indigenous peoples and other marginalized groups.
- **Due diligence:** Companies can conduct human rights due diligence to identify and assess any human rights risks associated with their operations, supply chains, and business relationships. This can involve engaging with stakeholders, conducting impact assessments, and developing action plans to address any identified risks.
- **Supplier standards:** Companies can establish standards for their suppliers to ensure that they respect human rights and meet labor and environmental standards. This can involve conducting regular audits and assessments of supplier practices and taking action to address any non-compliance.
- **Community engagement:** Companies can engage with local communities to understand their human rights concerns and identify opportunities to support human rights development. This can involve establishing community partnerships, providing education and training programs, and supporting local economic development.
- **Reporting and transparency:** Companies can report on their human rights performance and disclose information about their human rights policies, practices, and impacts. This can involve publishing human rights reports, engaging with stakeholders, and participating in industry initiatives to promote transparency and accountability.

Companies that prioritize human rights and their development can benefit from improved reputation, brand loyalty, and stakeholder engagement.

### Internationally Recognized Human Rights and Examples of How Business Might Impact Them

(Source: <https://www.ungpreporting.org/resources/how-businesses-impact-human-rights/>)

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
Right to life	<ul style="list-style-type: none"> <li>● Right not to be deprived of life arbitrarily or unlawfully.</li> <li>● Right to have one's life protected, for example, from physical attacks or health and safety risks.</li> </ul>	<ul style="list-style-type: none"> <li>● The lethal use of force by security forces (State or private) to protect company resources, facilities or personnel.</li> <li>● Operations that pose life-threatening safety risks to workers or neighboring communities through, for example, exposure to toxic chemicals.</li> <li>● The manufacture and sale of products with lethal flaws.</li> </ul>

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
Right not to be subjected to torture, cruel, inhuman and/ or degrading treatment or punishment	<ul style="list-style-type: none"> <li>● An absolute right, which applies in all circumstances.</li> <li>● Torture has been held to involve a very high degree of pain or suffering that is intentionally inflicted for a specific purpose.</li> <li>● Cruel and/or inhuman treatment also entails severe suffering.</li> <li>● Degrading treatment has been held to involve extreme humiliation of the victim.</li> </ul>	<ul style="list-style-type: none"> <li>● Conducting business in countries where State security or police forces protecting company assets do not respect this right.</li> <li>● Failure to foster a workplace that is free from severe forms of harassment that cause serious mental distress.</li> <li>● Manufacture and sale of equipment misused by third parties for torture or cruel treatment or for medical or scientific experimentation without their consent.</li> </ul>
Right not to be subjected to slavery, servitude or forced labour	<ul style="list-style-type: none"> <li>● Slavery exists when one human effectively owns another.</li> <li>● Freedom from servitude covers other forms of severe economic exploitation or degradation, such as in the trafficking of workers or debt bondage.</li> <li>● Rights to freedom from slavery and servitude are absolute rights.</li> <li>● Forced or compulsory labour is defined by the ILO as all work or service that is extracted under menace of any penalty and for which the person has not voluntarily offered themselves.</li> <li>● Providing payment does not mean that work is not forced labour if the other aspects of the definition are met.</li> </ul>	<ul style="list-style-type: none"> <li>● Businesses may unknowingly benefit through their supply chains from the labour of workers who have been trafficked and are forced to work as slaves, for example, on agricultural plantations. Women and children may be subject to particularly severe impacts in such situations.</li> <li>● A company may be involved in the transportation of people or goods that facilitates the trafficking of individuals.</li> <li>● Forced labour can arise in any sector where an employer puts workers in a position of debt bondage through company loans or the payment of fees to secure a job and/or where the company withholds workers' identity documents. This is a particular risk in the case of migrant workers, a recognized vulnerable group.</li> </ul>
Rights to liberty and security of the person	<ul style="list-style-type: none"> <li>● These rights involve the prohibition of unlawful or arbitrary detention.</li> <li>● 'Lawful' detention is understood to mean that it must be authorized by an appropriate government body, such as the courts, and be capable of being challenged by the detainee.</li> <li>● 'Arbitrary' detention is always prohibited.</li> </ul>	<ul style="list-style-type: none"> <li>● Threatening staff with physical punishment or tolerating severe harassment of some employees, for example, of trade union members or members of a minority ethnic group.</li> <li>● A company whose supplier routinely allows sexual abuse of female workers to go unaddressed in their workplace.</li> </ul>

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
	<ul style="list-style-type: none"> <li>● Security of the person includes protection from physical attacks, threats of such attacks, or other severe forms of harassment, whether or not a person is detained.</li> </ul>	
Right of detained persons to humane treatment	<ul style="list-style-type: none"> <li>● This right requires detention authorities to take special measures for the protection of detainees (such as separating juveniles from other detainees).</li> </ul>	<ul style="list-style-type: none"> <li>● Companies involved in the construction, operation or maintenance of detention facilities (such as a prison or immigration detention facility) where detainees are mistreated.</li> </ul>
Right not to be subjected to imprisonment for inability to fulfil a contract	<ul style="list-style-type: none"> <li>● This right applies where a person is incapable of meeting a private contractual obligation.</li> <li>● It restricts the type of punishment that the State can impose.</li> </ul>	<ul style="list-style-type: none"> <li>● Companies may be linked to such an impact where this right is not protected by the State, for example, where a small local supplier is genuinely unable to meet their contractual obligations and the company takes action against them.</li> </ul>
Right to freedom of movement	<ul style="list-style-type: none"> <li>● Individuals who are lawfully in a country have the right to move freely throughout it, to choose where to live and to leave.</li> <li>● Individuals also have the right not to be arbitrarily prevented from entering their own country.</li> </ul>	<ul style="list-style-type: none"> <li>● Relocation of communities because of company operations where that is conducted in an arbitrary or unreasonable manner, without adequate notice, consultation (and, at least in the case of indigenous peoples, consent), or compensation.</li> <li>● Employers withholding workers' identification documents.</li> </ul>
Right of aliens to due process when facing expulsion	<ul style="list-style-type: none"> <li>● Aliens (meaning foreigners) who are legally present in a country are entitled to due process (meaning fair legal procedures) before being forced to leave.</li> </ul>	<ul style="list-style-type: none"> <li>● Where companies rely on migrant workers (either directly or through a third-party agency), there may be a risk of their operations being linked to such an impact.</li> </ul>
Right to a fair trial	<ul style="list-style-type: none"> <li>● Required in both civil and criminal proceedings, this includes the right to a public hearing before an impartial tribunal.</li> <li>● Additional protections are required in criminal proceedings.</li> </ul>	<ul style="list-style-type: none"> <li>● A business tries to corrupt the judicial process by destroying relevant evidence or by seeking to bribe or otherwise influence judges or witnesses to take certain actions or make certain statements.</li> </ul>

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
Right to be free from retroactive criminal law	<ul style="list-style-type: none"> <li>● The State is prohibited from imposing criminal penalties for an act that was not illegal when it was committed, or from imposing higher penalties than those that were in force at the time.</li> </ul>	<ul style="list-style-type: none"> <li>● Companies may be linked to such an impact, for example, where political dissidents protest about some aspect of a company's operations and the State creates new, punitive measures to prosecute them.</li> </ul>
Right to privacy	<ul style="list-style-type: none"> <li>● Individuals have a right to be protected from arbitrary, unreasonable or unlawful interference with their privacy, family, home or correspondence and from attacks on their reputation.</li> </ul>	<ul style="list-style-type: none"> <li>● Failing to protect the confidentiality of personal data held about employees or contract workers, customers or other individuals.</li> <li>● Requiring pregnancy testing as part of job applications.</li> </ul>
	<ul style="list-style-type: none"> <li>● The State is allowed to authorize restrictions on privacy in line with international human rights standards, but 'arbitrary' restrictions are always prohibited.</li> </ul>	<ul style="list-style-type: none"> <li>● Providing information about individuals to State authorities, without that individual's permission, in response to requests that are illegal under national law and/or not in line with international human rights standards.</li> <li>● Selling equipment or technology that can be used to track or monitor individuals' communications and movements to a State with a poor human rights record.</li> </ul>
Rights to freedom of thought, conscience and religion	<ul style="list-style-type: none"> <li>● Individuals have a right to choose, practise and observe their chosen religion or belief, to be an atheist or not to follow any religion or belief.</li> <li>● It includes the right to worship and to observe rituals, such as the wearing of particular clothing.</li> </ul>	<ul style="list-style-type: none"> <li>● A company's policy prevents workers from wearing clothing or other symbols that express their faith, even though these do not interfere with legitimate safety or performance issues.</li> <li>● A company does not allow its workers to seek reasonable time off for their religious holidays.</li> </ul>
Rights to freedom of opinion and expression	<ul style="list-style-type: none"> <li>● The right to hold opinions free from outside interference is an absolute right.</li> </ul>	<ul style="list-style-type: none"> <li>● Operating in a country where workers are routinely prevented by law from expressing their opinions in the public domain.</li> </ul>

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
	<ul style="list-style-type: none"> <li>● The right to hold opinions free from outside interference is an absolute right.</li> <li>● Individuals have a right to seek, receive and impart ideas in whatever media or form. The State is allowed to authorize restrictions in line with international human rights standards.</li> </ul>	<ul style="list-style-type: none"> <li>● Censoring online or other content at the demand of the State where those requests are illegal under national law and/or not in line with international human rights standards.</li> <li>● Engaging in litigation against individual workers, community members or other stakeholders who have spoken critically about the company where there is an extreme imbalance in the parties' means to fund a legal case.</li> </ul>
Rights to freedom from war propaganda, and freedom from incitement to racial, religious or national hatred	<ul style="list-style-type: none"> <li>● These rights prohibit certain speech that is not protected by the right to freedom of expression.</li> <li>● Individuals are prohibited from advocating racial, religious or national hatred that amounts to an incitement to discrimination, hostility or violence.</li> </ul>	<ul style="list-style-type: none"> <li>● Companies that provide the platform or technology for individuals to express hatred against a particular religious group and to incite others to take certain action against them.</li> </ul>
Right to freedom of assembly	<ul style="list-style-type: none"> <li>● Individuals have the right to peacefully assemble for a specific purpose or where there is a public discussion, to put forward ideas or to engage in a demonstration, including marches.</li> <li>● The State is allowed to authorize restrictions in line with international human rights standards.</li> </ul>	<ul style="list-style-type: none"> <li>● Situations where public or private security services protecting company assets forcibly prevent or breakup peaceful demonstrations by the local community against a company's operations.</li> </ul>
Rights of protection of the family and the right to marry	<ul style="list-style-type: none"> <li>● The concept of a family varies. This includes the rights to enter freely into marriage and to start a family.</li> </ul>	<ul style="list-style-type: none"> <li>● Company policy discriminates against women on the basis of their marital or reproductive status.</li> </ul>
Rights of protection for the child	<ul style="list-style-type: none"> <li>● A child has the right to be registered, given a name and to acquire a nationality.</li> </ul>	<ul style="list-style-type: none"> <li>● Business activities that involve hazardous work (such as cutting sugar cane or mining) performed by persons under the age of 18.</li> </ul>

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
	<ul style="list-style-type: none"> <li>● Children must be protected from sexual and economic exploitation, including child labour.</li> <li>● ILO standards prohibit hazardous work for all persons under 18 years. They also prohibit labour for those under 15, with limited exceptions for developing States.</li> </ul>	<ul style="list-style-type: none"> <li>● Where child labour is discovered, a company can negatively impact other rights (such as the rights to an adequate standard of living, or security of the person) if they fail to take account of the best interests of the child in determining the appropriate response. For example, simply dismissing the child (or cutting the contract with the relevant supplier) may result in the child having to find alternative, more dangerous forms of work (such as prostitution).</li> </ul>
Right to participate in public life	<ul style="list-style-type: none"> <li>● Citizens have the right to take part in the conduct of public affairs, including the rights to vote and be elected in free and fair elections, and the right of equal access to positions within the public service.</li> </ul>	<ul style="list-style-type: none"> <li>● Failing to give time off to workers for the purpose of voting.</li> <li>● Bribery of political figures or other improper uses of company influence may distort the electoral process or otherwise impede free and fair elections.</li> </ul>
Right to equality before the law, equal protection of the law, and rights of non-discrimination	<ul style="list-style-type: none"> <li>● Individuals have a right not to be discriminated against, directly or indirectly, on various grounds, including race, ethnicity, sex, language, religion, political or other opinion, national or social origin, property, and birth or other status (such as sexual orientation or health status, for example, having HIV/AIDS).</li> <li>● This right applies to the enjoyment of all other rights.</li> <li>● The State is allowed to make distinctions where they are in line with international human rights standards.</li> <li>● ILO standards provide further guidance on the content of the right.</li> </ul>	<ul style="list-style-type: none"> <li>● Indirectly discriminating in the recruitment, remuneration or promotion of workers, for example, by offering a training programme that enhances an individual's chance of promotion at a time that is reserved for religious observance by a particular group.</li> <li>● A company offers compensation to men and women in a situation where its operations or products have had negative impacts on their health in a way that discriminates against women (such as by failing to recognize the particular harm to their reproductive health).</li> </ul>



<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
Right to work	<ul style="list-style-type: none"> <li>● Individuals are entitled to the opportunity to make a living by work which they freely choose or accept. The work must be 'decent work', meaning that it respects their human rights.</li> <li>● The right includes the prohibition of arbitrary dismissal and the rights to just and favourable conditions of work and to form and join trade unions, discussed below.</li> </ul>	<ul style="list-style-type: none"> <li>● Arbitrarily or unfairly dismissing a worker, even if permissible under local law.</li> <li>● Hindering or failing to provide for the reasonable career advancement aspirations of workers.</li> </ul>
Right to enjoy just and favourable conditions of work	<ul style="list-style-type: none"> <li>● Individuals have the right to fair remuneration and equal remuneration for work of equal value. Remuneration must enable them, and their families, to have a decent living.</li> <li>● The right includes safe and healthy conditions of work, equality of opportunity for promotion, and a right to rest, leisure and holidays.</li> <li>● ILO standards provide further guidance on the content of the right.</li> </ul>	<ul style="list-style-type: none"> <li>● Failing to address a pattern of accidents highlighting inadequate workplace health and safety.</li> <li>● A company's purchasing practices repeatedly allow changes to the terms of product orders without any changes to price or delivery time, creating pressure on its suppliers, who then demand excessive overtime from their workers.</li> <li>● Using cleaning staff that are employed by a third-party company and are paid extremely low wages with no or very limited entitlements to sick pay or leave.</li> </ul>
Right to form and join trade unions and the right to strike	<ul style="list-style-type: none"> <li>● Individuals have the right to form or join trade unions of their choice.</li> <li>● Trade unions must be permitted to function freely, subject only to limitations that are in line with international human rights standards.</li> <li>● Workers have the right to strike, in conformity with reasonable legal requirements.</li> <li>● ILO standards provide guidance on the content of the right, for example, that workers have the right to bargain collectively with their employers and that workers should not be discriminated against because of trade union membership.</li> </ul>	<ul style="list-style-type: none"> <li>● Creating barriers to the formation of trade unions among employees or contract workers.</li> <li>● Refusing or failing to recognize legitimate workers' associations with which the company can enter into dialogue in countries that prohibit trade unions.</li> </ul>

<b>Relevant human right</b>	<b>Brief explanation of the right</b>	<b>Examples of how business might be involved with an impact on the right</b>
Right to social security, including social insurance	<ul style="list-style-type: none"> <li>● This right obliges the State to create and maintain a system of social security that provides adequate benefits for a range of issues (such as injury or unemployment).</li> </ul>	<ul style="list-style-type: none"> <li>● Denying workers their contractually agreed employment injury benefits.</li> <li>● Offering a private social security scheme that has discriminatory eligibility criteria.</li> </ul>
Right to a family life	<ul style="list-style-type: none"> <li>● Protection should be given to families during their establishment, and while they are responsible for the care and education of dependent children.</li> <li>● The right includes special protections for working mothers.</li> <li>● The right also includes special protections for children.</li> </ul>	<ul style="list-style-type: none"> <li>● Company practices hinder the ability of workers to adopt a healthy work–life balance that enables them to adequately support their families (such as requiring workers to live on site in dormitories for extended periods of time without providing adequate periods of leave to enable them to spend time with their families).</li> </ul>
Right to an adequate standard of living	<ul style="list-style-type: none"> <li>● This right includes access to adequate housing, food, clothing, and water and sanitation.</li> <li>● Individuals have a right to live somewhere in security, dignity and peace and that fulfils certain criteria (such as availability of utilities and accessibility).</li> <li>● Food should be available and accessible to individuals, in sufficient quality and quantity, to meet their nutritional needs, free from harmful substances and acceptable to their culture.</li> <li>● The right to water and sanitation was recognized as a distinct right in 2010. Individuals are entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use and to sanitation services that fulfil certain criteria (such as being safe, physically accessible, and providing privacy and dignity).</li> </ul>	<ul style="list-style-type: none"> <li>● Poor-quality housing or dormitories provided to workers.</li> <li>● Failing to provide adequate sanitation facilities for workers in a company-owned factory.</li> <li>● The expansion of a company's operations significantly reduces the amount of arable land in an area, affecting local community members' access to food.</li> <li>● Business activities pollute or threaten existing water resources in a way that significantly interferes with local communities' ability to access clean drinking water. In such situations, there may be particular negative impacts on women and girls, who are responsible for water collection in many communities.</li> </ul>

<i>Relevant human right</i>	<i>Brief explanation of the right</i>	<i>Examples of how business might be involved with an impact on the right</i>
Right to health	<ul style="list-style-type: none"> <li>● Individuals have a right to the highest attainable standard of physical and mental health.</li> <li>● This includes the right to have control over one's health and body, and freedom from interference.</li> </ul>	<ul style="list-style-type: none"> <li>● Pollution from business operations can create negative impacts on the health of workers and/or surrounding communities.</li> <li>● The sale of products that are hazardous to the health of end users or customers.</li> <li>● Failure to implement appropriate health and safety standards leads to long-term negative impacts on workers' health.</li> </ul>
Right to education	<ul style="list-style-type: none"> <li>● All children have the right to free and compulsory primary education.</li> <li>● The right also includes equal access to education and equal enjoyment of educational facilities, among other aspects.</li> </ul>	<ul style="list-style-type: none"> <li>● The presence of child labour in a business or in its supply chain, where those children are unable to attend school.</li> <li>● Limiting access to, or damaging, educational facilities through construction, infrastructure or other projects.</li> </ul>

### Examples of Companies following Social Governance

Social governance is becoming increasingly important for companies across a range of industries, as stakeholders expect businesses to take a more active role in addressing social issues. Here are some examples of how social governance is being applied by companies:

**Patagonia:** Patagonia is a clothing company that is known for its commitment to environmental and social responsibility. The company has implemented a number of social governance practices, including using sustainable materials in its products, investing in renewable energy, and supporting community-based activism.

**Unilever:** Unilever is a consumer goods company that has made a commitment to improving its social and environmental performance. The company has established a number of social governance programs, including initiatives to reduce waste and greenhouse gas emissions, promote gender equality, and support smallholder farmers.

**Microsoft:** Microsoft is a technology company that has been recognized for its commitment to social governance. The company has established a number of programs to promote digital inclusion, support diversity and inclusion, and address environmental sustainability.

**Coca-Cola:** Coca-Cola is a beverage company that has implemented a number of social governance programs, including initiatives to promote water conservation, support sustainable agriculture, and reduce greenhouse gas emissions.

**IKEA:** IKEA is a furniture retailer that has made a commitment to social and environmental responsibility. The company has implemented a number of social governance practices, including using sustainable materials in its products, investing in renewable energy, and supporting community-based initiatives.

Overall, social governance is becoming increasingly important for companies across a range of industries,

as stakeholders expect businesses to take a more active role in addressing social issues. By implementing social governance practices, companies can improve their reputation, enhance stakeholder engagement, and contribute to the development of more sustainable and just societies.

### LESSON ROUND-UP

- Social governance describes the various ways in which societies and communities are managed and organized to address social problems, promote social well-being, and ensure social justice.
- At an organizational level, Social governance refers to the processes and structures that organizations use to manage and address social issues. This can include issues related to the environment, human rights, labor practices, community development, and other social issues that impact people and the planet.
- A social governance framework is a set of guidelines and practices that organizations can use to manage and address social issues.
- Effective social governance can bring several benefits to organizations, including improved reputation, enhanced stakeholder engagement, increased employee satisfaction and retention, and reduced risks related to social issues.
- A social governance framework is a set of guidelines and practices that organizations can use to manage and address social issues.
- While social governance has many benefits, it is not free from limitations. These include political barriers, social challenges, inadequate participation etc.
- Social responsibility works as a platform for companies and consumers alike to make a positive impact on local and global communities. Businesses that implement a social responsibility initiative that's in line with their values have the opportunity to increase customer retention and loyalty.
- Companies that prioritize social governance factors can benefit from improved employee satisfaction, retention, and productivity. By addressing employee related social matters, companies can contribute to creating a more sustainable and equitable society.

### GLOSSARY

**“Diversity and inclusion”** Diversity refers to gender, sexual orientation, age, race, religion, disability, or other characteristics differences that people have. Inclusion is about celebrating those differences, challenging inequality and ensuring people feel respected.

**“Environmental Justice”** is often defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies, although different organizations have their own unique definitions. The disproportionate impacts that Hurricane Katrina had on relatively poor areas, and the exposure of urban communities to environmental contaminants like lead, such as in the Flint, Michigan drinking water crisis, are often used as examples of environmental injustice.

**“Human Rights”** are basic rights and freedoms that protect us all. They are based on dignity, fairness, equality and respect. Businesses have a significant impact on the way we live our life and enjoy these human rights, whether it's as an employee, a customer or simply living alongside companies that share our cities and towns.

“**SRI**” means Socially Responsible Investing, and refers to an investment discipline that considers ESG criteria to generate long-term competitive financial returns and positive societal impact through targeted investment decision-making.

“**Product Safety**” is the ability of a product to be safe for intended use, as determined when evaluated against a set of established rules.

“**Workplace Health and Wellbeing**” is about ensuring your employees are safe, healthy, satisfied and engaged with their work.

### TEST YOURSELF

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)*

1. What is meant by Social Governance?
2. How has Social Governance Evolved over the years?
3. How does Employment equality and gender diversity practices by organisations impact social governance?
4. What practices can an organization follow to foster employee health and well being?
5. What do you understand by human rights? Does a Company’s behaviour regarding Human Rights have any bearing on its business?

### FURTHER READINGS AND REFERENCES

- Governance Ethics and Social Responsibility of Business by Anil Kumar, Jyotsna Rajan Arora
- <https://contently.com/wp-content/uploads/2014/08/social-governance-1.pdf>
- <https://labour.gov.in/policies/safety-health-and-environment-work-place>
- <https://nyaaya.org/guest-blog/health-and-safety-provisions-for-factory-workers-in-india/>
- <https://certification-experts.com/importance-product-safety/>
- [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf)

### KEY CONCEPTS

■ Social Stock Exchange ■ Social Enterprise ■ Not-For-Profit Organization ■ For Profit Social Enterprise ■ Social Audit

### Learning Objectives

#### To understand:

- Eligibility of a Social Enterprise
- Registration of a Social Enterprise
- Instrument available for profit social enterprise
- Issuance of Zero Coupon Zero Principal Instruments
- Disclosures Requirement
- Social Auditor

### Lesson Outline

- Introduction
- Background
- Access to Social Stock Exchange
- Social Stock Exchange Governing Council
- Mandatorily Registration with Social Stock Exchange
- Fund Raising Document
- Financial Disclosure
- Governance Disclosure
- Annual Impact Report
- Lesson Round-Up
- Test Yourself

## REGULATORY FRAMEWORK

- Securities and Exchange Board of India (Issue of capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”)
- Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”)

## INTRODUCTION

The history of Social Stock Exchange (SSE) is not longer than a decade. It's a novel social and economic phenomenon. The object of introduction of SSE is to attract social investors to participate in financing Social Enterprise. SSE serves as a mediator between social enterprises that need funding and investors who are willing to invest their money for social causes. Thus, SSE provides a platform for trading of securities of Social Enterprise. The role of SSEs is almost similar to that of any other Stock Exchanges where securities issued by corporates are listed. Same as the Stock Exchanges provide a platform for raising the capital for business community, SSEs are going to provide a platform to all the SEs for raising their needed capital.

Social Enterprises (SE) are commonly known as Non-Governmental Organisation who acts as a bridge between the government and the society. Government initiative, if not found to be sufficient, SEs play a significant role in assigning various issues to the government. Non-Governmental Organisations (NGOs) play an important role in community development by assisting communities in developing their social, capital, and human resources; enhancing knowledge and skills; encouraging people to take part in activities; and acting as a link between communities and systems. Some of the major functions of NGOs are: Human rights and child rights Poverty eradication Animal Rights Prevent Social Injustice Conservation of Environment Aged people care routine Empowerment of women Disease Control and others Health and Nutrition plans Conservation of Wildlife Hygiene and Sanitation conditions While NGOs are generally considered as SEs, there are many business enterprises, as well, who do not function only with profit motive but their activities have placed a greater positive impact on the society. SEBI has classified these enterprises as FPSE (For Profit Social Enterprise) and the hard-core social organisations as NPO (Not for Profit Organisation).

## BACKGROUND

The Hon'ble Finance Minister as part of the Budget Speech for FY 2019-20 had proposed to initiate steps towards creating a social stock exchange, under the regulatory ambit of Securities and Exchange Board of India, for listing social enterprise and voluntary organizations. The relevant extract of the speech is as below:

*“It is time to take our capital markets closer to the masses and meet various social welfare objectives related to inclusive growth and financial inclusion. I propose to initiate steps towards creating an electronic fund raising platform- a social stock exchange-under the regulatory ambit of Securities and Exchange Board of India for listing social enterprises and voluntary organizations working for the realization of a social welfare objective so that they can raise capital as equity, debt or as units like a mutual fund.”*

Subsequently, SEBI, in September, 2019 constituted a working group (WG) to inter-alia, make recommendations w.r.t possible structures and mechanism within securities market domain. The working group consisted of representatives of stakeholders active in the space of social welfare, social impact investing, representatives from Ministry of Finance, the stock exchanges and NGOs. The working group had a series of consultations with various stakeholders including voluntary organizations, social enterprises and philanthropic organizations in order to assess the difficulties faced by them in raising funds/ donating funds.

The WG while outlining its vision for SSE made certain high-level recommendations such as permitting participation of Social Enterprises (SE) on SSE, minimum reporting requirements, possible means/ mechanisms

of raising finance, standardization of financial reporting by NPOs, creation of separate Self-Regulatory Organizations (SROs) for Social Auditors etc.

Further, SEBI in September, 2020 constituted a Technical Group (TG) on SSE. The TG was also tasked to recommend on matters related to scope of work, eligibility criteria and regulation of social auditors. The TG also considered the public comments received in respect of the WG report.

The TG has built upon the recommendations of the WG. The TG has recommended eligibility criteria for a social enterprise whether it is a Non Profit Organisation (NPO) or For Profit Enterprise (FPE), provided parameters that need to be disclosed initially during registration / listing as well as on continuous basis, creation of capacity building fund, and certain changes in Alternative Investment Funds –Social Venture Fund (AIF-SVF) regulations. The TG has provided specific recommendations on constitution and function of a Self Regulatory Organisation (SRO) for Social Auditors.

#### *Key recommendations of the WG and TG on SSE*

The key recommendations of the working group and technical group (collectively referred to as expert groups) are structured around the following aspects of the SSE:

- i. Social Stock Exchange may be constituted as a separate segment under the existing stock exchanges.

- ii. Eligibility of social enterprises

A social enterprise may be eligible for on-boarding on SSE if it demonstrates that social intent and impact are its primary goals and it reports such impact. This is irrespective of the legal structure of the enterprise. The TG has also recommended a list of activities to establish the primacy of social objective of the enterprise, as detailed in subsequent sections.

- iii. Registration

To inculcate a cultural shift and enable transition towards a disclosure based regime, the TG has recommended that NPOs may be required to be registered prior to raising funds through SSE and has put forth a set qualifying criterion for registration.

- iv. Instruments available for NPOs

The TG has recommended that post registration, NPOs can directly list on SSE through issuance of Zero Coupon Zero Principal Bonds. Section 8 companies can raise fund through issuance of equity. Certain other means available to NPOs may include social venture funds, development impact bond structure, and donations through Mutual Funds.

- v. Instruments available for FPEs

The TG observed that sufficient regulatory guidelines under various SEBI Regulations exist for listing securities such as equity, debt issued by FPEs. FPEs may list their securities on the appropriate existing board - debt securities may be listed on the main board, while equity securities may be listed on the main board, or SME or IGP. However, FPEs may be identified clearly as For Profit Social Enterprise (FPSE) by the Stock Exchange, distinct from conventional commercial enterprises.

- vi. Social Impact Funds

In order to facilitate fund raising for social enterprises through AIFs, the expert groups recommended that the existing regulatory framework for social venture funds needs to be amended as follows:

- a. Social Venture Funds may be rechristened as Social Impact Funds (SIFs).
- b. A new form of SVF, exclusive for SSE, may be allowed to set up which will be based on 100% grants-in, grants-out model.



- c. The minimum corpus requirements for SIFs may be reduced from Rs. 20 Crores to Rs. 5 Crores, similar to angel funds under AIF.
- d. The minimum subscription amount may be set as Rs. 2 lakhs (for individuals). For corporates it shall continue to remain Rs. 1 Crore.
- e. The reference to “muted returns” in the SEBI (Alternative Investment Fund) Regulations, 2012 (“AIF Regulations”) may be removed.

vii. Disclosure Requirements

The TG recommended that NPO or FPE that are tagged as a social enterprise, may be required to make disclosures on their social impact on annual basis covering aspects such as strategic intent and planning, approach, impact score card etc. Additionally, FPEs shall comply with the disclosure requirements of the segment where they are listed while for NPOs, there may be a separate set of annual disclosures on governance and financial aspects.

viii. Social Audit

Audit of social impact i.e. Social Audit shall be mandatory for entities on SSE. To begin with, only reputed firms/institutions having relevant expertise may be allowed to carry out social audits. Such institutions shall employ social auditors who have qualified certification course conducted by NISM. Social Auditors will be required to be empanelled with an SRO which is proposed to be under ICAI as a separate Sustainability Directorate.

ix. Capacity Building Fund

A Capacity Building Fund (CBF) of Rs. 100 Crores shall be instituted to enable NPOs and other stakeholders to navigate the SSE and its processes, instruments etc. apart from creating awareness. CBF may be housed in NABARD as an administrative fund.

x. Other recommendations

Certain relaxations in respect of deployment of CSR funds have been recommended in order to provide impetus to fund raising structures. Further, to encourage “giving” culture, some tax incentives have also been recommended.

## Regulatory Framework

The Central Government in the notification published on 16/07/2022 made it mandatory that only listed NPOs will be allowed to raise funds through ZCZP and the security shall be registered in the SSE segment of a Stock Exchange in accordance with regulations made by SEBI.

Accordingly, a new chapter (Chapter IX–A), comprising Regulations 91A to 91F is already introduced by SEBI by amending the SEBI (LODR) Regulations 2015 and lays down the framework for SSEs effective from 25th July, 2022. On the same day SEBI has also notified the amendment of the SEBI (ICDR) Regulations (Third Amendment) 2022 and a separate chapter (Chapter X-A) is introduced exclusively for the purpose of Social Stock Exchanges. The said regulations mainly deal with the eligibility criteria of SEs to be listed, avenues available for SEs to raise fund, procedure for issuing securities for raising funds, Disclosure and Reporting of information and other obligations as may be discharged by SEs.

Regulation 292B of the SEBI (ICDR) Regulations states that the provisions of Chapter X-A shall apply to:

- (a) a Not for Profit Organization seeking to only get registered with a Social Stock Exchange;
- (b) a Not for Profit Organization seeking to get registered and raise funds through a Social Stock Exchange;
- (c) a For Profit Social Enterprise seeking to be identified as a Social Enterprise.

Further, Regulation 91A of the SEBI (LODR) Regulations states that the provisions of Chapter IX–A shall apply to:

- (a) a For Profit Social Enterprise whose designated securities are listed on the applicable segment of the Stock Exchange(s);
- (b) a Not for Profit Organization that is registered on the Social Stock Exchange(s).

### **SOCIAL STOCK EXCHANGE**

According to SEBI (ICDR) Regulations, “Social Stock Exchange” means a separate segment of a recognized stock exchange having nationwide trading terminals permitted to register Not for Profit Organizations and / or list the securities issued by Not for Profit Organizations in accordance with provisions of these regulations.

#### ***“Not for Profit Organization”***

Not for Profit Organization means a Social Enterprise which is any of the following entities:

- a charitable trust registered under the Indian Trusts Act, 1882;
- a charitable trust registered under the public trust statute of the relevant State;
- a charitable society registered under the Societies Registration Act, 1860;
- a company incorporated under section 8 of the Companies Act, 2013;
- any other entity as may be specified by the SEBI.

### **Access to Social Stock Exchange**

Regulation 292C of the SEBI (ICDR) Regulations states that a Social Stock Exchange shall be accessible only to institutional investors and non-institutional investors.

It may be noted that the Board may permit other class(es) of investors, as it deems fit, for the purpose of accessing Social Stock Exchange.

### **Social Stock Exchange Governing Council**

Regulation 292D of the SEBI (ICDR) Regulations provides for the Social Stock Exchange Governing Council. Every Social Stock Exchange shall constitute a Social Stock Exchange Governing Council to have an oversight on its functioning. The composition and terms of reference for such Governing Council shall be specified by the Board from time to time.

### **Eligibility Conditions for being Identified as a Social Enterprise**

According to Regulation 292E of the SEBI (ICDR) Regulations for the purposes of SEBI (ICDR) Regulations, a Not for Profit Organization or a For Profit Social Enterprise, to be identified as a Social Enterprise, shall establish primacy of its social intent.

#### ***“Social Enterprise”***

Social Enterprise means either a Not for Profit Organization or a For Profit Social Enterprise that meets the eligibility criteria specified in this Chapter X-A of the SEBI (ICDR) Regulations.

#### ***“For Profit Social Enterprise”***

For Profit Social Enterprise means a company or a body corporate operating for profit, which is a Social Enterprise for the purposes of these regulations and does not include a company incorporated under section 8 of the Companies Act, 2013.

***In order to establish the primacy of its social intent, such Social Enterprise shall meet the following eligibility criteria: -***

- (a) the Social Enterprise shall be indulged in at least one of the following activities:
  - (i) eradicating hunger, poverty, malnutrition and inequality;
  - (ii) promoting health care including mental healthcare, sanitation and making available safe drinking water;
  - (iii) promoting education, employability and livelihoods;
  - (iv) promoting gender equality, empowerment of women and LGBTQIA+ communities;
  - (v) ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation;
  - (vi) protection of national heritage, art and culture;
  - (vii) training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports;
  - (viii) supporting incubators of Social Enterprises;
  - (ix) supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building;
  - (x) promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector;
  - (xi) slum area development, affordable housing and other interventions to build sustainable and resilient cities;
  - (xii) disaster management, including relief, rehabilitation and reconstruction activities;
  - (xiii) promotion of financial inclusion;
  - (xiv) facilitating access to land and property assets for disadvantaged communities;
  - (xv) bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection;
  - (xvi) promoting welfare of migrants and displaced persons;
  - (xvii) any other area as identified by the Board or Government of India from time to time.
- (b) the Social Enterprise shall target underserved or less privileged population segments or regions recording lower performance in the development priorities of central or state governments;
- (c) the Social Enterprise shall have at least 67% of its activities, qualifying as eligible activities to the target population, to be established through one or more of the following:
  - (i) at least 67% of the immediately preceding 3-year average of revenues comes from providing eligible activities to members of the target population;
  - (ii) at least 67% of the immediately preceding 3-year average of expenditure has been incurred for providing eligible activities to members of the target population;
  - (iii) members of the target population to whom the eligible activities have been provided constitute at least 67% of the immediately preceding 3-year average of the total customer base and/or total number of beneficiaries.

It may be noted that corporate foundations, political or religious organizations or activities, professional or trade associations, infrastructure and housing companies, except affordable housing, shall not be eligible to be identified as a Social Enterprise.

### Requirements relating to Registration for a Not for Profit Organization

Regulation 292F of the SEBI (ICDR) Regulations states that a Not for Profit Organization shall mandatorily seek registration with a Social Stock Exchange before it raises funds through a Social Stock Exchange.

Provided that a Not for Profit Organization may choose to register on a Social Stock Exchange and not raise funds through it.

The minimum requirements for registration of a Not for Profit Organization on a Social Stock Exchange shall be specified by the Board from time to time.

The Social Stock Exchange may specify the eligibility requirements for registration of a Not for Profit Organization in addition to the minimum requirements specified by the Board.

### Fund Raising by Social Enterprises

According to Regulation 292G of the SEBI (ICDR) Regulations a Social Enterprise may raise funds through following means: -

- (a) A Not for Profit Organization may raise funds on a Social Stock Exchange through:
  - (i) issuance of Zero Coupon Zero Principal Instruments to institutional investors and/or non-institutional investors in accordance with the applicable provisions of this Chapter;
  - (ii) donations through Mutual Fund schemes as specified by the Board;
  - (iii) any other means as specified by the Board from time to time.
- (b) A For Profit Social Enterprise may raise funds through:
  - (i) issuance of equity shares on the main board, SME platform or innovators growth platform or equity shares issued to an Alternative Investment Fund including a Social Impact Fund;
  - (ii) issuance of debt securities;
  - (iii) any other means as specified by the Board from time to time.

*Explanation:* Securities issued by For Profit Social Enterprises shall be listed and traded under the applicable segment of the stock exchange with an identifier stating that the scrip is that of a For Profit Social Enterprise and such For Profit Social Enterprises shall meet the eligibility criteria for the main board, SME Platform or innovators growth platform, as applicable, in addition to the criteria provided in this Chapter.

### Ineligibility for Raising of Funds

As per Regulation 292H of the SEBI (ICDR) Regulations, a Social Enterprise shall not be eligible to register or raise funds through a Social Stock Exchange or Stock Exchange, as the case may be:

- (a) if the Social Enterprise, any of its promoters, promoter group or directors or selling shareholders or trustees are debarred from accessing the securities market by the Board;
- (b) if any of the promoters or directors or trustees of the Social Enterprise is a promoter or director of any other company or Social Enterprise which has been debarred from accessing the securities market by the Board;

- (c) if the Social Enterprise or any of its promoters or directors or trustees is a wilful defaulter or a fraudulent borrower;
- (d) if any of its promoters or directors or trustees is a fugitive economic offender;
- (e) if the Social Enterprise or any of its promoters or directors or trustees has been debarred from carrying out its activities or raising funds by the Ministry of Home Affairs or any other ministry of the Central Government or State Government or Charitable Commissioner or any other statutory body.

*Explanation:* The restrictions under clauses (a) and (b) above shall not apply to the persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of application for registration with the Social Stock Exchange or filing of draft fund raising document or draft offer document, as may be applicable, with the Social Stock Exchange or the Stock Exchange or the Board.

#### **“Draft Fund-Raising Document”**

Draft fund raising document means the draft fund raising document filed with a Social Stock Exchange in relation to a public issue of Zero Coupon Zero Principal Instruments by a Not for Profit Organization registered with the Social Stock Exchange.

#### **Ineligibility for Raising of Funds**

According to Regulation 292H of the SEBI (ICDR) Regulations, a Social Enterprise shall not be eligible to register or raise funds through a Social Stock Exchange or Stock Exchange, as the case may be:

- (a) if the Social Enterprise, any of its promoters, promoter group or directors or selling shareholders or trustees are debarred from accessing the securities market by the Board;
- (b) if any of the promoters or directors or trustees of the Social Enterprise is a promoter or director of any other company or Social Enterprise which has been debarred from accessing the securities market by the Board;
- (c) if the Social Enterprise or any of its promoters or directors or trustees is a wilful defaulter or a fraudulent borrower;
- (d) if any of its promoters or directors or trustees is a fugitive economic offender;
- (e) if the Social Enterprise or any of its promoters or directors or trustees has been debarred from carrying out its activities or raising funds by the Ministry of Home Affairs or any other ministry of the Central Government or State Government or Charitable Commissioner or any other statutory body.

*Explanation:* The restrictions under clauses (a) and (b) above shall not apply to the persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of application for registration with the Social Stock Exchange or filing of draft fund raising document or draft offer document, as may be applicable, with the Social Stock Exchange or the Stock Exchange or the Board.

#### **Issuance of Zero Coupon Zero Principal Instruments**

Under Regulation 292I of the SEBI (ICDR) Regulations, Zero Coupon Zero Principal Instruments shall be issued only by a Not for Profit Organization registered on a Social Stock Exchange and shall have a specific tenure.

Zero Coupon Zero Principal Instruments shall be issued without any coupon and no principal amount shall be payable on its maturity.

### Eligibility for issuance of Zero Coupon Zero Principal Instruments

According to Regulation 292J of the SEBI (ICDR) Regulations, a Social Enterprise which is a Not for Profit Organization registered with a Social Stock Exchange may make an issue of Zero Coupon Zero Principal Instruments and list them on such Social Stock Exchange.

The Not for Profit Organization may issue Zero Coupon Zero Principal Instruments only for a specific project or activity to be completed within a duration specified in the fund raising document.

#### **“Fund Raising Document”**

Fund raising document means the draft fund raising document and the final fund raising document.

It may be noted that the specific project or activity falls under the list of eligible activities specified under Regulation 292E of the SEBI (ICDR) Regulations.

### Procedure for public issuance of Zero Coupon Zero Principal Instruments by a Not for Profit Organization

Under Regulation 292K of the SEBI (ICDR) Regulations, a Not for Profit Organization shall file the draft fund raising document with the Social Stock Exchange where it is registered along with the fees as specified by the Social Stock Exchange and an application seeking in-principle approval for listing of its Zero Coupon Zero Principal Instruments on the Social Stock Exchange.

Social Stock Exchange shall specify the details to be incorporated in the fund raising document and SEBI shall specify the minimum disclosure requirements in respect of the fund raising document from time to time.

The draft fund raising document shall be made available on the website of the Social Stock Exchange and the Not for Profit Organization for a period of at least 21 days for public comments.

The Social Stock Exchange shall provide its observation on the draft fund raising document to the Not for Profit Organization, within 30 days from the filing of the draft fund raising document or receipt of clarification, if any, sought by the Social Stock Exchange from Not for Profit Organization, whichever is later.

The Not for Profit Organization shall incorporate the observations of the Social Stock Exchange in draft fund raising document and file the final fund raising document with the Social Stock Exchange prior to opening the issue.

#### **“Final Fund Raising Document”**

Final fund raising document means the final fund raising document filed with the Social Stock Exchange pursuant to incorporation of observations issued in respect of the draft fund raising document by the Social Stock Exchange.

### Procedure for private issuance of Zero Coupon Zero Principal Instruments by a Not for Profit Organization

Regulation 292L states that the Not for Profit Organization registered on a Social Stock Exchange, may also make private issuance of Zero Coupon Zero Principal Instruments to Social Impact Fund(s) registered under the applicable provisions of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations 2012.

The provisions related to public issuance of Zero Coupon Zero Principal Instruments specified in this Chapter shall *mutatis mutandis* apply to private issuance of Zero Coupon Zero Principal Instruments to Social Impact Fund(s).

### **Contents of the Fund Raising document**

Under Regulation 292M, the draft fund raising document and the final fund raising document shall contain all material disclosures which are true and adequate to enable the applicants to take an informed decision.

The draft fund raising document and the final fund raising document shall contain disclosures as may be specified by the Board from time to time.

The Social Stock Exchange may specify additional disclosures in respect of the draft fund raising document and the final fund raising document.

### **Other conditions relating to issuance of Zero Coupon Zero Principal Instruments**

As per Regulation 292N of the SEBI (ICDR) Regulations Zero Coupon Zero Principal Instruments shall be issued in dematerialized form only.

The minimum issue size shall be rupees one crore. The minimum application size shall be rupees two lakhs.

The minimum subscription required to be achieved shall be 75% of the funds proposed to be raised through issuance of Zero Coupon Zero Principal Instruments.

In case of any under subscription, the Not for Profit Organization shall, in the fund raising document, provide details on the following:

- (a) manner of raising balance capital in case of such under subscription between 75% and 100%;
- (b) possible impact on achieving the social objective(s) in case such under subscription is not arranged:

Provided that the funds shall be refunded in case the subscription is less than 75% of the issue size

The Social Stock Exchange shall maintain the details of the allotment pursuant to issuance of Zero Coupon Zero Principal Instruments by a Not for Profit Organization.

The Social Stock Exchange shall specify the additional norms in respect of issue procedure including on agreements with depositories, banks, etc., ASBA related matters, duration for public issuance, allocation methodology and any other ancillary matter related to issue procedure.

### **Deemed compliance with Securities Contracts (Regulation) Rules, 1957**

Under Regulation 292O, the public issuance of Zero Coupon Zero Principal Instruments by a registered Not for Profit Organization in accordance with the SEBI (ICDR) Regulations shall be deemed to be in compliance with rule 19 of the Securities Contracts (Regulation) Rules, 1957.

### **Termination of listing of Zero Coupon Zero Principal Instruments from the Social Stock Exchange**

Regulation 292P of the SEBI (ICDR) Regulations states that the listing of Zero Coupon Zero Principal Instruments of a Not for Profit Organization on the Social Stock Exchange shall terminate in the following events:

- (a) The object for which the funds were raised has been achieved and a certificate to this effect is submitted to the Social Stock Exchange; or
- (b) The tenure to achieve the object for which the funds were raised as provided in the fund-raising document has expired.

## OBLIGATIONS OF SOCIAL ENTERPRISES

### Disclosures by a For Profit Social Enterprise

Under Regulation 91B of the SEBI (LODR) Regulations, a For Profit Social Enterprise whose designated securities are listed on the Stock Exchange(s) shall comply with the disclosure requirements contained in these regulations with respect to issuers whose specified securities are listed on the Main Board or the SME Exchange or the Innovators Growth Platform, as the case may be.

It may be noted that For Profit Social Enterprise means a company or a body corporate operating for profit, which is a Social Enterprise for the purposes of these regulations and does not include a company incorporated under section 8 of the Companies Act, 2013.

### Disclosures by a Not for Profit Organization

As per Regulation 91C of the SEBI (LODR) Regulations, a Not for Profit Organization registered on the Social Stock Exchange(s), including a Not for Profit Organization whose designated securities are listed on the Social Stock Exchange(s), shall be required to make annual disclosures to the Social Stock Exchange(s) on matters specified by the Board, within 60 days from the end of the financial year or within such period as may be specified by the Board.

In addition to the disclosures referred in sub-regulation (1), the Social Stock Exchange(s) may specify matters that shall be disclosed by the Not for Profit Organization on an annual basis.

### Intimations and Disclosures by Social Enterprise of Events or Information to Social Stock Exchange(s) or Stock Exchange(s)

Under Regulation 91D of the SEBI (LODR) Regulations, a Social Enterprise whose designated securities are listed on the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, shall frame a policy for determination of materiality, duly approved by its board or management, as the case may be, which shall be disclosed on the Social Stock Exchange(s) or the Stock Exchange(s).

The board and management of the Social Enterprise shall authorize one or more of its Key Managerial Personnel for the purpose of determining materiality of an event or information and for the purpose of making disclosures to the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, under this regulation and the contact details of such personnel shall also be disclosed to the Social Stock Exchange(s) or the Stock Exchange(s).

A Social Enterprise whose designated securities are listed on the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, shall disclose to the Social Stock Exchange(s) or the Stock Exchange(s) where it is registered or has listed its specified securities, as the case may be, any event that may have a material impact on the planned achievement of outputs or outcomes.

The disclosure shall be made as soon as reasonably possible but not later than seven days or within such period as may be specified by the Board, from the occurrence of the event and shall comprise details of the event including the potential impact of the event and the steps being taken by the Social Enterprise to address the same.

The Social Enterprise shall provide updates on a regular basis along with relevant explanations in respect of the disclosures required in sub-regulation (3) till the time the concerned event remains material.

The Social Enterprise shall provide specific and adequate reply to all queries raised by the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, with respect to any events or information:

Provided that the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, shall disseminate the information and clarification as soon as reasonably practicable.



The Social Enterprise may *suo moto* confirm or deny any reported event or information to Social Stock Exchange(s) or the Stock Exchange(s), as the case may be.

The Social Enterprise shall disclose on its website all such events or information which have been disclosed to the Social Stock Exchange(s) or the Stock Exchange(s), as the case may be, under of the SEBI (LODR) Regulations.

### Disclosures by a Social Enterprise in respect of Social Impact

Regulation 91E of the SEBI (LODR) Regulations states that a Social Enterprise, which is either registered with or has raised funds through a Social Stock Exchange or a Stock Exchange, as the case may be, shall be required to submit an annual impact report to the Social Stock Exchange or the Stock Exchange in the format specified by the Board from time to time.

The annual impact report shall be audited by a Social Audit Firm employing Social Auditor.

The Social Stock Exchange(s) may specify parameters, in addition to those specified by the Board, which shall be required to be disclosed by a Social Enterprise on an annual basis.

### Statement of Utilisation of Funds

As per Regulation 91F of the SEBI (LODR) Regulations, a listed Not for Profit Organization shall submit to the Social Stock Exchange(s) the following statement in respect of utilisation of the funds raised, on a quarterly basis: -

- category-wise amount of monies raised;
- category-wise amount of monies utilised;
- balance amount remaining unutilised.

The unutilised amount shall be kept in a separate bank account and shall not be co-mingled with other funds.

The statement required shall be given till the time the issue proceeds have been fully utilised or the purpose for which they were raised, has been achieved.

## FRAMEWORK ON SOCIAL STOCK EXCHANGE

### Minimum Requirements to be met by a Not for Profit Organization (NPO) for registration with SSE in terms of Regulation 292F of the ICDR Regulations

A NPO desirous of registration on SSE, in terms of Regulation 292F(1) of ICDR Regulations, shall fulfil the following criteria:

<i>Broad Parameter</i>	<i>Indicator</i>	<i>Details</i>
<b>Legal Requirements</b>		
<b>Entity is registered as an NPO</b>	Registration certificate valid at least for next 12 months at the time of seeking registration with SSE	Entities must be registered in India as one of the below: <ol style="list-style-type: none"> <li>a. a charitable trust registered under the public trust statue of the relevant state;</li> <li>b. a charitable trust registered under the Societies Registration Act, 1860;</li> <li>c. a charitable trust registered under the Indian Trusts Act, 1882;</li> <li>d. a company incorporated under section 8 of the Companies Act, 2013.</li> </ol>

<b>Broad Parameter</b>	<b>Indicator</b>	<b>Details</b>
<b>Ownership and control</b>	Governing document (MoA & AoA/ Trust Deed/ Bye-laws/ Constitution)	Disclose if NPO is owned and/or controlled by government or private.
<b>Exemption under Income Tax Act</b>	Registration Certificate under section 12A/12AA/12AB under Income Tax Act, 1961	Registration Certificate under section 12A/12AA/12AB to be valid for at least the next 12 months. Does not have a notice or ongoing scrutiny by Income Tax.
<b>Registration with Income Tax as an NPO</b>	IT PAN	Valid IT PAN.
<b>Age of the NPO</b>	Registration certificate	Minimum 3 years.
<b>Deduction under Income Tax Act, 1960</b>	Valid 80G registration under Income Tax Act, 1961.	Entity to ensure whether tax deduction is available or not to investors.
<b>Eligible to be Social Enterprise</b>	Requirements with Regulation 292E of ICDR Regulations	As may be specified by SSE.
<b>Minimum Fund Flows</b>		
<b>Annual Spending in the past financial year</b>	Receipts or Payments from Audited accounts/ Fund Flow Statement	Must be at least Rs. 50 lakhs.
<b>Funding in the past financial year</b>	Receipts from Audited accounts/ Fund Flow Statement	Must be at least Rs. 10 lakhs.

### Minimum Initial Disclosure Requirement for NPOs Raising Funds through the issuance of Zero Coupon Zero Principal Instruments in terms of Regulation 292K(1) of the ICDR Regulations

1. Social Stock Exchange (SSE) under the guidance of SSE Governing Council (SGC) shall mandate the structure of the draft fund raising document/ final fund raising document. SSE shall host such requirements on its website.
2. SSE shall ensure that the documents contain the following minimum disclosures:
  - a. **Vision**  
Organisation's activities, interventions and programmes are in line with aims and objects stated in its constitution.
  - b. **Target Segment**  
Organisation has defined its target segment and reach to accomplish its planned activities. Clear

identification and understanding of the target segment (those affected by the problem and how are they affected) The NPO must disclose how its approach intends to improve Inclusion for its customers / recipients.

**c. Strategy**

Strategy formulation towards accomplishing vision should take into account capabilities and learning from challenges.

**d. Governance**

Organisation has a governing body and details of its governing body, composition, dates of board meetings held (key items covered).

**e. Management**

Details of key managerial staff such as those in charge of Programmes, Fundraising, Marketing, Communication, Finance, HR. Organisation discloses whether it provides letters to staff and volunteers defining roles and responsibilities, has a periodic performance appraisal process etc.

**f. Credibility**

Documents such as Registration, Trust Deed/ MoA and AoA, Address Proof, IT PAN, 12A/12AA/12AB Certificate, FCRA certificate and returns, remuneration to governing members.

**g. Social Impact**

Details of past social impact in terms of parameters specified in Para D(5) of this circular.

**h. Risks**

Disclose (i) risks that the NPO sees to its work and how it proposes to mitigate these (ii) unintended consequences that the NPO sees from its work and how it proposes to mitigate these.

**Annual Disclosure by NPOs on SSE which have either Raised Funds through SSE or are registered with SSE in terms of Regulation 91C of the LODR Regulations**

*The following disclosures would be made by the NPOs on an Annual Basis (i.e.) within 60 days from end of Financial Year:*

**1. Disclosures on General aspects:**

- i. Name of the organization (legal and popular name)
- ii. Location of headquarters and location of operations
- iii. Vision / Mission / Purpose
- iv. Organizational goals, activities, products and services
- v. Outreach of organization (Type and number of direct, indirect and institutional beneficiaries / stakeholders reached)
- vi. Scale of operations (Including Employee and Volunteer strength)
- vii. Details of top donors or investors of organisation - List of Top 5 donors or investors (budget wise)
- viii. Details of top 5 programs in disclosure period - List of Top 5 interventions/programs (budget wise).

**2. Disclosures on Governance aspects:**

- i. Ownership and legal form.

- ii. Governance Structure (outlines board and management committee structures, mandates, membership, charters, policies and internal controls).
  - iii. Details of governing body including names of the members of the body.
  - iv. Executives with key responsibilities.
  - v. Number of meetings by governing body and other committees formed by them along with attendance and the process of performance review.
  - vi. Organisation level potential risks and mitigation plan.
  - vii. Reporting of related party transactions.
  - viii. Mechanisms for advice and concerns about ethics, along with conflict of interest and communicating other critical concerns.
  - ix. Remuneration Policies.
  - x. Stakeholder grievance, process of grievance redressal and number of grievance received and resolved.
  - xi. Compliance management process and statement of compliance from senior decision maker.
  - xii. Organisation registration certificate and other licenses and certifications (12A, 80G, FCRA, GST, etc.).
3. *Disclosures on Financial aspects:*
- i. Financial Statement (Balance Sheet, Income statement and Cash Statement). Also program wise fund utilization for the year.
  - ii. Auditors report and auditor details.
4. A guidance note in respect of the above aspects.
5. SSE may specify additional parameters that may be required to be disclosed by NPO on annual basis.

### **Disclosure of Annual Impact Report by all Social Enterprises which have Registered or Raised Funds using SSE in terms of Regulation 91E of the LODR Regulations**

1. All Social Enterprises (SEs) will have to provide duly audited Annual Impact Report (AIR) to SSE within 90 days from the end of Financial Year.
2. The AIR shall capture the qualitative and quantitative aspects of the social impact generated by the entity and where applicable, the impact that is generated by the project or solution for which funds have been raised on SSE.
3. In case an NPO is only registered without listing any security, the AIR must cover the NPO's significant activities, intervention, programs or projects during the year and the methodology for determination of significance must be explained. Additionally, if there is an activity, intervention, program or projects covered under a listed security, it will qualify as a significant activity, intervention, program or project.
4. For a Social Impact Fund where the underlying recipients of funds are SEs which have registered or raised funds using SSE, must disclose an overall AIR for the fund covering all investee/grantee organizations where the fund is deployed.

5. The AIR should at a minimum, cover the aspects described below.
  - A. *Strategic Intent and Planning*
    - i) What is the social or environmental challenge the organization and/or the instrument listed is addressing? Has this changed in the last year?
    - ii) How is the organization attending to the challenge or planning to attend to the challenge? Has this changed in the last year?
    - iii) Who is being impacted (target segment)? Has this changed in the last year?
    - iv) What will be the outcomes of the activities, intervention, programs or project? Disclosure should include positive and potential unintended negative outcomes.
  - B. *Approach*
    - i) What is the baseline status / situation analysis / context description at the start of the activity/intervention/programs or project and at the end of the last reporting period?
    - ii) What has been the past performance trend? (if relevant)
    - iii) What is the solution implementation plan and the measures taken for sustainability of activity/intervention/programs or project outcomes? Has there been any material change in your implementation model in the last one year?
    - iv) Please brief out alignment of solution to Sustainable Development Goals (SDGs)/national priorities/state priorities/ developmental priorities.
    - v) How have you taken into consideration stakeholder feedback in this reporting period?
    - vi) In the last year, what have you seen as the biggest risks to the achievement of the desired impact? How are these being mitigated?
  - C. *Impact Score Card*
    - i) What are the metrics monitored and what has been the trend?
    - ii) Briefly include narratives of impact on target segment(s) in the reporting period.
    - iii) Beneficiary/Stakeholder Validation through surveys and other feedback mechanisms.
6. A guidance note in respect of the above aspects.
7. SSE may specify additional parameters that may be required to be disclosed by SE in its AIR.
8. The AIR shall be audited by Social Auditors and the SEs shall disclose the report of the Social Auditor along with AIR.

### Statement of Utilisation of funds in terms of 91F of the LODR Regulations

Listed NPO shall submit statement of utilisation of funds to SSE, as mandated under Regulation 91F of the LODR Regulations, within 45 days from the end of quarter.

## GUIDANCE NOTES FOR LISTED/REGISTERED NPOs ON DISCLOSURES OF GENERAL, GOVERNANCE AND FINANCIAL ASPECTS

### General Disclosures

1. *Name of the organization (legal and popular name):*

The reporting organization shall report on the registered name and also any popular names the organization is known by among stakeholders.

2. *Location of headquarters and location of operations:*

Headquarter refers to the address that the organization has used in registering with respective regulatory body and also the organizations administrative center, from which it is controlled or directed. In case the locations are different, it needs to be specified. Location of operations shall cover the name of the locations where the organization has significant operation. Significant shall be defined to the scope of fund raising document.

3. *Vision/Mission/ Purpose:*

It is important to understand the intent behind the disclosure and respond accordingly. Purpose in this context is why the organization exists and explaining why the cause taken up by the organization matters. The Mission will explain how the organization is working in the context of the purpose and the Vision in the context of this disclosure will be about where the organization is headed and what the organization will achieve. It is possible that all organizations may not have all the 3 (Vision, mission and purpose) as a stated document.

4. *Organizational goals, activities, Products and Services:*

The reporting organization shall mention overall objectives of the organization or activity/intervention/ programs or project listed. It shall also describe the organization activities, including any products and services which the organization provides.

5. *Outreach of organization:*

Organization to mention type and number of direct, indirect and institutional beneficiaries / stakeholders reached across different programs and geographies.

6. *Scale of operations (Including Employee and Volunteer strength):*

The scale of the operations shall be explained by net turn-over/annual budget/annual spent in last 3 years, number of beneficiaries, number of locations of operations and number of employees and volunteers. Total number of employees shall be disclosed separately as permanent employees, temporary employees and employees on contract. The nature and scale of activities performed by volunteers shall be disclosed. The organization shall disclose the scale of operations either at a national level or at a state or district level as may be useful for stakeholders.

7. *Top donors or investors of organisation - List of Top 5 donors or investors (budget wise)*

<b>Sl. No.</b>	<b>Do nor or Invest or</b>	<b>Geography</b>	<b>Total program cost (INR)</b>	<b>Expenditure in current year (INR)</b>	<b>Cumulative expenditure (INR)</b>	<b>Total outreach (Direct, Indirect, Institutional)</b>	<b>SDG goal or target</b>	<b>Alignment with national/ state schemes or priority</b>
1								
2								
..								

8. Details of top 5 programs in disclosure period - List of Top 5 activities/intervention/programs/project (budget wise)

Sl. No.	SDG goal or target	Geography	Total program cost (INR)	Expenditure in current year (INR)	Cumulative expenditure (INR)	Total outreach (Direct, Indirect, Institutional)	Names of Donors or investor	Alignment with national/ state schemes or priority
1								
2								
..								

## Governance Disclosures

1. *Ownership and legal form:*

The organization shall explain the nature of ownership and the legal form on the entity specific to India operations.

2. *Governance Structure:*

The governance structure will start from the governance body, the committees / sub committees (standing/ adhoc) under the governance body and the organization hierarchy for decision making. It outlines board and management committee structures, mandates, membership, charters, policies and internal controls.

3. *Details of governing body including names of the members of the body:*

The organization shall explain the role of the governance body, the competence available and the identification of the members including name. Also name and designation of the senior decision maker may be provided.

4. *Executives with key responsibilities:*

The disclosure will highlight the key executive positions and their role in the organization.

5. *Number of meetings by governing body and other committees formed by them along with attendance and the process of performance review:*

The process to acquire the necessary information and data by the governance body to review the performance of the organization shall be explained. The disclosure shall also bring out the number of such meetings held by the governance body, during the course of the reporting period.

6. *Organisation level potential risks and mitigation plan:*

The organization to describe potential risks and mitigation plan addressing the same for organization and proposed solution/activity/intervention/programs or project.

7. *Reporting of related party transactions:*

The organization shall disclose all related party transactions entered by it and reasons for the same.

8. *Mechanisms for advice and concerns about ethics, along with conflict of interest and communication of other critical concerns:*

A description of the organizations internal and external mechanisms for seeking inputs about ethical and lawful behavior and organisations integrity. It will also include the identification of who in the organization is assigned the responsibility for this mechanism. The concerns related to any conflict of interest and other concerns raised by the mechanism above shall be disclosed along with the actions the organization has taken.

9. *Remuneration policies:*

Remuneration policies for the governing body and the senior executive of the organization shall be reported. This shall include all kinds of fixed pay, variable pay and performance linked payments. It can also include any termination payments and claw backs. It is also important to bring out how performance of the organization is linked to remuneration.

10. *Stakeholder grievance, process of grievance redressal and number of grievance received and resolved:*

Apart from concerns related to ethics, the organization shall report on what is the organizations process to seek any stakeholder concerns or grievances. How many such concerns or grievances were received and how many of them were resolved.

11. *Compliance management process and statement of compliance from senior decision maker:*

This disclosure requires the organizations to explain how the organization manages to monitor its compliance in respect of regulatory and legal requirements. There shall be a statement on the compliance status by the senior decision maker, who shall be the chair, CEO or equivalent senior position.

12. *Organisation registration certificate and other licenses and certifications (12A, 80G, FCRA, GST,etc)*

### Financial Disclosures

Following disclosures shall be made by the NPO in respect of Financial Aspects.

1. Financial Statement:
  - i. Balance Sheet
  - ii. Income statement
  - iii. Cash Statement
  - iv. Program wise fund utilization certificate
  - v. Percentage of organizational budget this 'issue' represents
  - vi. Breakup of organizational budget and expenditure
  - vii. Split of the budget across partners of the project/initiative is being jointly executed.
2. Auditors Report and details of the auditors.

### GUIDANCE NOTES FOR ALL SOCIAL ENTERPRISES (SES) ON ANNUAL IMPACT REPORT (AIR)

#### Strategic Intent and Planning

1. What is the social or environmental challenge the organization or the instrument listed is addressing?  
The problem statement to be explained in detail. The challenge, its extent, causes and consequences and the part of the problem statement the organization and the instrument are trying to address shall be explained.
2. How the organization is planning to attend to the challenge or attending to the challenge?  
The approach the organization or the specific instrument will be using or already using need to be explained. The organization shall also explain what the change is resulting for the targeted beneficiary and what proportion of the target group are experiencing the change.



3. Who is being impacted (target segment)?

The target beneficiaries / stakeholders to cover various kinds of target groups. Include the organization's internal definition of "target segments" it seeks to serve, usually along one or more of the three dimensions namely,

- i. Income (driven by socio-demographic and/or behavioural characteristics);
- ii. Geography (ecosystem or geographic characteristics driven by population density (urban/rural), administrative boundaries, terrain etc); and
- iii. Thematic issue (gender, caste, community that places the target segment at a disadvantage that has economic and non-economic consequences).

Where the target segment is a specific geographic region in its entirety, state so. Thematic issues could be one or more of the following: *Conservation of Resources, Generation via renewable resources, Reduction in waste, Conservation (say of land, wildlife, historical monuments, etc), Reduction in toxic substances.*

Also, bring out possible deviations that might have occurred in the reporting period.

4. What will be the outcomes of the solution/program? Coverage should include positive and potential unintended negative outcomes.

Describe the Theory of change / logic model framework (defining input, output(s), outcome(s)) for the solution proposed. While identifying the targeted impact segment, both positive and potential unintended negative impacts need to be identified.

## Approach

1. What is the baseline status / situation analysis / context description at the start of the activity, intervention, program or project?

The baseline measurement is done to establish the starting point in any activity, intervention, program or project. The measurements give the depth of the challenge and/or the spread of the challenge. The organization will establish the right kind of measurements keeping the end or what the organization or instrument wants to achieve since the baseline will be used to measure what actually changed due to the intervention. In absence of baseline study, a detailed situation analysis to be mentioned.

2. What has been the past performance trend?

For the on-going activity, intervention, program or project explain the key past performance trends and for proposed activity, intervention, program or project the narrative should explain the experience of similar programs in similar situations.

3. What is the solution implementation plan and the measures taken for sustainability of program outcomes?

Detailed implementation plan to be mentioned capturing all the essential activities. The interventions can be either perennial support or time bound support. In case of time bound support, the organization shall explain the exit strategy and how it ensures that the outcomes achieved will be sustained. In case of perennial support also, the organization can explain how it ensures sustainability of the project/program. Also, bring out possible deviations that might have occurred in the reporting period.

4. Please brief out alignment of solution to Sustainable Development Goals (SDGs)/national priorities/state priorities.

Explain the alignment of activity, intervention, program or project to respective SDGs and national/state priorities and schemes.

5. How have you taken into consideration stakeholder feedback in this reporting period?

The organization to mention how they have mapped and prioritized the key stakeholders for the engagement. The reporting shall include the list of stakeholders engaged, their feedback and how the organization used the feedback.

6. In the last year, what have you seen as the biggest risks to the achievement of the desired impact? How are these being mitigated?

Mention the key potential risks pertaining to the organization or the specific instrument that could hamper/hinder the achievements of desired intended outcomes in last year and the steps or strategies taken by organization to mitigate the same.

### Impact Scoreboard

1. What are the metrics monitored and what has been the trend?

The trend in performance shall be explained through the trend of the data across the output, outcome and impact metrics that are established by the organization. The metrics will capture the reach of the activity, intervention, program or project as well as level of inclusiveness of impact being generated (direct, indirect, extended). This shall help evaluate the delta change that has occurred in lives of various target stakeholders (including environment) due to the solution. The metrics monitored shall target to cover the reach, depth and inclusion.

**Reach** - Outreach metrics for target segment(s) served:

- i) Proportion of target segment(s) who have been reached in the reporting period
- ii) Proportion of target segment(s) who accepted the organization's solution
- iii) What part of the planned activity, intervention, program or project have been accomplished in the reporting period
- iv) Cumulative reach (members of the target segment served since inception)
- v) Other suitable metrics in relation to the solution, usually relate to people, institutions or activities (Ex: monthly active users of MAUs for an app/tech platform). These can be considered as needed, where the target segment is the specific geographic region.

**Depth** - The depth of impact on the median individual (of the target segment(s)) Surveys (1% of the customers/recipients or at least 200 respondents per organization) asking respondents 'Has your quality of life changed', with response options being: Very much improved, slightly improved, no change, got slightly worse, got much worse.

Alternatively, SE can compare itself to different 'case studies' of High - Medium - Low depth organizations.

**Inclusion** - The SE must consider for itself how its approach intends to improve Inclusion for its customers / recipients, along one or more of the following themes.

- Theme 1: Net increase in Income levels of customers / recipients among target segment(s), as decided by the organization. The organization can self-select 'Low', 'Medium' or 'High'.
- Theme 2: Diversity and Inclusion: The SE exhibits how it prioritizes the inclusion of these disadvantaged groups or communities (either as owners, partners or customers) and empower them in their relationship with the SE over time.

Theme 3: Social Equity: The SE exhibits how its approach has resulted in the disadvantaged group or community experiencing increased social equity. This can be through a survey as above or through qualitative criteria such as details of its strategy, processes and internal accountability/governance processes that have resulted in an internal culture that values and works towards achieving social equity for the disadvantaged group or community.

2. What are the highlights or achievements in the reporting period?

The organization to mention key highlights, achievements, challenges and/or disappointments faced during the reporting period.

3. Beneficiary / Stakeholder validation

It is utmost necessary to capture the perspective of stakeholders for the program to draw a holistic picture of impact/change that has been achieved by the program. The stakeholder voices would also help in capturing information that will help validate the impact claims. This can establish a check and avoid over claiming. The validation process shall answer the following questions.

- What would have happened in the absence of this activity, intervention, program or project?
- How much the activity, intervention, program or project contributed to the changes that are evidenced?
- How much unintended negative impacts happened due to the activity, intervention, program or project?

## SOCIAL AUDIT

Social Audit is a novel concept and its impartial systematic process allows stakeholders to assess the impact made by the Social Enterprise through its intervention, program or projects and identify the gap between desired object and actual impact made by the Social Enterprise during the reporting period. It also aims to aid regulators for the effective implementation of applicable laws, rules and regulation and also to the general public to take informative decision while making any investment in securities of Social Enterprise.

Regulation 91E of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, mandates Social Audit of Social Enterprise engaged in the activities specified under regulation 292E (2) (a) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

As per Regulation 292E (2) (a) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, in order to establish the primacy of its social intent, such Social Enterprise shall meet the following eligibility criteria: -

- i. Eradicating hunger, poverty, malnutrition and inequality;
- ii. Promoting health care including mental healthcare, sanitation and making available safe drinking water;
- iii. Promoting education, employability and livelihoods;
- iv. Promoting gender equality, empowerment of women and LGBTQIA+ communities;
- v. Ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation;
- vi. Protection of national heritage, art and culture;
- vii. Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports;
- viii. Supporting incubators of Social Enterprises;

- ix. Supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building;
- x. Promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector;
- xi. Slum area development, affordable housing and other interventions to build sustainable and resilient cities;
- xii. Disaster management, including relief, rehabilitation and reconstruction activities;
- xiii. Promotion of financial inclusion;
- xiv. Facilitating access to land and property assets for disadvantaged communities;
- xv. Bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection;
- xvi. Promoting welfare of migrants and displaced persons.

Social Audit Standards for other items, if any, identified by the SEBI or Government of India from time to time, will be notified as and when the items are notified by the SEBI or Government of India.

Securities and Exchange Board of India (SEBI) with a view to improve visibility and knowledge, among stakeholders like investors, promoters, directors, officers of the Social Enterprise, regulators, government authorities, financial institutions, banks, creditors and common public, vide regulation 91E of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 introduced the concept of Social Audit.

An understanding of the issues related to social, economic and cultural factors of the target area or people is critical in the formulation and implementation of intervention, program or projects by every Social Enterprise. A detailed Social Audit therefore needs to be carried out to analyse and understand the impact made by existing intervention, program or projects and also make project design responsive to social development concerns in future. Social Audit also helps in enhancing the project benefits to poor and vulnerable people while minimizing or mitigating concerns, risks and adverse impacts. Social Audit seeks to analyse and understand whether the intervention, program or projects implemented by the Social Enterprise addressed the intended or desired object or goal in an effective manner and produced positive impact to the target area or people.

### Objectives

The main object of Social Audit is to ascertain the impact made by the Social Enterprise through its activities, intervention, programs or projects implemented during the reporting period. It will also analyse whether the implemented activities, intervention, programs or projects has addressed the challenges set at the implementation stage or those mentioned in the fund-raising documents. The impact report aims to highlight the positive impact made to the target area, unintended negative impact and gap between desired object and actual impact made by the Social Enterprise during the reporting period. The main objects of Social Audit are as follows:

- Assessing the impact made by the Social Enterprise through implementation of activities, intervention, programs or projects;
- Verifying the authenticity and validity of implementation of projects;
- To identify and report the gap between desired object and actual impact made by the Social Enterprise;
- Assessing the nature, intensity and duration of impact of the project;
- Evaluating the cost and efficiency of the projects/ interventions being carried out by the Social Enterprise;

- Evaluating the unintended effects and how to use the experience from the running projects to improve the design of future projects;
- Verifying whether all the statutory requirements are fulfilled or not.

### Scope

Different projects may have a very different list of social issues. The Social Auditor is to exercise his own technical judgement to determine which issues should be subject to inquiry. The minimum issues which must be addressed by the Social Auditor are enumerated as under:

- Will the project significantly impact the economic, environment and social condition of the local community?
- Will there be a significant change in the general access that the communities have to natural resources, such as drinking water and energy?
- Does the local community have effective governance mechanisms to deal with the long-term effects of the project?
- Are there groups (indigenous groups, women, ethnic minorities, LGBTQIA+ and so on) who will be differentially impacted by the project?
- Will the project increase or decrease the demand for services, such as education or health?
- Will the project produce any population or demographic movement, such as the change in size of the communities affected by the project?

Above questions can help the auditor and the Enterprise to determine the extent of the impact, as well as any unmanageable social obstacles ahead of the project. This allows for the anticipation of any adverse significant social effects of the infrastructure and for avoiding, minimizing, or offsetting them.

### Benefits and Advantages of Social Audit

- **Financial data on social activities/ programs/ interventions:** Social Audit assesses the source of funding, its utilisation and appropriate reporting to the Governing Body of the Social Enterprise.
- **Encourage for social performance:** Social Audit assesses the impact of the activities undertaken and brings the social point of view to the attention of the management, and thus encourages the Social Enterprise to perform better.
- **Improve relationships with Stakeholders:** By Implementing the auditors' recommended improvements, it helps the Social Enterprise to meet stakeholder expectations, enabling it to build a good relationship with them in the long term.
- **Comparison of different activities:** The Social Audit provides data for comparing effectiveness of different types of social welfare programmes undertaken and this further enables to assess which activity has better social impact.
- **Enhances Social Reputation:** Social Audit helps the organization to build up the image and reputation of the organization in the minds of the public.
- **Sense of Social Responsibility among Shareholders and Community as a whole:** Social Audit helps shareholders as well as other stakeholders realize the importance of socially beneficial programmes and extend their cooperation to the Social Enterprise's programmes of social welfare and development.

## ICSI INSTITUTE OF SOCIAL AUDITORS (IISA)

ICSI Institute of Social Auditors is a self-regulatory organisation and was incorporated on 4th October, 2022 with an object to develop guidelines, rules and standards for the effective impartial assessment of impact made by Social Enterprises. It also aims to regulate the Social Auditors to be empaneled with ICSI Institute of Social Auditors for conducting Social Audit as per the Social Audit Standards issued by ICSI.

It may be noted that “Social Auditor” means an individual registered with a self-regulatory organization under the Institute of Chartered Accountants of India or such other agency, as may be specified by the Board, who has qualified a certification program conducted by National Institute of Securities Market and holds a valid certificate. [Regulation 292A(f) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018]

## SSEs IN OTHER JURISDICTIONS

### Brazil’s Socio-Environmental Impact Exchange (BVSA)

Brazil’s Socio-Environmental Impact Exchange (BVSA) was the first SSE. It was set up under the BOVESPA Stock Exchange in 2003. The BVSA acts as an information exchange to evaluate NPOs and identify projects which are in need of funding from private investors. The capital raised through the exchange is used to fund specific projects within a fixed time frame. From 2016, BVSA has relied on the SDGs to measure impact on society. Importantly, funders receive no financial returns.

### South Africa’s SASIX

South Africa’s SASIX: The SASIX was set up by the Greater Good South Africa Trust in 2006. Like the BVSA, the SASIX does not provide financial returns to investors. SASIX allows investors to purchase “shares” of a specified value, that are directed at funding towards specific projects, within a time bound manner. Impact is measured by outcomes in the community.

### UK Social Stock Exchange

The UK Social Stock Exchange operates as an information platform, but for established For Profit Enterprises (FPEs) that are also listed on the London Stock Exchange. In order to be listed on the SSE, For Profit Organisation FPEs must file annual social impact reports indicating their progress on the ground.

### Canada Social Venture Connexion

The Canada SVX is also intended to be an information exchange. It is operated by the MaRS Centre for Impact Investing. The platform links accredited investors with businesses in need of equity investment. The impact of each entity is determined by the Global Impact Investing Rating System (GIIRS) system, with entities submitting proof of rating in order to be listed.

### Singapore’s Impact Investment Exchange

Singapore’s Impact Investment Exchange (operated jointly with the Stock Exchange of Mauritius), which trades impact-related securities, such as the Women’s Livelihood Bonds. These impact-related securities are not strictly pay-for-success structures, as they promise a financial return even if social impact is not created. Alternately, investors may use the IIX Growth Fund to make equity investments in start-ups or small companies with a social impact. The social impact is determined with reference to the SDGs.

### The Jamaica Social Stock Exchange (JSSE)

The Jamaica Social Stock Exchange, JSSE, seeks to engage the entire Jamaican economy in promoting the Social Capital Market, believing that true development of any country happens in all areas of life and facets of society.

The JSSE is a state-of-the-art virtual environment and a venue for the process where the “socially responsible investor(s)”, people interested in contributing and improving the quality of life in Jamaica, are enabled to invest in wholesome projects that require public funding, and by extension promote the socio-cultural economy and the protection of the physical environment.

The JSSE, is a social program driven by the Jamaica Stock Exchange’s own practice of Corporate Social Responsibility (CSR), in partnership with companies listed on the JSE, international development partners, local donors and donors in the Jamaican Diaspora. The JSSE, through this initiative, will demonstrate a practical application of the five (5) P’s of the United Nations Sustainable Development Goals (SDGs) with a People-Centered approach of **People, Planet, Prosperity, Partnerships and Peace**.

Believing in the Value proposition - “Sustainable Growth in the Social Sector is good for business”. The JSSE will be implementing this socially-oriented initiative in Phases.

Any locally registered entity in civil society with a technically and financially viable project/program with a social mission that will solve a social or environmental need, can apply. To be listed however the applicant must first go through a Selection process to qualify to go to market for funding. Only after full funding is obtained then listing on the JSSE will follow.

*Following are eligible for Listing on the JSSE:*

- Non-Governmental Organizations (NGOs)
- Community Organizations & Service Clubs
- Registered-Benevolent & Friendly Societies
- Foundations
- Charities –Registered in Jamaica and the Diaspora
- Associations –Citizens Associations, Parent Teachers Associations and Youth Groups etc.
- Social Enterprises (SEs).

#### LESSON ROUND-UP

- The history of Social Stock Exchange (SSE) is not longer than a decade. It’s a novel social and economic phenomenon. The object of introduction of SSE is to attract social investors to participate in financing Social Enterprise. SSE serves as a mediator between social enterprises that need funding and investors who are willing to invest their money for social causes.
- Social Stock Exchange identifies the following two forms of social enterprises that are engaging in the activity of creating positive social impact and that meets primacy of their social intent In order to establish primacy of social intent, any entity [be it Not-for-Profit Organization (NPO) or For-Profit Social Enterprise (FPE)] should meet all three criteria mentioned under Regulation 292E(2) of the ICDR Regulations. Briefly, these criteria require that the entity must indulge in activities prescribed under Regulation 292E(2)(a), and that the entity must target underserved or less privileged population segments or regions which have recorded lower performance in the development priorities of central or state governments.
- Social Enterprise means either a Not for Profit Organization or a For Profit Social Enterprise that meets the eligibility criteria specified in this Chapter X-A of the SEBI (ICDR) Regulations.

- For Profit Social Enterprise means a company or a body corporate operating for profit, which is a Social Enterprise for the purposes of these regulations and does not include a company incorporated under section 8 of the Companies Act, 2013.
- A not for profit organization is an entity which meets the criteria to be identified as a social enterprise and is any of the entities such as a charitable trust registered under the public trust statute of the relevant state; a charitable society registered under the Societies Registration Act, 1860; a company incorporated under section 8 of the Companies Act, 2013; any other entity as may be specified by SEBI.
- Retail investors are permitted to invest only in securities offered by For-profit social enterprise under the Main Board. In all other cases, only institutional investors and noninstitutional investors can invest in securities issued by Social Enterprises. As per SEBI (Issue of capital and disclosure requirements) Regulations, 2018, a retail individual investor is one who applies or bids for specified securities for a value of not more than two lakhs rupees and non-institutional investor is separately defined as an investor other than a retail individual investor and qualified institutional buyer.
- a Not for Profit Organization registered on the Social Stock Exchange(s), including a Not for Profit Organization whose designated securities are listed on the Social Stock Exchange(s), shall be required to make annual disclosures to the Social Stock Exchange(s) on matters specified by the Board, within 60 days from the end of the financial year or within such period as may be specified by the Board.
- Public issuance of Zero Coupon Zero Principal Instruments by a registered Not for Profit Organization in accordance with the SEBI (ICDR) Regulations shall be deemed to be in compliance with rule 19 of the Securities Contracts (Regulation) Rules, 1957.
- Social Audit is a novel concept and its impartial systematic process allows stakeholders to assess the impact made by the Social Enterprise through its intervention, program or projects and identify the gap between desired object and actual impact made by the Social Enterprise during the reporting period. It also aims to aid regulators for the effective implementation of applicable laws, rules and regulation and also to the general public to take informative decision while making any investment in securities of Social Enterprise.
- The Jamaica Social Stock Exchange seeks to engage the entire Jamaican economy in promoting the Social Capital Market, believing that true development of any country happens in all areas of life and facets of society. The JSSE is a state-of-the-art virtual environment and a venue for the process where the “socially responsible investor(s)”, people interested in contributing and improving the quality of life in Jamaica, are enabled to invest in wholesome projects that require public funding, and by extension promote the socio-cultural economy and the protection of the physical environment.

### TEST YOURSELF

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)*

1. What is Social Stock Exchange (SSE)?
2. Which Social Enterprises are not eligible to get registered or raise funds through Social Stock Exchange/Stock Exchange?
3. Whether retail investors can invest in securities issued by Social Enterprises in the Social Stock Exchange Platform?
4. What are the minimum reporting standards mandated for Social Enterprises?
5. How can a for profit social enterprise raise funds through Social Stock Exchange?





# Contribution of Non-Corporate Entities (NCE) in Social Governance

## Lesson 10

### KEY CONCEPTS

■ Non-Corporate Entities ■ Social Governance ■ Social Development ■ Sole Proprietary concerns ■ Partnership Firms ■ Association of persons ■ Trusts, Societies

### Learning Objectives

#### To understand:

- Non corporate entities – types, characteristics, ownership structure, Regulatory Framework, Registration & Taxation aspects etc.
- Their contribution to national development and social governance
- Good Governance Initiatives in Local Governments
- International aspects of Non-Corporate Entities

### Lesson Outline

- **Non Corporate Entities**
  - Meaning
  - Types
  - Characteristics
  - Ownership Structure
  - Regulatory Framework
  - Registration
  - Taxation aspects
- **Contribution of NCE towards**
  - National Development
  - Social Governance
- **Good Governance Initiatives in Local Governments**
- Lesson Round-Up
- Glossary
- Test Yourself

## INTRODUCTION

Non-corporate entity means that an entity has not been registered to be classified as a corporation. This means that it cannot have the benefits of being a corporation such as limited liability. A non-corporate entity is a legal entity that does not go through a formal incorporation process, does not meet the legal requirements for a corporation, such as the number of shareholders required etc. These include sole proprietorships, partnerships and other unincorporated entities. Corporate entities which are duly incorporated and registered following the due process of law have separate identity distinct from its members. A corporation can do the following:

1. Enter into agreements
2. Borrow and loan money
3. Sue or be sued
4. Own assets
5. Pay taxes.

Corporations are considered legal person. Non-corporation companies, such as a partnerships or sole proprietorships have no legal distinction from the owners. This means that owners of such entities do not have the same legal protections as a corporate entity. However, starting a non-corporate entity is easier than a corporate entity, and registering a corporation comes with certain responsibilities.

The raising of capital is harder for non-corporations when compared to incorporated entities. Corporations can raise capital through the selling of stock to the public. Corporations can also use such proceeds generated from stock sales to grow the company or pay debt obligations. A non-corporation can rely on an owner investment to provide financing to the company's business activities. If a non-corporate owner does not have suitable credit, that person may not secure loans to finance the operation of the business.

## NON CORPORATE ENTITIES

Given below are Types, Characteristics, Ownership Structure, Regulatory Framework, Registration and taxation aspects of some common forms of non corporate entities.

### SOLE PROPRIETORSHIP

A sole proprietorship business is established and managed by a single person. This type of business form is best suitable for individuals wishing to start a business with less investment. Generally, it does not require any registration as such. The control of the business is solely in the hands of the single proprietor/owner who invests in the business. He bears all the losses of the business and enjoys all the profits. He can appoint persons for conducting the business, but the ownership will rest solely with him.

Many local businesses such as grocery stores, parlours, boutiques, retail stores, etc., can be established as a sole proprietorship firm. Even small traders and manufacturers can establish a sole proprietorship firm.

### Characteristics and Ownership Structure

As mentioned above, a sole proprietary form of business has a single owner and its characteristics include:

- Sole ownership of the business
- Unlimited liability
- No legal entity
- Sole decision making
- Can wrap up the business anytime.

### Advantages of Sole Proprietorship

*Less compliances:* The sole proprietorship business can be started easily by just one person. There is minimum compliance that is required to be adhered to get it incorporated. This form of business is economical as it is relatively less expensive to start than a company or LLP.

*Control of the business:* The sole proprietor will have complete control over the business. He will look after all the aspects of the business. Since only one person is running the business, secrecy can be maintained.

*Quick decision making:* The sole proprietor takes all decisions of the business. The decision making rests with a single person. Thus, the decisions can be taken quickly and immediately without the need for consulting anyone.

### Disadvantages of Sole Proprietorship

*Unlimited liability:* There is an unlimited liability on the sole proprietor. He is personally liable for all the transactions he enters in the business. If any loss occurs, he will have to bear the whole loss out of his personal estate.

*No perpetual succession:* There is no perpetual succession which means it can come to an end if something happens to the sole person taking care of the business. It can shut down at any time. This makes the business unreliable and difficult to gain public trust for entering into agreements or contracts to expand the business.

*Difficult to raise funds:* Since a single person manages the business, it is not easy to raise capital. The capital of the business is from the investments put in by the sole proprietor. The sole proprietorship firm has no separate legal entity status from the owner. As it can come to an end at any time and there is no separate entity, it is difficult to obtain funds from third parties.

### Registration Requirement

No specific registration is required for starting a sole proprietorship form of business. The sole proprietor may apply for a pan card if he doesn't already have one and open a bank account to manage financial aspects of his business. However, certain basic registrations are required to be obtained for doing business such as GST. These registrations may include -

- Registration under the Shops and Establishment Act of the State in which the business is located.
- Registration under GST if turnover exceeds prescribed thresholds.

The sole proprietorship can also register as a Small and Medium Enterprise (SME) under MSME Act, though it is not mandatory, it is beneficial to be registered under the same.

### Taxation

In India, sole proprietors are exempt from filing a separate tax return for the revenue received from their business. Simply put, the revenue earned by sole proprietors is considered personal income and is taxed appropriately. Based on the slab rates that apply to his/her taxable income, sole proprietors must resolve their tax obligations in accordance with prevalent IT regulations.

## PARTNERSHIP

A partnership is a formal arrangement by two or more parties to manage and operate a business and share its profits. A partnership is a kind of business where a formal agreement between two or more people is made who agree to be the co-owners, distribute responsibilities for running an organization and shares the income or losses that the business generates.

Partnerships are often best for a group of professionals in the same line of work where each partner has an active role in running the business. These often include medical professionals, lawyers, accountants, consultants, finance & investing, and architects.

In India, all the aspects and functions of the partnership are administered under 'The Indian Partnership Act 1932'. This specific law explains that partnership is an association between two or more individuals or parties who have accepted to share the profits generated from the business under the supervision of all the members or behalf of other members.

### *Characteristics of Partnership form of Business*

Following are the few features of a partnership:

*Agreement between Partners:* It is an association of two or more individuals, and a partnership arises from an agreement or a contract. The agreement (accord) becomes the basis of the association between the partners. Such an agreement is in the written form. An oral agreement is evenhandedly legitimate. In order to avoid controversies, it is always good, if the partners have a copy of the written agreement.

*Two or More Persons:* In order to manifest a partnership, there should be at least two (2) persons possessing a common goal. To put it in other words, the minimal number of partners in an enterprise can be two (2). However, there is a constraint on their maximum number of people.

*Sharing of Profit:* Another significant component of the partnership is, the accord between partners has to share gains and losses of a trading concern. However, the definition held in the Partnership Act elucidates – partnership as an association between people who have consented to share the gains of a business, the sharing of loss is implicit. Hence, sharing of gains and losses is vital.

*Business Motive:* It is important for a firm to carry some kind of business and should have a profit gaining motive.

*Mutual Business:* The partners are the owners as well as the agent of their firm. Any act performed by one partner can affect other partners and the firm. It can be concluded that this point acts as a test of partnership for all the partners.

*Unlimited Liability:* Every partner in a partnership has unlimited liability.

### **Advantages of Partnership Firm**

*Easy to Incorporate:* The incorporation of a partnership firm is easy as compared to the other forms of business organisations. The partnership firm can be incorporated by drafting the partnership deed and entering into the partnership agreement. Apart from the partnership deed, no other documents are required. It need not even be registered with the Registrar of Firms. A partnership firm can be incorporated and registered at a later date as registration is voluntary and not mandatory.

*Less Compliances:* The partnership firm has to adhere to very few compliances as compared to a company or Limited Liability Partnership (LLP). The partners do not need a Digital Signature Certificate (DSC), Director Identification Number (DIN), which is required for the company directors or designated partners of an LLP. The partners can introduce any changes in the business easily. They do have legal restrictions on their activities. It is cost-effective, and the registration process is cheaper compared to a company or LLP. The dissolution of the partnership firm is easy and does not involve many legal formalities.

*Quick Decision:* The decision-making process in a partnership firm is quick as there is no difference between ownership and management. All the decisions are taken by the partners together, and they can be implemented immediately. The partners have wide powers and activities which they can perform on behalf of the firm. They can even undertake certain transactions on behalf of the partnership firm without the consent of other partners.

*Sharing of Profits and Losses:* The partners share the profits and losses of the firm equally. They even have the liberty of deciding the profit and loss ratio in the partnership firm. Since the firm's profits and turnover are dependent on their work, they have a sense of ownership and accountability. Any loss of the firm will be borne by them equally or according to the partnership deed ratio, thus reducing the burden of loss on one person or partner. They are liable jointly and severally for the activities of the firm.

### **Disadvantages of Partnership Firm**

*Unlimited Liability:* The biggest disadvantage of the partnership firm is having an unlimited liability of the partners. The partners have to bear the loss of the firm out of their personal estate. Whereas in a company or LLP, the shareholders or partners have liability limited to the extent of their shares. The liability created by one partner of the partnership firm is to be borne by all the partners of the firm. If the firm's assets are insufficient to pay the debt, then the partners will have to pay off the debt from their personal property to the creditors.

*No Perpetual Succession:* The partnership firm does not have perpetual succession, as in the case of a company or LLP. This means that a partnership firm will come to an end upon the death of a partner or insolvency of all the partners except one. It may also be dissolved if a partner gives notice of dissolution of the firm to the other partners. Thus, the partnership firm can come to an end at any time.

*Limited Resources:* There is a restriction on the maximum number of partners, and hence the capital invested in the firm is also restricted. The capital of the firm is the sum total of the amount invested by each partner. This restricts the firm's resources, and the partnership firm cannot take up large scale business.

*Difficult to Raise Funds:* Since the partnership firm does not have perpetual succession and a separate legal entity, it is difficult to raise capital. The firm does not have many options for raising capital and growing its business as compared to a company or LLP. As there are no strict legal compliances, people have less faith in the firm. The accounts of the firm need not be published. Thus, it is difficult to borrow funds from third parties.

### **Registration of a Partnership Firm**

The registration of a partnership firm is optional and not compulsory under the Indian Partnership Act. It is at the discretion of the partners and voluntary. The firm's registration can be done at the time of its formation or incorporation or during the continuance of the partnership business.

However, it is always advisable to register the partnership firm as a registered partnership firm enjoys certain special rights and benefits as compared to the unregistered firms.

For registration, an application form has to be filed to the Registrar of Firms of the State in which the firm is situated along with prescribed fees.

### **Taxation of a Partnership Firm**

A partnership firm is required to file a partnership firm income tax return under the Income Tax Act, 1961.

### **CHARITABLE TRUSTS**

A charitable trust, as the name suggests is the one where the sole purpose of its incorporation is to uplift people from poverty, to empower women, to eradicate illiteracy, to promote public health and comfort, to further religious practices, and other charitable purposes. Benevolent and philanthropic purposes are not compulsorily charitable unless it is specifically for the benefit for masses or group of people.

### **Some essential elements of Trust are:**

- An Author- who creates the trust from his/her property
- Trustee- the person responsible for trust property

- Beneficiary- the one who is benefiting from this property
- Trust Property- the property used for the benefits
- An objective- clear intent for the formation of the trust.

### Types of Trust

Public Trust: This is an express trust made to benefit the body of the public. The Charitable and Religious Trust Act, 1920, the Religious Endowments Act, 1863, the Charitable Endowments Act, 1890, the Bombay Public Trust Act, 1950 are some of the acts that govern the public trust.

Private Trust: In this case, the beneficiaries are narrow and divided into specific groups. Like the employees of an organization. These are governed by the Indian Trusts Act, 1882.

### Features of a Trust

A charitable trust, unlike private institution, has perpetual existence and is exempted from laws against perpetuity. These are partially or completely exempted from taxes.

If the purpose of a charitable trust becomes impossible to carry out, then under the legal doctrine of cy près, the court or trustee acting by the majority can choose another purpose. This should be as near as the original purpose of the trust.

### Regulatory framework / registration of Trust

Registration of a trust is not mandatory, but it provides legal recognition and benefits to the trust and its beneficiaries. Therefore, it is generally recommended to register a trust to avail of the benefits and legal protections that come with registration.

Different laws regulate trusts in India. The primary regulatory Authority for trust registration is the Registrar of Trusts. The registrar of trusts maintains all the information on the trusts which have been registered in India. Different states in India have different Trusts Acts in force, which govern the trusts in the state; in the absence of a Trusts Act in any particular state or territory the general principles of the Indian Trusts Act 1882 are applied.

Registered trusts enjoy certain benefits, including tax exemptions under certain conditions.

### Taxation of Trusts

Income of a charitable and religious trust is exempt from tax subject to certain conditions. The exemptions are provided to the trusts under various provisions, inter-alia, Section 10, Section 11, etc. Some of the exemptions allowed to a trust are as under:

- Section 11 provides exemption for income derived from property held under trust wholly for charitable or religious purposes to the extent such income is applied for charitable or religious purpose in India. However, this exemption shall be subject to certain conditions.
- In view of Section 12, income in the form of voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes shall also be exempt from tax (subject to certain conditions).
- Any voluntary contributions received by an electoral trust shall not be included in its total income (subject to certain conditions).
- Income of an educational institute is subject to exemption under Sections 10(23C)(iiiab)/(iiiad)/(vi).
- Income of a hospital or other institution shall be eligible for exemption if it satisfies the conditions prescribed under Sections 10(23C) (iiiab)/(iiiad)/(vi).

**NON-PROFIT / NON-GOVERNMENT ORGANIZATIONS (NGOs)**

NGO stands for Non-Governmental Organization and typically it is a voluntary group or institution with a social mission, which operates independently from the government.

As defined by the World Bank NGOs refers to not-for-profit organizations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development.

NGOs or similar organizations exist in all parts of the world. What is considered an NGO in one country may not qualify as an NGO in another, as legal definitions, permitted activities, monitoring, and oversight differ from country to country. The term can encompass many types of organizations.

Although these terms are not necessarily interchangeable, an organization similar to an NGO may be called nonprofit, charity, non-profit organization (NPO), civil society organization (CSO), citizen sector organization (CSO), social benefit organization (SBO), an advocacy organization, voluntary organization, grassroots support organization (GSO), and non-state actor (NSA).

Non-Governmental Organization activities include, but are not limited to, environmental, social, advocacy and human rights work. They can work to promote social or political change on a broad scale or very locally. NGOs play a critical part in developing society, improving communities, and promoting citizen participation.

NGOs have existed for centuries; indeed, in 1910 some 130 international groups organized a coordinating body called the Union of International Associations. The term nongovernmental organization was coined at about the time of the founding of the United Nations (UN) in 1945 to distinguish private organizations from intergovernmental organizations (IGOs), such as the UN itself. Many large international NGOs, such as Amnesty International, the International Federation of Red Cross and Red Crescent Societies, Oxfam International, CARE, Save the Children, and the World Wildlife Fund, are transnational federations of national groups. Most NGOs are small, grassroots organizations not formally affiliated with any international body, though they may receive some international funding for local programs.

NGOs perform a variety of functions. They provide information and technical expertise to governments and international organizations (such as specialized agencies of the UN) on various international issues, often supplying local information unavailable to governments. NGOs may advocate on behalf of specific policies, such as debt relief or the banning of landmines (e.g., the International Campaign to Ban Landmines), and they may provide humanitarian relief and development assistance (e.g., the Red Cross, Oxfam, and CARE). NGOs may also monitor human rights or the implementation of environmental regulations (e.g., the International Union for the Conservation of Nature, Amnesty International, Human Rights Watch, and Transparency International).

Since World War II—and particularly since the 1970s—NGOs have proliferated, especially at the national and local levels. At the international level, large numbers of NGOs have been created to address issues such as human rights, women's rights, and environmental protection. At the same time, international NGOs have become important actors in world affairs within the UN and its specialized agencies and within other forums. A variety of factors have contributed to the growth of NGOs, including globalization; the increasing prominence of transnational issues such as those just mentioned; the growth in UN-sponsored global conferences, which often include parallel NGO forums; the communications revolution, which has linked individuals and groups through facsimile (fax), the Internet, and e-mail; and the spread of democracy, which has bolstered civil society and enabled individuals to form and operate organizations more freely.

Although NGOs vary considerably in size, organization, and approach, they share the basic belief that principled individuals working together can do much to solve human and environmental problems through grassroots organizing, the creative use of information, and sophisticated political strategies. NGOs have played central roles in global campaigns against slavery, the trade in ivory, whaling, violence against women, apartheid in South Africa, and the proliferation of nuclear weapons.



In India, based on the law under which they operate and the kind of activities they take up, civil society groups can be classified into following broad categories:

- Registered Societies formed for specific purposes
- Charitable Organizations and Trusts
- Local Stakeholders Groups, Microcredit and Thrift Enterprises, Self Help Groups
- Professional Self-Regulatory Bodies
- Cooperatives
- Bodies without having any formal organizational structure
- Government promoted Third Sector Organizations.

### **Need for Non-Governmental Organizations (NGOs)**

Since independence, India has achieved phenomenal economic growth in education, healthcare, poverty alleviation and overall standard of living; issues of exclusion of women, children and marginalized communities in the development process however remains. In such an environment civil society plays a key role in raising the concerns of people and ensuring that minorities are not neglected. The state requires the constructive and collaborative engagement of the civil society in its various developmental activities and programs. Non corporate entities and NGOs act as the operational arm of the civil society and thus have an important role in the development processes.

### **Legislations regulating the finances of NGOs**

#### ***Foreign Contribution (Regulation) Act (FCRA), 2010***

Foreign funding of voluntary organizations in India is regulated under FCRA Act and is implemented by Ministry of Home Affairs. The acts ensure that the recipients of foreign contributions adhere to the stated purpose for which such contribution has been obtained. Under the Act, organisations are required to register themselves every five years. The idea was to bring all NGOs, which receive foreign contributions, under one umbrella for better monitoring and regulations. The step was taken to that ensure only one custodian monitors flow of foreign funds to these organisations.

#### ***Constitutional Provisions for NGOs in India***

- Article 19(1)(c) on the right to form associations;
- Concurrent List in Entry 28 mentions about – Charities and charitable institutions, charitable and religious endowments and religious institutions.

#### **Taxation of NGOs**

NGOs with registration under Section 12A of the Income Tax Act can claim an exemption from the income tax department. NGOs with 80G-certification under the Income Tax Act attract more donors for donating funds to the organisation. NGOs without registration are taxed at regular rates.

80G is a certification that the Income Tax Department offers to NGOs which allows the donor to get tax benefits on their donations. Tax relief is not only beneficial for the donor but also for the concerned NGO, as it acts as a catalyst for donations.

**CONTRIBUTION OF NON-CORPORATE ENTITIES / NGOS****(A) Towards National Development**

Non corporate entities running small businesses are more than just storefronts and websites - they are engines of economic growth that power local communities. They have significant impact on local economies; from revitalizing neighborhoods to creating jobs and fostering innovation, small businesses are the heartbeat of communities across the globe.

**Industrial Units**

Non corporate entities running small businesses are the backbone of the Indian economy, with over 95% of industrial units being categorized as small businesses. These enterprises contribute significantly to the overall industrial landscape, with nearly 40% of total industrial units being small businesses.

Moreover, these entities also play a crucial role in the export sector, accounting for approximately 45% of the country's total exports. Their impact on the economy cannot be overstated, making them a vital force driving economic growth and development in India.

**Labour Oriented**

Non corporate entities are essential for employment opportunities, particularly in rural and semi-urban areas. They play a crucial role in addressing the issue of unemployment in the economy, especially in a country like India with a large labor force. These enterprises help lift the burden of unemployment by providing jobs to local communities and contributing to economic growth.

The Indian government recognizes the significance of small businesses and encourages their growth through various policies and initiatives. This includes offering low-interest rates and creating a favorable business environment for small businesses to thrive. The government's support for small businesses aims to promote employment generation and utilize the labor force's potential.

By promoting non-corporate entities, India is leveraging their role in creating job opportunities and reducing unemployment. Non corporate entities contribute to the country's economic development and provide livelihood opportunities to millions of people, thereby playing a vital role in society's overall well-being.

**Human Resource**

Non Corporate Entities are a significant source of employment in the Indian economy, ranking second to agriculture. These enterprises have the potential to generate a large number of job opportunities with minimal capital investment compared to larger companies. This makes them one of India's key contributors to employment generation.

The labor-intensive nature of many small businesses allows them to provide employment opportunities to many people, especially in local communities. They create jobs across various sectors, including manufacturing, services, and trade, contributing to the country's overall economic growth.

The role of small Non Corporate Entities in employment generation is vital, as it helps to address the issue of unemployment, particularly in a country with a large workforce like India. Small business owners' entrepreneurial spirit and innovation contribute to creating new jobs and supporting the livelihoods of individuals and families.

As the second largest employment generator in the Indian economy, small businesses are crucial in driving economic growth, promoting entrepreneurship, and creating opportunities for people to earn a livelihood. Small businesses' continued support and promotion can contribute to more inclusive and sustainable economic development in India.

### **Utilization of Local Resources**

Non Corporate Entities often emerge in semi-urban and rural areas in response to the specific needs and demands of the local community. These businesses are typically community-oriented, focused on serving and generating employment in their immediate vicinity. These businesses can leverage local resources such as talent, raw materials, demographic opportunities, and labor.

By utilizing local resources effectively, these businesses can contribute to the economic development of a particular area. They create job opportunities for the local population, stimulating economic activity and improving the overall socio-economic condition of the community. This localized approach allows such businesses to positively impact the local economy and the well-being of the people residing in the area.

Moreover, these businesses are often closely connected to the local community, as they serve the unique needs and preferences of the local population. They foster a sense of community engagement and promote a culture of entrepreneurship, which can contribute to the growth and development of the local economy.

Non Corporate Entities are also crucial in promoting inclusive growth and reducing regional disparities. They provide economic participation and upward mobility opportunities in areas where larger enterprises may not exist. This can help bridge the gap between urban and rural areas and promote balanced regional development.

Non Corporate Entities significantly impact local communities and their economic development. They are community-oriented, utilize local resources, and create job opportunities, contributing to the socio-economic well-being of the area. Promoting and supporting small businesses can help foster inclusive and sustainable economic growth in semi-urban and rural areas, benefiting both the local community and the overall economy.

### **Flexible and Adaptable**

Non Corporate Entities running small businesses thrive by staying nimble and responsive to changing market conditions. As both manufacturers and distributors, they have the advantage of creating a personalized experience for their clients. These businesses enjoy greater flexibility and freedom from government intervention than larger enterprises due to their limited size and financial scope. This enables them to adapt and grow quickly, gaining an edge in today's dynamic business landscape.

### **Promotes Development & Growth**

The establishment of small businesses in any region or area plays a crucial role in uplifting its residents' lifestyle and earning potential. These businesses contribute to the country's overall development by bringing in more exposure to foreign markets, expanding production scales, and fostering the evolution of the state and its workers. As engines of economic growth, non corporate entities play a vital role in driving regional development, which in turn contributes to the broader progress of the nation.

### **Increased Tax Revenue**

Industries have responsibility to pay the requisite taxes to government bodies, which are utilized to develop rural regions and meet the demands of cities. As businesses aim for profits, increased revenues result in higher taxes being contributed to the country's government. These taxes play a crucial role in funding essential services such as healthcare, education, defense, and more, contributing to the upliftment of the nation as a whole. By fulfilling their tax obligations, industries play a vital role in supporting national development and the well-being of communities in both rural and urban areas.

In Nutshell, non-corporate entities play a crucial role in local communities, driving economic growth, job creation, and innovation. They contribute to the vibrancy and vitality of neighborhoods, fostering a sense of community and pride. From innovative startups to small businesses, they have a unique ability to adapt to local needs, create meaningful connections with customers, and contribute to the economic fabric of their communities.

## (B) Towards Social Welfare and Governance

Non-Governmental Organizations (NGOs) are involved in carrying out a wide range of activities for the benefit of underprivileged people and the society at large. As the name suggests, NGOs work independently, without any financial aid of the government although they may work in close coordination with the government agencies for executing their projects.

NGOs take up and execute projects to promote welfare of the community they work with. They work to address various concerns and issues prevailing within the society. NGOs are not-for-profit bodies which means they do not have any commercial interest. NGOs are run on donations made by individuals, corporate and institutions. They engage in fundraising activities to raise money for carrying out the work they do. Ever since independence, NGOs have played a crucial role in helping the needy in India, providing aid to the distressed and elevating the socio-economic status of millions in the country.

NGOs work both at the National and International levels and so far have contributed a lot to the development of society. These bodies set an example that humanity is still alive. They are free from any kind of biases or social evils. Whenever Government is unable to fulfill its responsibilities, these organizations are there to help it. They have been successful in bringing the attention of the government to issues like participation, equity, illiteracy, poverty, unemployment, etc. Government should appreciate the role and functioning of the NGOs as they have always provided much-needed support to it in order to achieve its targets.

### Activities undertaken by Non-Governmental Organizations (NGOs)

*Advocacy and Analysis & Awareness Raising* – Acting as a voice for people both on a representative and self-appointed basis; researching, analyzing and informing the public about issues; mobilizing citizen action through media campaigns and other forms of activism; and lobbying business leaders and policymakers.

*Brokerage* – Acting as an intermediary between different sectors and groups.

- Conflict resolution – acting as a mediator and facilitator.
- Capacity Building – providing education, training and information.
- Delivery of services – operational delivery of essential humanitarian, development and/or social services.

*Evaluation and Monitoring* – serving as a ‘watchdog’ or third party / independent ‘auditor’, invited and uninvited, of government and corporate performance, accountability and transparency.

## ROLE OF NON-GOVERNMENTAL ORGANISATIONS (NGOs)

NGOs have brought various social changes for the promotion and development of society. These organizations work for serving humanity and other good cause. Utilising funds raised through donations, NGOs in India work for a wide range of causes. Some such causes include:

- Child rights
- Poverty
- Social Injustice
- Environment Conservation
- Human Rights
- Care for elderly people
- Women Empowerment

- Wildlife Conservation
- Animal Rights
- Sanitation and Hygiene
- Humanitarian Relief
- Health and Nutrition
- Literacy and Education
- Refugee Crisis
- Disease Control and others.

NGOs are composed of experts with years of experience in executing social welfare activities. Before rolling out a project, detailed analysis of the situation is done and possible solutions are contemplated. Collaboration with civic agencies and other government agencies (at district, state and even national level at times) is done to carry out the work.

NGOs not only go on the ground to address these issues, they also undertake massive campaigning activities to generate awareness on these issues. In today's time, NGOs are efficiently leveraging the power of social media to disseminate information about their work and reach more and more people.

**Some of the major roles played by the various NGOs are as under:**

Non-profit organisations play vital role in mobilizing public attention to societal problems and needs. They are the principal vehicle through which communities can give voice to their concerns.

Improving Government performance: It is one of the important works of the NGOs to ensure that the Government should be responsive and solve the problems of the citizens thereby making the Government more accountable. NGOs can broaden government's accountability by ensuring government is responsive to citizens at large rather than to narrow sectarian interests. They also induce innovation and flexibility in policymaking by bringing their own independent expertise and research teams. They enhance the efficiency of delivery of many services at the local level through involvement of residents. They also improve policy monitoring and evaluation as Comptroller and auditor general (CAG) takes cognizance of reports and social audits by NGOs while preparing its reports.

NGOs also help in providing suggestions and their expertise in matters related to policy-making of Government by providing research teams. Many path-breaking laws in the country like Environmental Protection Act 1986, Right to Education Act 2009, Right to Information Act 2005, etc. have been formulated with the initiatives of the NGOs.

Acting as a social mediator: NGOs act as social mediators at various different levels of society so as to bring the required change in social and behavioral attitudes prevailing within the social environment. They create awareness among people and become the voice of the poor and needy person or group. The non-profit sector acts as a flexible mechanism through which people concerned about a social or economic problem can begin to respond. It also caters to groups of the population who desire a range of public goods that exceeds what the government or society is willing to support.

NGOs help in constructive conflict resolution. In the international arena Track II diplomacy (involving non-governmental bodies) plays a crucial role in creating an environment of trust and confidence.

Facilitating communication: NGOs work at two different levels in order to facilitate communication. One is at the upward level whereby NGOs inform the Government about the needs, abilities, and activities of the people in their local area. On the other hand, they work at the downward level where people are informed and educated about the policies and programs of the Government.

**Acting as a pressure group:** They also act as a pressure group and mobilize public opinion against various Governmental policies and activities. They also help poor people, Farmers, Scheduled Caste or a Scheduled Tribe etc. in availing quality services by making the Government accountable.

**Building Community Participation:** NGOs encourage and facilitate the participation of disadvantaged communities and help in preserving the culture of diverse communities. The non-profit organisations offer alternative perspectives; and most importantly, the capacity to conduct a meaningful dialogue with communities, particularly those that are disadvantaged. They foster pluralism, diversity and freedom. Many NGOs work to preserve and promote India's diverse culture.

**Women Empowerment:** The role of NGOs in women empowerment cannot be denied. They have been constantly fighting against social evils like Sati, dowry, cruelty, and other causes like employment, lessening of female foeticide, etc.

**Mobilising Local Resources:** Over utilization of natural resources lead to natural calamities and environmental threats. NGOs keep an eye on this particular domain so that the destruction of natural resources does not take place.

**Providing Education, Training, and Technical Assistance:** NGOs provide education, training, and technical assistance to the people in need, volunteers, and to other NGOs. Later on, the trained NGOs provide their services to assist the Government.

**Bridging the Gap:** NGOs reach out to those sections of people who are often left untouched by the State projects. For example, during the Covid-19 crisis, aid was provided to migrant workers. Apart from this, NGOs are also engaged in activities like education, human and labor rights, legal aid, gender issues, healthcare, and even research.

**Monitoring and Evaluation:** NGOs monitor and evaluate government policies and activities that encourage active people's participation in the developmental process. This also results in keeping a check on the administrative functions of the Government.

India has made rapid progress in the socio-economic sphere in the last seven decades. Millions have been brought out of poverty, life expectancy has shot up, literacy rate has almost tripled and people have better access to healthcare services. However, given the vastness of India, both in terms of demography and area, and its socio-cultural diversity, millions are still bereft of a decent life. Even today, numerous people struggle to get basics such as health, shelter, education and nutritious food. The benefits of India's economic progress have not been uniform in nature. There is rampant economic inequality. This is where NGOs' role comes into the picture. Their job is to plug the gaps left by the government by improving the lives of the most marginalised communities.

In India, NGOs undertake a variety of activities, most of which are aimed at improving the socio-economic status of communities with limited means. From providing direct benefit (like distributing nutrition feed to malnourished children) to enabling and empowering people (like making a community realise the importance of sending their children to school), the primary role of NGOs in India has a far-reaching impact in helping underprivileged and deprived people march ahead in life.

The work done by NGOs goes a long way in nation building. With the Corporate Social Responsibility (CSR) mandating 2% spend by large corporate on social issues, NGOs have the potential to touch millions of more lives through their work. Over the years, NGOs have streamlined their operations and enhanced their scales. Functioning of established NGOs is akin to big corporate organizations – there are well-defined KPIs and targets to meet. NGOs in India need to be transparent in their work and ensure that the funds raised benefit those for whom they are intended. This is a good trend, larger and more accountable NGOs will be able to deliver more effectively and efficiently, making best use of resources. NGOs in India are already proving to be agents of

change. In times to come, they will continue to play a significant role in helping large sections of the Indian society come out from the quagmire of poverty and distress.

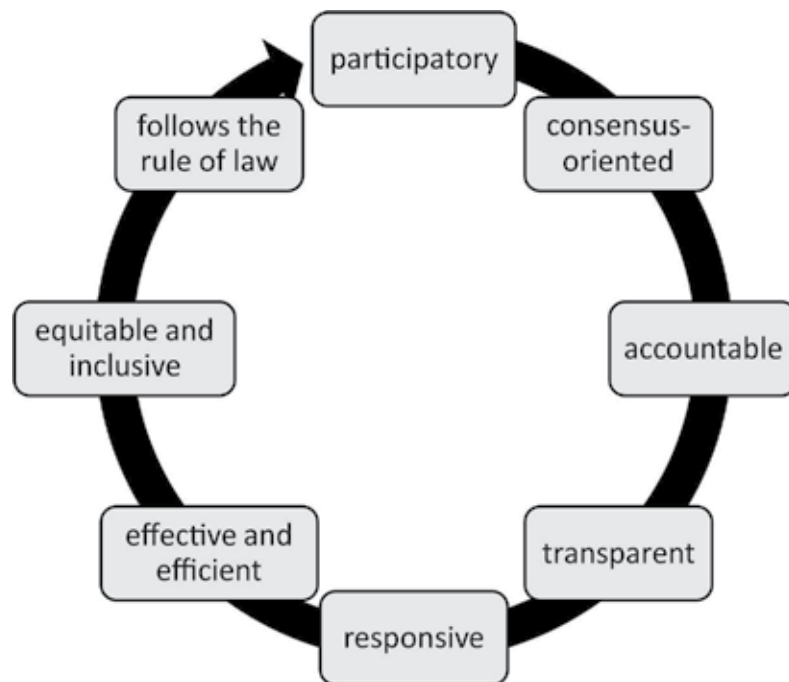
### GOOD GOVERNANCE INITIATIVES IN LOCAL GOVERNMENTS

'Governance' is the process of decision-making and the process by which decisions are implemented. Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.

In the 1992 report entitled "Governance and Development", the World Bank set out its definition of Good Governance. It defined Good Governance as "*the manner in which power is exercised in the management of a country's economic and social resources for development*".

Good governance assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.

Good governance has 8 major characteristics. They are:



#### Participation:

- People should be able to voice their own opinions through legitimate immediate organizations or representatives.
- This includes men and women, vulnerable sections of society, backward classes, minorities, etc.
- Participation also implies freedom of association and expression.

#### Rule of Law:

- Legal framework should be enforced impartially, especially on human rights laws.
- Without rule of law, politics will follow the principle of '*matsya nyaya*' i.e. law of fish which means the strong will prevail over the weak.

*Consensus Oriented:*

- Consensus oriented decision-making ensures that even if everyone does not achieve what they want to the fullest, a common minimum can be achieved by everyone which will not be detrimental to anyone.
- It mediates differing interests to meet the broad consensus on the best interests of a community.

*Equity and Inclusiveness:*

- Good governance assures an equitable society.
- People should have opportunities to improve or maintain their well-being.

*Effectiveness and Efficiency:*

- Processes and institutions should be able to produce results that meet the needs of their community.
- Resources of the community should be used effectively for the maximum output.

*Accountability:*

- Good governance aims towards betterment of people, and this cannot take place without the government being accountable to the people.
- Governmental institutions, private sectors, and civil society organizations should be held accountable to the public and institutional stakeholders.

*Transparency:*

- Information should be accessible to the public and should be understandable and monitored.
- It also means free media and access of information to them.

*Responsiveness:*

- Institutions and processes should serve all stakeholders in a reasonable period of time.

**Governance at Local Government Level**

We often hear about governance in the context of corporate governance: the rules, practices and procedures that inform how a corporation, firm or business operates. However, governance also applies to local authorities and governments. Local authorities and governments are appointed to take care of a district by problem-solving, making decisions and driving improvements – this could be a county council in a city, a municipality or even a school district.

While laws, rules, and regulations traditionally stipulate how governments may operate, the act of governance is entirely different. The framework for good local governance should be such that the local political and public administrative processes must maximize the public's interest.

Local government is responsible for a range of vital services for people and businesses in defined areas. Among them are well known functions such as social care, schools, housing and planning and waste collection, but also lesser known ones such as licensing, business support, registrar services and pest control.

**Local Government framework in India**

Local government in India refers to governmental jurisdictions below the level of the state. Local self-government means that residents in towns, villages and rural settlements are the people elect local councils and their heads authorising them to solve the important issues. India is a federal republic with three spheres of government: central, state and local. The 73rd and 74th constitutional amendments give recognition and protection to



local governments and in addition each state has its own local government legislation. Since 1992, local government in India takes place in two very distinct forms. Urban localities, covered in the 74th amendment to the Constitution, have Nagar Palika but derive their powers from the individual state governments, while the powers of rural localities have been formalized under the panchayati raj system, under the 73rd amendment to the Constitution.

Within the Administrative setup of India, the democratically elected Local governance bodies are called the “municipalities” (abbreviated as the “MC”) in urban areas and the “Panchayati Raj Institutes (PRI)” (simply called the “panchayats”) in rural areas. There are 3 types of municipalities based on the population, Municipal Corporation (Nagar Nigam), Municipal Councils (Nagar Palika) and Municipal Committee (Nagar Panchayat). Panchayati Raj Institutions in rural areas have 3 hierarchies of panchayats, Gram panchayats at village level, Mandal or block panchayats at block level, and Zilla panchayats at district level.

## Initiatives for Good Governance in India

### Right to Information

- As a party to the International Covenant on Civil and Political Rights (ICCPR), India is under an international obligation to effectively guarantee citizens the Right to Information as per Article 19 of the ICCPR.
- RTI Act, 2005 marks a significant shift in Indian democracy. It gives greater access of the citizen to the information which in turn improves the responsiveness of the government to community needs.
- The right to information, promotes openness, transparency and accountability in administration by making the government more open to public scrutiny.

### E-Governance

- The National e-Governance Plan envisions to make all government services accessible to the common man in his locality, through common service delivery outlets and ensure efficiency, transparency & reliability of such services at affordable costs.
- **E-Governance** effectively delivers better programming and services in the era of newly emerging information and communication technologies (ICTs), which herald new opportunities for rapid social and economic transformation worldwide.
- E-Governance has a direct impact on its citizens who derive benefits through direct transactions with the services offered by the government.
- Programs launched under e-Governance: **Pro-Active Governance and Timely Implementation (PRAGATI)**, Digital India Program, MCA 21, Passport Seva Kendra (PSK), Online Income tax return filing , etc.
- Focus on '**Minimum Government, Maximum Governance**'.

### Legal Reforms

- The Central Government has scrapped nearly 1,500 obsolete rules and laws with an aim to bring about transparency and improve efficiency.
- Reform criminal justice and procedural laws with focus on pre-institution mediation.

### Ease of Doing Business

- Steps were taken by the government to improve business conditions including legislation meant to improve the country's business environment and policy ecosystems (such as the Bankruptcy Code, the Goods and Services Tax or GST, and the anti-money-laundering law).

- Government has launched the **'Make in India' initiative**.

### Decentralization

- Planning Commission was abolished, replacing it with the think tank called the **National Institution for Transforming India (NITI Aayog)**, which would usher in an era of **"cooperative federalism"**.
- The share of States in the central taxes for the 2021-26 period is recommended to be 41% by 15th Finance Commission.

### Police Reforms

- Modernizing police forces and implementing the **Model Police Act of 2015**.
- Reform of the First Information Report (FIR) lodging mechanism, including introducing filing e-FIRs for minor offences.
- Launch a common nation-wide emergency number to attend to emergency security needs of citizens.

### Aspirational Districts Programme

- The **Aspirational Districts Programme (ADP)** was launched in January 2018 to transform the lives of people in the under-developed areas of the county in a time bound manner.
- Anchored in NITI Aayog, the programme is aimed at transforming 115 most backward districts with focused interventions in the field of health and nutrition, education, agriculture and water management, financial inclusion and skill development.

### Good Governance Index

- The **Good Governance Index** was launched on the occasion of Good Governance Day on 25 December 2019.
- The Good Governance Index is a uniform tool across States to assess the Status of Governance and impact of various interventions taken up by the State Government and Union Territories.
- The objectives of Good Governance Index are to provide quantifiable data to compare the state of governance in all states and Union Territories, enable states and Union Territories to formulate and implement suitable strategies for improving governance and shift to result oriented approaches and administration.

### LESSON ROUND-UP

- A non-corporate entity is a legal entity that does not go through a formal incorporation process, does not meet the legal requirements for a corporation, such as the number of shareholders required etc. These include sole proprietorships, partnerships and other unincorporated entities.
- Non-corporation companies, such as a partnerships or sole proprietorships have no legal distinction from the owners. This means that owners of such entities do not have the same legal protections as a corporate entity. However, starting a non-corporate entity is easier than a corporate entity, and registering a corporation comes with certain responsibilities.
- NGOs refers to not-for-profit organizations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development.

- Non corporate entities and NGOs act as the operational arm of the civil society and thus have an important role in the development processes.
- NGOs work independently, without any financial aid of the government although they may work in close coordination with the government agencies for executing their projects. NGOs have brought various social changes for the promotion and development of society. These organizations work for serving humanity and other good cause.
- Good Governance is defined as “the manner in which power is exercised in the management of a country’s economic and social resources for development”.
- Local authorities and governments are appointed to take care of a district by problem-solving, making decisions and driving improvements. Local government is responsible for a range of vital services for people and businesses in defined areas.

### GLOSSARY

**“Sole proprietorship”** A sole proprietorship, also known as a sole tradership, individual entrepreneurship or proprietorship, is a type of enterprise owned and run by one person and in which there is no legal distinction between the owner and the business entity.

**“Partnership”** A partnership is a form of business which enables two or more persons to co-own an organization, and they agree to share the profits and losses of the company. Each member of such a business is called a Partner, and collectively they are known as a partnership firm.

**“Public Trusts”** A public trust is a trust whose beneficiaries are all members of society and which performs charity acts such as providing aid to the needy, funding for education and healthcare, and other services that are beneficial to all members of society. The whole public is meant to benefit from the public charity trust, and no private persons or organisations should stand to gain personally from it. Additionally, it must serve the general population, regardless of caste, creed, or religion.

**“Good Governance”** Good governance is the process of measuring how public institutions conduct public affairs and manage public resources and guarantee the realization of human rights in a manner essentially free of abuse and corruption and with due regard for the rule of law.

**“Local Government”** Local government is a generic term for the lowest tiers of public administration within a particular sovereign state. This particular usage of the word government refers specifically to a level of administration that is both geographically localised and has limited powers.

**“National Development”** National development is the capacity of the country to raise the standard of living of its residents. It can be achieved by providing individuals with basic livelihood requirements and supplying them with employment, etc. Development is a process that creates growth, brings in progress and positive change.

**“Social Development”** Social development is about improving the well-being of every individual in society so they can reach their full potential. The success of society is linked to the well-being of each and every citizen. Social development means investing in people.





### KEY CONCEPTS

- Societies ■ Trust ■ Co-operative ■ Governance ■ Cypres

### Learning Objectives

#### To understand:

- Registration
- Rules and Regulations
- Amalgamation or Division of the Society
- Dissolution of Society
- Offences and Penalties
- Regulatory Aspect of Trust
- Governance Practices in Trust
- Doctrine of Cypres
- Extinction of Trust
- Revocation of Trust
- State Cooperative Societies

### Lesson Outline

- Introduction
- Registration of Society
- Rules and Regulation of Society
- Suit by or against Society
- Consequence of Dissolution
- Registrar of Societies
- Offences and Penalties
- Trust and Contract
- Oral and Written Trusts
- Charitable Trusts
- Creation of Trust
- Revocation of Trust
- Lesson Round-Up
- Test Yourself

## REGULATORY FRAMEWORK

- Societies Registration Act, 1860
- The Indian Trusts Act, 1882

## SOCIETY

### Introduction

The concept of societies is not new to India. In ancient period, societies were the breeding ground for like-minded intellectuals to discuss important developments in the fields of arts, sciences, or for recreational purposes. In India, societies existed in the form of religious or charitable conventions dispensing relief to the needy.

Generally a need is felt to set up an institution of non-commercial nature for promotion of numerous charitable activities like education, art, religion, culture, music, social welfare, sports etc. Associations, clubs or societies are formed to help these purposes as they work on non-profit basis. To legalise such organisations, the Societies Registration Act, 1860 was enacted. The Societies Registration Act, 1860 is a pre-independence era legislation that envisaged the incorporation, management and dissolution of societies incorporated under the said Act.

After the Constitution of India came into force, the Societies Registration Act 1860, (the main Act) has continued to be in force in all the States by virtue of Article 372 of the Constitution. A registered society is a legal entity but it is not a body corporate (Board of Trustees v. State of Delhi AIR 1962 SC 458). It is separate from its members. It can own properties. It is capable of suing or being sued. The position of a society is comparable with an incorporated company under the Companies Act 1956. Hence, a Company Secretary has an important role to play in registration and management of a registered society.

The main Act has been continuing to be applicable in all the States with some amendments made by almost all the States in operation, administration and management of societies within the respective States.

### Registration

A society can be registered by minimum seven individuals which may include foreigners, or registered society for the promotion of literature, science or fine arts or diffusion of useful knowledge and political education or charitable purposes, as specified in Section 20 of the main Act as under:-

- (i) Grant of charitable assistance.
- (ii) Creation of military orphan funds.
- (iii) Societies established at the several Presidencies of India.
- (iv) Promotion of –
  - Science
  - Literature
  - Fine Arts
  - Instructions or diffusion of useful knowledge
  - Diffusion of political education
  - Foundation or maintenance of libraries or reading rooms
  - Public museum and galleries of paintings

- Works of art
- Collections of natural history
- Mechanical and philosophical investments
- Instruments
- Designs.

Various States have added other objects like social welfare, sports & games, environment, compassion of living creatures, recreation, athletics, cultural activities, research work, welfare of physically handicapped etc.

A “charitable purpose” is a purpose which has some element of general public benefit; it does not embrace purposes which are religious or predominantly religious (*Md. Yunus v. The Inspector General of Registration* AIR 1980 Pat. 138). A charitable purpose includes religious purpose (*Hindu Public and another v. Rajdhani Puja Samithee and others* AIR 1999 SC 964).

### Procedure for Registration

The following documents are required to be filed with the Registrar of Societies for registration of a society under the main Act or corresponding Acts of various State Governments:-

1. Covering letter requesting for registration stating various documents annexed to it addressed to the registering authority and signed by all the subscribers to the Memorandum or by a person authorised by all of the them.
2. Memorandum of Association (in duplicate) containing (a) name of the society; (b) the objects of the society; (c) the names, addresses and occupation of the members of the governing body; (d) the place of registered office of the Society, and (e) the names, addresses and full signatures of the seven or more persons subscribing their names to the memorandum of Association. Their signatures should be witnessed.
3. Rules & Regulations/Bye-laws (in duplicate) duly signed by atleast three members of the governing body.
4. Affidavit on non-judicial stamp paper of requisite value by the President or secretary of the society duly attested by Oath Commissioner or Notary Public or Magistrate of first class.
5. Documentary proof such as rent receipt or property tax receipt in respect of the Registered office of the Society or no-objection of the owner of the premises.
6. Registration fee in cash or by demand draft.

The formalities and requirements may differ from State to State. Hence, it is advised that the applicant should contact the registering authority of the State in advance.

The Registering authority shall satisfy himself/herself about the compliance of the provisions of the Act and correctness of the documents and only thereafter certify in his/her hand that the Society is registered under the main Act or the corresponding Act of the State. On registration, the society becomes a legal entity or a judicial person apart from its members (*K.C. Thomas v. R.L. Gadeock* AIR 1970 Pat. 160/163). Its Rules & Regulations bound its members. It must confine its activities to the sphere embraced by its objects (*Ram Kumar v. State of West Bengal* AIR 1953 Cal 534). Any inconsistent object with the provisions of the applicable Act shall be inoperative even after registration (*Radhaswami Satsang Sabha Dayal Bag Vs. Hans Kumar Kishan Chand* AIR 1959 MP 174). A non-registered society may exist in fact but not in law. A unregistered society cannot claim benefits under the Income tax Act, 1961.



### Rules & Regulations

The Rules & Regulations help and guide the members and management of the society in carrying out its objects. They also bind members of the society. The Rules that are inconsistent with the provisions of the Act are inoperative although registered with the Registrar of Societies. The Rules & Regulations of a society may provide for–

- (i) the conditions of admissions of members,
- (ii) the liability of members for fines, forfeitures under certain circumstances,
- (iii) the consequence of non-payment of any subscription or fine registration and expulsion of members,
- (iv) the appointment and removal of trustees and their powers,
- (v) the manner of appointing and removing the governing body,
- (vi) the manner in which the notice of meetings may be given,
- (vii) the quorum necessary for the transactions of business at meetings of the society,
- (viii) the manner of making, altering and rescinding regulations,
- (ix) the investment of funds, keeping of accounts and for annual or periodical audit of account,
- (x) the manner of dissolving the society,
- (xi) the determination upon the dissolution that the property be utilised by the Government or others in particular manner,
- (xii) matters to be provided in bye-laws and the manner in which they shall be made,
- (xiii) such other matters as may be thought expedient having reference to the nature and objects of the society.

### Society may make bye-law

A society can make its bye-laws in accordance with the Rules and Regulations of the society. If the rules do not provide for the making of bye-laws, bye-laws can be made at a general meeting of the society at which concurrent votes of three-fifths of the members present shall be necessary. If any penalty is imposed for the breach of any rule or bye-law of the society, such penalty can be recovered through the Court.

The bye-laws of a society may provide for:

- (a) The business hours of the society;
- (b) The objects of the society;
- (c) The activities of the society in furtherance of its objects;
- (d) The name of the person or officer, if any, authorised to sue or to be sued on behalf of the society;
- (e) The name of other person or officer who is empowered to give directions in regard to the business of the society;
- (f) Enrolment of members –
  - (i) Qualifications for membership, classification, restrictions and conditions, if any, therefor,
  - (ii) The entrance and other fee, or subscription, if any, to be collected from members,

- (iii) The dates prescribed for payment of the amount specified in sub-clause (ii) above and levy of penalties or fine, if any, imposed on defaulting members.
- (g) Removal of members, the circumstances under which members could be removed from the rolls and the procedure for such removal and appeal, if any, against such removal;
- (h) Rights, applications, privileges of members;
  - (i) The manner in which the society shall transact its business;
- (j) The constitution of the Committee and qualifications of the members of the Committee, their term of office and the procedure for their appointment and reappointment;
- (k) The preparation and filing with the concerned Registrar, of records, annual lists or other statements;
- (l) Audit of accounts and the balance-sheet for the financial year;
- (m) The supply of copies of bye-laws, the receipt and expenditure account and of the balance sheet to the members on application and the fee payable for the same;
- (n) Imposition of fine, if any, for breach of the provisions of the bye-laws by any member or officer;
- (o) The mode of custody, application and investment of the funds of the society and the extent and conditions of such investment;
- (p) Funds earmarked specifically for the purpose of making provisions for dependent of a deceased or disabled member and the quantum of payment to be made thereof;
- (q) Arrangements for transactions of day-to-day business of the society, the expenditure to be incurred therefor, the staff to be employed and condition of services of such employees;
- (r) (i) Conduct of annual general meetings and procedure therefor,
  - (ii) Conduct of extraordinary general meetings and procedure therefor and the number of members required for making a requisition in writing, calling for such a meeting,
- (s) Exhibition of the Register of Members, the books containing minutes and the books of accounts at the registered office of the society during business hours for inspection by its members free of charge.

The bye-laws may also deal with such other matters incidental to the organisation and working of the society and the management of its business as may be deemed necessary.

### Members – Their Rights and Liabilities

A member means a person who has –

- (a) been admitted to the society according to its rules and regulations;
- (b) paid subscription provided in the rules;
- (c) signed the roll or list of members of the society; and
- (d) not resigned or ceased from the membership of the society.

Any arrear of subscription amount for a period of exceeding three months is disqualification for continuing to be a member and vote.

No one can claim admission to a society as a matter of right on payment of the prescribed subscription. The discretion of the governing body is final concerning grant or refusal of admission to a person [*Abhoy Pado Bose v. Queen's Anglo Sanskrit School, Lucknow* 34.1.C.263 (Oudh)].

### When members treated as strangers?

A member of the society is liable to be sued as stranger in the following cases:

- (i) When he is in arrear of a subscription which he is bound to pay according to the rules, or
- (ii) When he has detained any property of the society, or
- (iii) When he has destroyed any property of the society.

In above cases the member may be sued for such, arrears and damages. But he can recover the costs if he is successful in the suit (Section 10).

A member is subject to prosecution and punishment as stranger for committing the following offences:

If he (i) steals, or purloins, or embezzles any money or other property or (ii) willfully and maliciously destroy or injures any property of the Society or (iii) forges any deed, bond, security for money, receipt or other instrument whereby the funds of the Society may be recovered when accrued in any Court having jurisdiction where the defendant resides or the Society is situated, as is deemed expedient by the governing body (Section 11).

Members guilty of offences are punishable as strangers. A member of the society may be prosecuted for wilful and malicious destruction or injury to the property of the society or for forgery, exposing the funds of the society to loss.

The members of a society have rights to –

- receive notice of all special and annual general meetings;
- vote at all meetings;
- resolve all disputes among members and society or *inter se*;
- receive copies of the rules and regulations and bye-laws.

Their liabilities are –

- A member may be sued as a stranger by the society;
- Member, guilty of an offence to the society, is punishable as a stranger;
- Member causing breach of any rule or regulation or bye-law of the society is liable to pay penalty under the Bye-Laws;
- Member who is guilty of misfeasance or breach of trust or misapplication of funds in relation to the society shall be accountable to make good the loss so caused to the society.

### Property of Society: Where it vests?

Section 5 of the Act lays down the provisions for vesting of property of the Society. It is presumed that the property, both movable and immovable, belonging to the Society, vests in trustees. But if it is not vested in trustees, Section 6 provides that then it shall be deemed to be vested in the governing body of such Society for the time being. In all civil or criminal proceedings the property may be described as the property of the governing body of such society by their proper title.

The Act does not create in the members of the registered Society any interest other than that of the bare trustees. A property, which has vested in the trustees before registration of the Society, becomes as from, the registration of the Society, a property belonging to the Society and must be deemed to be the property of the Society. As a matter of fact there is no transfer of ownership that which belonged to a registered Society continues after the change in status of that Society on being registered, as belonging to the registered Society (AIR 1953 Cal. 140).

In the case of *Board of Trustee, Ayurvedic and Unani Tibbia College v. State of Delhi*, A.I.R. 1962, SC 458, the Board of Trustees of Tibbia College was dissolved by the Tibbia College in 1952 and the property which had vested in the Board of Trustees, passed to the newly constituted Board.

### Working and Management of Society

As the society is a legal person having no physical existence, its governing body is its brain. Its activities are managed, executed and supervised by the governing body. It has to work within the objects of the society in accordance with the rules, regulations and bye-laws and to carry out the statutory duties under the main Act or the corresponding State Act. The governing body shall also be constituted in accordance with the rules and regulations of the society. The property of the society vests in the governing body and not in the members. The filing and defending the suits by the society shall continue in the original form and the changes in the governing body shall not affect.

There should be minimum three members of the governing body. Its members are either elected or nominated as per the rules and regulations of the society. The term of office of members is three years and members can enjoy two terms. However, the term, retirement, expulsion are governed by the rules and regulations of the society.

The members of the governing body are the trustees of the properties of the society. They have to look after and manage the properties of the society. Here, property means both movable and immovable property. The properties of the society vest in the trustees and when there is no trustee, in the governing body. A trustee is a man who is the owner of the property and deals with it as principal owner and master subject only to an equitable obligation to account to some person to whom he stands in relation of trust and who is *cestric que trust*.

The members of governing body is collectively responsible and accountable to comply with the statutory provisions of the Act for carrying out the functions of the society to achieve its objective(s) for which it is set up. The duties are detailed hereunder:-

1. To hold annual general meeting as per the rules and regulations of the society for laying before such meeting the statement of activities, Income & Expenditure Account and other information as provided in the rules and regulations for the purpose;
2. A list of the names, addresses and occupations of the governors, council, directors, committee or other governing body to which the management of the society is entrusted, is to be filed with the Registrar or such authority as prescribed once in a year either within 14 days of the date of holding such meeting or in the month of January every year.
3. To hold extra-ordinary general meeting to transact some special business, which cannot be waited or delayed, till the holding of the annual general meeting. The purposes of such meeting may be to amend, alter or change in name or address or extensions of operation etc.
4. To report changes or alterations made in the managing, governing body or in the rules of the society to the Registrar.
5. To file notice of situation of the registered office of the society and of any change therein with the Registrar.
6. To register amendment in Memorandum of Association or Bye-laws with the Registrar by way of an application with a copy of the special resolution of the amendment with filing fee.
7. To supply copies of the Bye-laws, the Receipts/Incomes & Expenditure Account and Balance Sheet to the members of the society on their application with the fees, if any, prescribed by the society.
8. To invest and apply the funds and properties of the society in a manner as a prudent man will apply his own funds.

9. To keep and maintain a register of members of the society in accordance with the rules and regulations of the society.
10. To display the name of the society prominently at its registered office and other places of business.
11. To produce or submit periodical statement of Receipts Incomes & Expenditure A/c, Assets & Liabilities of the society.
12. To file a certified copy of every special resolution duly signed by an authorised officer of the society with the Registrar within the prescribed time.
13. To keep and maintain minutes of the meetings of the governing body and general body correctly and truly at the registered office of the society.
14. To retain all the important documents permanently.
15. To prepare periodical Accounts of the society and get them audited and to file Income-Tax Return.
16. To attend all other duties as may be provided in the rules and regulations of the society.

### Amendment or Alteration

The objects of a society are its constitution and the society has to act within the framework of its objects. Any act done by the society beyond the objects clause shall be *ultra vires*. Under Section 12 of the main Act, the following steps are required for alteration, extension or abridgment of the objects of a society –

1. Submission of the proposal by the governing body to the members of the society;
2. Ten days notice to members about holding of a special general meeting;
3. Convening a special meeting for consideration and passing of the proposal by 3/5<sup>th</sup> of the members;
4. Convening second special general meeting after a month; and
5. Confirmation to the proposal by 3/5<sup>th</sup> of the members present at the second special meeting.

The above procedure is also required to be followed for alteration or amendment of the Rules and Regulations or Bye-laws, change of name, and change in the registered office. Every change is required to be registered with the Registrar or the authority as prescribed as per the rules and regulations of the society.

### Suits by and against Society

A Society registered under the Act is a legal entity. It is capable of suing and be sued in the name of the president, chairman or principal, secretary or trustees as determined by the rules and regulations. If there is no such prescribed determination then in the name of such person as appointed by the governing body for the occasion. If no such person is nominated by the governing body on an application made to it, then a person having a claim against society may sue the president or chairman or secretary or trustee.

No suit or proceeding in any Civil Court shall abate or discontinue if the person in whose name the suit has been brought has died or ceased to fill the character. Such suit shall be continued in the name of or against the successor of such person.

The section is merely an enabling provision and does not take away the right of society to sue or be sued in its own name (*Govind Prasad v. Laxminarain* 1960 MPLJ 145).

The provisions contained in Sections 6 and 7 are not mandatory. The words 'for the occasion' in Section 6 of the Act are significant whereas under the rules and regulations of a Society, a general authority can be conferred on the chairman, secretary or trustee for suing or being sued on behalf of the Society. But an authority given by

the governing body has to be limited to the 'occasion' concerned. The object is that registered Societies should not embark upon needless and endless litigations. They must at each distinct stage of the litigation (e.g. to file a suit, to file an appeal) decide whether to pursue the matter further or not etc.

In *Sonar Bangla Bank v. Calcutta Engineering College* (1960) Cal. 409, it was held that the provisions of Section 6 are not mandatory but permissive.

### Enforcement of Judgement Against Society

It is the property of the Society against whom the judgment is enforced although the judgment is named against the person or officer on behalf of the society. It will not be enforced against the person or officer or his property. The application for execution shall set forth the fact of the party against whom it shall have been recovered. Judgements recovered against the nominees of a society are enforceable against the property of the society and not against the property or bodies of those nominees.

### Amalgamation or Division of the Society

Under Section 12 of the main Act, a society may be amalgamated with any other society, either wholly or partially by the governing bodies of the societies for the better utilisation of the properties, resources or any other purpose. The procedure is mandatory (*Prasanna Venkatesa Ra v. K. Srinivasa Ra* 59 MLJ 770). The following actions are to be complied with –

1. Submission of the proposal of amalgamation by the governing body to the members of the society by a printed report;
2. Holding special general meeting by giving ten days notice to the members for consideration and passing resolution for the proposed amalgamation by 3/5th majority of the members, present thereat;
3. Convening another special general meeting after a month for confirmation to the first resolution passed at the first special general meeting by 3/5th majority of the members present thereat.

The majority of a body cannot alter the fundamental principles of the body unless such power is specially reserved. The Government may order division or amalgamation of a society after giving the society an opportunity to represent against such proposal.

### Dissolution of Society

Under Section 13 of the main Act, a society can be dissolved. Dissolution of a society becomes necessary where the objects for which it is formed, has been fulfilled or where the purposes for which it is formed, have become irrelevant, invalid or inoperative or by passing of a resolution by 3/5th majority of the members present at a meeting to dissolve the society for utilisation of its assets for some other better uses. A society may be dissolved forthwith or within the agreed time. The following steps are to be taken:–

1. Decision of the governing body;
2. Convene a special general meeting of the members by giving a requisite notice for consideration and passing resolution by 3/5th majority of the members present thereat;
3. Decision as to dissolve it forthwith or at a later time agreed upon by them;
4. Decision for the actions to be taken for disposal of properties and settlement of claims and liabilities as per the rules and regulations of the society; and
5. Delegate authority to the person(s) of the governing body to comply with the decisions accordingly.

Where any Government is a member of the society or has contributed the funds to the society or is otherwise interested therein, the society shall have to obtain prior consent of such Government for the purpose.

Where any dispute arises on dissolution of a society relating to adjustment of its affairs, it should be referred to the principle Court of the original civil jurisdiction of the District where the chief building of the society is situated. The District Civil Court has the jurisdiction to decide the dispute of a society.

The main Act does not provide for dissolution of societies by the Registrar. Various States, of course, have made provisions for dissolution by the Registrar under the following circumstances—

- (1) Where the office of the society has ceased to be in the State of registration, or
- (2) Where the society has shifted its office from the State of registration to some other State, or
- (3) Where the activities of the society are considered subversive, or
- (4) Where it is carrying on any unlawful activity, or
- (5) Where it has allowed any unlawful activity to be carried on within any premises under its control,
- (6) Where the registered society has contravened any of the provisions of the Act or the rules made thereunder, or
- (7) Where the registered society is insolvent or must necessarily become so, or
- (8) Where the business of such registered society is conducted fraudulently or not in accordance with the bye-laws or the objects specified in the memorandum of the society, or
- (9) Where the society contravened any provision of any other law for the time being in force, or
- (10) Where the number of members of the society is reduced below seven, or
- (11) Where the society has ceased to function for more than three years, or
- (12) Where the society is unable to pay its debts or meet its liability, or
- (13) Where the registration of the society has been cancelled on the ground that its activities or proposed activities have been or will be opposed to public policy.

The Registrar normally inquires or investigates into the activities of the society and calls upon the society to show cause why it should not be dissolved. The Registrar may move the Court for making an order for dissolution of the society, if the cause shown by the society is not satisfactory.

Similarly, the main Act does not provide for dissolution by the Court. But in some States, the Court may order for dissolution of a society on application by 10% of its members or the Registrar on having been satisfied that any one or more of the following circumstances exist:—

- (1) If there is any contravention by the society of the provisions of the Act, or
- (2) If the number of members is less than seven, or
- (3) If the society has ceased to function for more than three years, or
- (4) If the society is unable to pay its debts or meet its liabilities, or
- (5) If it is proper that the society has to be cancelled on the ground of its activities, or
- (6) If proposed activities have been or will be opposed to the public policy,
- (7) If the activities of the society constitute a public nuisance,
- (8) If the activities of the society are otherwise opposed to public policy.

The Government may by written order containing detailed reasons, dissolve a society. Before passing such order an opportunity has to be given to the society for representation against dissolution. Any order of withdrawal of registration without notice or opportunity to the society for representation in the matter shall be against the rule of natural justice.

### Consequences of Dissolution

Dissolution of a society results in cessation of its activities. Its liabilities are to be settled suitably and its surplus assets are to be given to another society or the Government in terms of its rules and regulations. If the rules do not provide in the matter, the governing body of the society shall take appropriate steps with requisite majority vote or as directed by the Registrar or the Court. But in no circumstances, the surplus assets of the dissolved society can be paid or distributed amongst its members or any of them.

### Registrar of Societies – Powers & Duties

The main Act makes an indirect reference to the powers of the Registrar under Sections 1, 2, 3, 4, 17, 18 and 19. Under the corresponding Acts of various States different powers and duties are given to the Registrar. These are –

1. Allow inspection of documents by any person and provide certified copy thereof on payment of fees as prescribed,
2. Call information, explanation or returns from the societies relating to the affairs, employees, documents filed, accounts etc.,
3. Hold inquiries and settle disputes *suo moto* or at the request of the members of the governing body or other members,
4. Investigate into the affairs of the society,
5. Cancel registration on happening of certain events,
6. Refuse registration, if the name is undesirable or identical or the objects are contrary to any other law etc.,
7. Order amendment of Memorandum of Association, rules and regulations, bye-laws of society,
8. Seize and take possession of the books and records, funds and property of the society,
9. Summon and enforce attendance of witness including the parties interested for giving evidence and producing documents,
10. Order for auditing of the accounts of the society,
11. Compounding offences on application with fee,
12. Settle disputes regarding election of the office bearers,
13. Restoration of the property or money of the society,
14. Removal of the defunct society from the register of societies,
15. Condonation of delay in filing of documents,
16. Appointing liquidator.

### Offences and Penalties

The main Act does not provide for any offences and penalties for breach or contravention of its provisions. However, various State Governments have amended the main Act to provide for offences and penalties for non-



compliance. No Court inferior to that of a Magistrate of the first class shall try any offence punishable under the main Act. No Court shall take cognizance of any offence except upon complaint made by the Registrar of Societies or any authorised person by him.

## TRUSTS

### Introduction

The concept of 'trust' relates to the ancient times. When the properties were dedicated for charitable, pious, religious, social welfare, educational, medical purposes. Now a days, it has gained a greater significance for various tax exemptions made available to a trust which is treated as a separate legal entity. The Trust laws came to India via English Trust law which stipulates dual ownership of trust property i.e. legal title vests with the trustee while equitable title vests with the beneficiary. On this basis, Indian Trusts Act 1882 was enacted. The Indian Trusts Act, 1882 codifies the law relating to private trusts and private trustees under different subject heads which include Creation of trusts; Duties and liabilities of trustees; Their rights and powers; Their disabilities; The rights and liabilities of the beneficiary; Vacating the office of trustee; The extinction of trusts and; Certain obligations in the nature of trusts.

Hindu charitable or religious trusts are mainly governed by the provisions of Hindu Laws which have been passed by several States under Article 25 (2) of the Constitution of India, like, The Bombay Public Trust Act, 1950, Rajasthan Public Trust Act, 1959, Madras Hindu Religious and Charitable Endowment Act, 1959 etc. The Wakf Act 1995 regulates muslim Wakfs for public benefit. There are also several States laws for regulating the proper administration of Wakfs in India. There are other trust laws like, Sikh Gurdwara Act, 1925 governing Sikh Gurdwaras.

A 'trust' is an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another or of another and the owner.

The following are the essential elements of a trust :-

1. the author or the settler of the trust;
2. the trustee;
3. the beneficiary;
4. the trust property or the subject-matter of trust
5. the object of the trust;
6. the instrument of trust.

### Indian Trust Act

In view of a plethora of Trust laws, Indian Trust Act 1882 has been considered desirable to be discussed hereunder and for brevity it is referred hereinafter as "The Trust Act".

The Act is divided into the following parts:

- (i) preliminary;
- (ii) the creation of trusts;
- (iii) the duties and liabilities of trustees;
- (iv) their rights and powers;
- (v) their disabilities;

- (vi) the rights and liabilities of the beneficiary;
- (vii) vacating the office of trustee;
- (viii) the extinction of trusts; and
- (ix) certain obligations in the nature of trusts.

### Scope

As is clear from the preamble, the Act has no application to public or private, religious or charitable endowment.

The Indian Trusts Act is exhaustive in respect of any matter specifically provided for in it, but it is not exhaustive of all matters relating to private trusts. Therefore, in cases covered by the Act, its provisions must be applied but if a case is not covered by it, the Court is entitled to apply rules of English law, as laid down by judicial decisions in that country and which are not inconsistent with the Act, as the rules of justice, equity and good conscience.

### Definition of Trust

The Act defines the term 'trust' in Section 3 as (i) an obligation annexed to the ownership of property and (ii) arising out of confidence reposed in and (iii) accepted by the owner or declared and accepted by him, (iv) for the benefit of another or of another and the owner.

The person who reposes or declares the confidence is called the 'author of the trusts', the person who accepts the confidence is called the 'trustee', the person for whose benefit the confidence is accepted is called the 'beneficiary'; the subject matter of the trust is called 'trust property' or 'trusts money'; the 'beneficial interest' is beneficiary's right against the trustee as owner of the trust property; and the instrument declaring the trust is called the 'instrument of trust'.

The word 'trust' in its legal sense has a technical and definite meaning which is very much different from the sense in which this word is used in daily parlance. Trust connotes a legal concept or relationship similarly as other relationships created by law, e.g., Contract, Agency.

### Trust and Contract

Trust in its origin was a form of contract distinctively enforced in equity. A contract creates a trust where it has brought into existence an obligation annexed to the ownership of property for the benefit of a person other than the owner. No technical words are required to create a trust.

There is always a fiduciary relationship between trustee and beneficiary, but not between the parties to a contract.

### Difference Between Trust and Bailment, Trust and Agency

The definition of Bailment is given in Section 148 of the Indian Contract Act, 1872. The following is the difference between a trust and a bailment.

- (i) A trustee becomes the full owner of trust property. A bailee acquires special property only.
- (ii) The obligation of the bailee is legal, whereas that of a trustee is equitable.
- (iii) A bailment may be created for movable property only. A trust may be created for both movable and immovable properties.

### Difference between Trust and Agency

- (i) An agent has no title to the property. A trustee is the full owner of the trust property.
- (ii) An agent acts on behalf of his principal and is subject to his control. A trustee acts in his own right.
- (iii) An agent is generally not personally liable, a trustee is

### CLASSIFICATION OF TRUSTS

Trusts are divisible into several classes according to the mode of their creation. Some of the important classes are as follows:

#### Simple and Special Trust

Where the trustee is merely to hold the estate without having any active duties to perform it is called a simple trust. Where, however, the trust has been created for a particular object or purpose there is a special trust. Thus, in a simple trust, the trustee is merely to hold the property for the benefit of the beneficiary and in a special trust, the trustee has duties to perform.

#### Oral and Written Trusts

A trust may be declared either orally or through an instrument in writing. However, a trust in relation of movable property can be declared orally by transferring the possession of the property with a direction that the property be held in trust. In regard to a private trust for immovable properties, a written trust deed is pre-requisite.

#### Charitable or Religious Trust

In order to determine whether a deed of trust is a valid public or charitable trust, it is necessary to see what is the dominant intention of the testator, namely, who are the real objects of his bequest and secondly whether the class indicated as the object of charity forms at least a section of the public. Where the main and paramount intention of the settler was to benefit the members of his family and thereafter the members of his caste who might need assistance from such funds there could be no public or charitable trust created.

It is one of the cardinal rules governing execution of charitable trusts that the intention of the donor must be observed. This principle has been evolved as an auxiliary to this rule and is never allowed to defeat it. If the charity can be administered according to the directions of the founder, the law requires that it should be so administered. The Courts will not allow any departure from them on the grounds of expediency.

*Cy pres* means near to it. The doctrine of *Cy pres* applies only to charitable trusts. The reason is that a public charity is perpetual and the rule against perpetuity does not apply to it. It can never die though its nature may be changed. In *Halsbury's Law of England, in 3rd Edn. Vol. 4, P. 317*, it is stated:

“Where a clear charitable intention is expressed, it will not be permitted to fail because the mode, if specified, cannot be executed, but the law will substitute another mode *Cy pres*, that is, as near as possible to the mode specified by the ‘donor’.

However, the above doctrine is subject to the doctrine of severability, i.e., the doctrine of *Cy pres*, applies if the nature of the charitable object is general and not specific.

#### Express and Implied Trusts

Express trusts are created by the act of parties either in words or in writing. While an implied trust is one which is deduced from the conduct of the parties and the circumstances of the transactions.

### Public and Private Trusts

The criterion for deciding whether a particular trust is or is not of a private nature, is whether the said trust is or is not for the benefit of individuals. Where the intention of the founder, as shown by the recitals in his Will, was that the property was to be dedicated for the benefit of idols, the trust is undoubtedly of a public nature and not for the benefit of the individual members of family. The essential difference between a private and a public trust is that in the former the beneficiaries are definite and ascertained individuals or individuals who within definite time can be definitely ascertained but in the latter the beneficial interest must be vested in an uncertain and fluctuating body of persons either the public at large or some considerable portion of it answering a particular description.

### Revocable and Irrevocable Trusts

A revocable trust is one which is revocable when it is created by a non-testamentary instrument or orally and a power of revocation has been expressly reserved by the settler. A trust may be revoked by the consent of all the beneficiaries who are competent to contract (Section 78).

All other trusts are irrevocable. Besides if a trust is created for charitable or religious purposes, such a trust cannot be revoked.

### Public-cum-Private Trust

A Public-cum-Private Trust is one in which a religious trust is created for the immovable property like a Temple, Durgah etc. in the nature of a public trust but there is a direction for use of income through offerings or otherwise for public purposes and also a part thereof to person(s) in charge of the Temple, Durgah etc. A public-cum-private trust may become a fully public trust when the private beneficiary(ies) renounces his/their rights to which they are entitled.

### Constructive Trust

A constructive trust is one which is not created by the express or implied act of the settler, but which is deemed by operation of law or arises by construction of law. A constructive trust is a relationship with respect to a property subjecting the person by whom the title to the property is held by an equitable duty to convey it to another on the ground that his acquisition or retention of the property would be wrongful and that he would be unjustly enriched if he were permitted to retain the property.

### Resulting Trust

A resulting trust is one, which is implied in favour of the settler or his representative. It comes into existence where the property is incompletely conveyed or where on a conveyance, the beneficial interest in the property is not completely disposed of and the property or the undisposed beneficial interest in it reverts back to the settler. When a trust is bad as a charitable trust, a resulting trust comes into existence in favour of the settler. [*Dwarkadas Bhimji v. CIT* (1948) 16/TR 160 Bom.].

### Executed and Executory Trust

An executed trust is one in which the limitation of the estate and the beneficiaries are prescribed by the settler in the trust deed itself and no further instrument is required.

An executory trust is not complete in itself and its execution is left to the judgement of the trustees. Here, the settler instead of expressing exactly what he means, tells the trustees to do their best to carry out his intentions

## CREATION OF TRUST

### (i) Creation of Trusts for lawful purposes only

The Act allows creation of a trust for any lawful purposes. What is lawful can be gathered from the provisions of Section 4 of the Act which provides that purpose of a trust is lawful unless it is

- (a) forbidden by law, or
- (b) is of such a nature which will defeat the provisions of any law, or
- (c) is fraudulent, or
- (d) involves or implies injury to the person or property of another, or
- (e) the Court regards it as immoral or opposed to public policy.

Thus a trust which does not fall in any of the above prohibitions, is deemed to be for lawful purpose. A trust for an unlawful purpose is void. Where a trust is created for two purposes one lawful and another unlawful, and the purposes are inseparable from one another, the whole trust is void. On the other hand if one of the objects of a trust is lawful and the expenses on it are fixed, and that object is not dependent upon and is separate from the other objects, the trust to that extent will be valid.

The expression 'law' includes the law of a foreign country in which immovable property of a trust is situated.

### (ii) Trust of immovable property

Section 5 of the Act lays down the formalities which are to be observed for creation of a trust. It provides that a trust of immovable property can be created by an instrument in writing and registered, signed by the author of the trust or by Will.

Trust of movable property requires no writing or registration. The mere transfer of possession coupled with the intention of the parties that such delivery of possession should vest the property in the trustee is sufficient to create a trust.

### (iii) Creation of a trust

Section 6 lays down provisions for creating a trust. It provides that subject to the provisions of Section 5 a trust is created when the author of the trust indicates with reasonable certainty by any words or acts: (a) an intention on his part to create thereby a trust; (b) the purpose of the trust; (c) the beneficiary, and (d) the trust property; transfer the trust property to the trustee except where a trust is declared by Will or the author of the trust is himself to be the trustee. If a trust is to be valid and enforceable, it is material to ascertain the author of the trust. Next the intention to create a trust, the purpose of the trust, the trust-property and the beneficiaries must be indicated and in such a way that the trust could be administered by the Court if the occasion arose.

For creating a trust the author of the trust should indicate with reasonable certainty the following:

- (1) *Certainty in words*: The words used to create a trust must be clear and certain so as to explain a clear intention to create a trust. Recommendatory words like "I hope" "I wish" are not sufficient.
- (2) *Certainty in the object of the trust* : The beneficiary, for whose benefit the trust is created, must be shown clearly.
- (3) *Certainty in the subject-matter of the trust* : The subject matter of the trust must be clear, i.e., the property, in respect of which a trust is created, must be shown clearly. Purpose of the trust should be certain.

If the trust instrument is lacking in first and third certainties, no trust is created but if the second certainty is absent, resulting trust will be created in favour of the author of the trust.

**Illustrations**

- (a) A bequeaths certain property to B, “having the fullest confidence that he will dispose of it for the benefit of C”. This creates a trust so far as regards A and C. B is not bound as a trustee.
- (b) A bequeaths certain property to B, “hoping he will continue it in the family”. This does not create a trust as the beneficiary is not indicated with reasonable certainty.
- (c) A bequeaths certain property to B, requesting him to distribute it amongst such members of C’s family as B should think most deserving. This does not create a trust, for the beneficiaries are not indicated with reasonable certainty.
- (d) A bequeaths certain property to B desiring him to divide the bulk of it among C’s children. This does not create a trust, for the trust property is not indicated with sufficient certainty.
- (e) A bequeaths a shop and stock-in-trade to B on condition that he pays A’s debts and a legacy to C. This is condition, not a trust for A’s creditors and C.

**Who can create a Trust?**

A trust may be created (i) by every person competent to contract, and (ii) with the permission of a Principal Civil Court of original jurisdiction, by or on behalf of a minor (Section 7). Thus, generally any person competent to contract and competent to deal with the property can create a trust.

**Who may be a Trustee?**

Every person capable of holding property may be a trustee. But if the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract (Section 10).

No one is bound to accept a trust. Acceptance of the trust by a trustee may be express or implied.

**Illustrations:**

- (a) A bequeaths certain property to B and C, his executors as trustees for D. B and C prove A’s will. This is in itself an acceptance of the trust, and B and C hold the property in trust for D.
- (b) A transfers certain property to B in trust to sell it, and to pay out of the proceeds, A’s debts. B accepts the trust and sell the property. So far as regards B, a trust proceed is created for A’s creditors.
- (c) A bequeaths, a lakh of rupees to B upon certain trusts, and appoints him his executor. B serves the lakh of rupees from the general assets, and appropriates it to the specific purpose.

This is an acceptance of the trust.

**Duties of Trustee**

Sections 11 to 22 of the Act deal with the duties of trustee. They are as under:

- (1) The Trustee should execute the trust and obey the directions given in the instrument of the trust. He can make any alteration in those directions only with the consent of beneficiaries who are competent to contract. If a beneficiary is incompetent to enter into a contract, the Principal Civil Court of original jurisdiction may give consent on behalf of the minor.

**Illustrations:**

- (a) A, a trustee, is simply authorised to sell certain land by public auction. He cannot sell the land by private contract.
- (b) A, a trustee of certain land for X, Y and Z, is authorized to sell the land to B for a specified sum. X, Y and Z, competent to contract, consent that A may sell the land to C for a lesser sum. A may sell the land accordingly.
- (c) A, a trustee, for B and her children, is directed by the author of the trust to lend, on B's request, trust property to B's husband, C on the security of his bond. C becomes insolvent and B requests A to make the loan. A may refuse to make it.

- (2) It is a duty of a trustee to acquaint himself with the nature of the trust property.
- (3) The trustee must protect and preserve the trust property.

**Illustrations:**

The trust property is immovable property which has been given to the author of the trust by an unregistered instrument. The trustee's duty is to cause the instrument to be registered.

- 4. The trustee must not set up a title to the trust property, which is adverse to the interest of the beneficiary. Nor should he allow any person to do so.
- 5. He must deal with the trust property in such a manner as a man of ordinary prudence would deal with such property as if it were his own.

**Illustrations:**

- (a) A, a trustee for B, in execution of trust sells trust property but for want of due diligence on his part, fails to receive part of the purchase money. A is bound to make good the loss.
- (b) A, trustee for B, allows the trust to be executed solely by his co-trustee C. C misapplies the trust property. A is personally answerable for the loss resulting to B.

- 6. If a trust is created in favour of several persons in succession and the trust property is of washing nature or consists of a future or reversionary interest, the trustee is bound to convert it into property of permanent nature. However, this is subject to any contrary intention which could be inferred from the trust instrument.

**Illustrations:**

A bequeaths to B all his property on trust for C during his life, and on his death for D, on D's death for E. A's property consists of three leasehold houses and there is nothing in A's will to show that he intended the houses to be enjoyed in *specie*. B should sell the houses and invest the proceed in trust securities as per Section 20.

- 7. The trustee must act impartially where there are more than one beneficiary.
- 8. Where the trust is created for the benefit of several persons in succession and one of them is in possession of the trust property, if that person commits any act destructive or injurious to the trust property, the trustee must take the steps to prevent it.
- 9. The trustee must keep an accurate account of the trust property. At the request of the beneficiary he must furnish him the account and the state of trust property.

10. The trustee must invest the trust property and funds in the securities mentioned in Section 20 of the Act. This is subject to any contrary directions in the trust instrument.
11. The trustee must sell the trust property within the specified or extended time without prejudice to the beneficiary or as authorized by the Court.

### Liabilities of Trustees

1. **Liability for a breach of Trust:** If a trustee commits a breach of the trust, he is liable to make good the loss which the trust property of the beneficiary has suffered. However, in two cases he is not liable for such a loss. (i) Where the breach of the trust has resulted due to any fraud committed by the beneficiary; and (ii) Where the beneficiary, being competent to contract, has given his consent for that breach without any coercion or undue influence or subsequently acquiesced therein, with full knowledge of the facts (Section 23).

#### Illustrations:

- (a) A trustee improperly leaves trust property outstanding, and if it is consequently lost he is liable to make good the property lost, but he is not liable to pay interest thereon.
- (b) A trustee is guilty of unreasonable delay in investing trust money in accordance with Section 20, or in paying it to the beneficiary. The trustee is liable to pay interest thereon for the period of the delay.
- (c) The instrument of trust directs the trustee to invest trust money either in any of such securities or on mortgage of immovable property. The trustee does neither. He is liable for the principal money and interest.
- (d) The trust property consists of land. The trustee sells the land to a purchaser for a consideration without notice of the trust. The trustee is liable at the option of the beneficiary, to purchase other land of equal value to be settled upon the like trust, or to be charged with the proceeds of the sale with interest.

2. **No right of set-off:** A trustee who is liable for a loss because of a breach of trust committed by him in respect of one portion of the trust property is not allowed to set-off against his liability, a gain which he has accrued to another portion of the trust property through another and distinct breach of the trust property (Section 24).
3. A trustee is not liable for the acts and defaults of his predecessor.
4. Generally a trustee is not liable for a breach of the trust committed by his co-trustee. However, such a trustee will be liable in the following cases:
  - (i) Where he delivers his trust property to his co-trustee without seeing to its proper application;
  - (ii) Where he allows his co-trustee to receive the trust property and fails to make due inquiries about his co-trustee's dealing therewith; and
  - (iii) Where after he comes to know of the breach of the trust committed by his co-trustee, he either actively conceals it or does not take proper steps to protect the interest of the beneficiary.

However, a co-trustee who joins in signing a receipt for the trust property for sake of conformity without actually receiving it shall not be liable merely by reason of his signature only.

A trustee is liable for money and property actually received by him.



5. **Nature of liability of a co-trustee:** When co-trustees jointly commit a breach of trust, and when one of them, by his negligence, enables another trustee to commit a breach of trust, each trustee is liable to the beneficiary for the whole loss sustained by the beneficiary.
6. Under Section 23 of the Act, in certain circumstances, a trustee is liable to pay simple or compound interest to the beneficiary.

### Rights, Powers and Disabilities of Trustees

The rights, powers and disabilities of a trustee are discussed in Chapter IV of the Act. The important *rights* are as under:

1. The right to have the possession of the instrument of trust and the title-deed relating to the trust property.
2. The right to reimburse himself of all costs, expenses and liabilities incurred in administration of the trust.
3. In case of a breach of the trust, the person who derives any benefit out of such a breach, must indemnify, the trustee to the extent of the amount actually received by him.
4. A trustee has a right to take opinion, advice or direction from the Court on questions relating to the management and administration of the trust.
5. When a trustee, properly completes his duties, he is entitled to get a discharge to the effect in writing.
6. A trustee has a general right to do all necessary acts (i) for preservation and protection of the trust property, and (ii) to protect the interest of a beneficiary who is not competent to contract but he cannot give on lease any trust property for more than twenty-one years without the permission of a Court.

### Powers of Trustee

1. He can sell the trust property where instrument of the trust so empowers him.
2. A trustee has a power to vary investments.
3. A trustee has a power to apply the trust property for the maintenance of property as provided in the instrument of trust.
4. A trustee can compromise claims unless a contrary intention appears from the instrument of the trust.
5. A trustee can give receipt for the money received on account of the trust.
6. In case of death of one of the trustees, the other trustees have a right to act, unless contrary intention appears from the instrument of the trust.

### Disabilities of Trustees (Chapter V)

1. A trustee who once accepted the trust, cannot renounce it except:
  - (i) with the permission of the Court,
  - (ii) with the consent of the beneficiaries who are competent to contract,
  - (iii) by virtue of a special power in the instrument of the trust.
2. A trustee cannot delegate his office or any of his duties either to a co-trustee or to a stranger, except in the following cases:
  - (1) When the instrument of the trust so provides,
  - (2) When such a delegation is in the regular course of business,

- (3) When such a delegation is necessary, and
- (4) The beneficiary, being competent to contract, consents to such a delegation.

**Illustrations:**

- (a) A bequeaths certain property to B and C on certain trust to be executed by them or the survivor of them or the assigns of such survivor, B dies. C may bequeath the trust property to D and E upon the trusts of A's will.
  - (b) A is a trustee of certain property with power to sell the same. A may employ an auctioneer to effect the sale.
  - (c) A bequeaths to B fifty houses let at monthly rents in trust to collect the rents and pay them to C. B may employ a proper person to collect these rents.
3. Where there are more trustees than one, all must join in the execution of the trust unless the trust instrument or any law for the time being in force provides otherwise.
  4. The trustees cannot exercise their discretionary powers arbitrarily.
  5. In the absence of express direction to the contrary contained in the instrument of trust or of a contract entered into with the beneficiary or of the sanction of the Court, the trustee has no right to remuneration.
  6. A trustee may not use or deal with the trust property for his own use.
  7. No trustee whose duty is to sell the trust property may directly or indirectly buy the trust property.
  8. No trustee and no person who has recently ceased to be a trustee may, without the permission of the Court, buy, or become mortgagee or lessee of the trust property.
  9. The trustee and the co-trustee may not lend the trust amount to themselves.

**Vacating the office of trusteeship**

The office of a trustee is vacated on his death or by his discharge. He may be discharged from his office by the extinction of the trust or by the completion of his duties or by new appointee etc.

**Meaning of a Beneficiary**

The person or persons for whose benefit, a trust has been created, is called the beneficiary or beneficiaries. While the trustees hold the legal title in trust property, the beneficiary holds the beneficial interest in that property.

**Who may be a beneficiary**

A beneficiary may be any person, so specified by the author of the trust, a beneficiary may be a near or distant relative of the author or a person not related to the author at all or general public or a class thereof. A minor, woman and even an unborn person can be a beneficiary. In case of a charitable or religious trust, there need not be a specific beneficiary; the beneficiary thereunder is the object or the purpose of the trust.

If the beneficiaries under a trust are not specified and they are not capable of being ascertained, no trust can come into existence [*Allahabad Bank v. CIT AIR 1953 476*].

A beneficiary may renounce his interest under the trust by (i) a disclaimer addressed to the trustee or (ii) by setting up a claim inconsistent with the trust. On the disclaimer by a beneficiary and the trust deed does not provide for such disclaimer, the trust would revert to the author or settler as a resulting trust.

### Doctrine of Cypres

Where the object of the charitable trust, specified by the settler, is or subsequently becomes impossible or impracticable or unlawful, the trust will not necessarily fail, but the Court has power to apply the trust to some other charitable object as nearly as possible resembling the intention of the author. This power of the Court is known as “doctrine of cypres”. When a particular mode of charity indicated by the author is not capable of being carried out, yet a general intention of charity, is indicated by the author of the trust, the Court would execute it ‘cypres’ i.e. in a way as nearly as possible to that which testator specified.

### Rights and Liabilities of Beneficiaries (Chapter VI)

Important rights of the beneficiary of the trust are:

1. Right to rents and profits of the trust-property;
2. Right to the specific execution of the trust;
3. Right to inspect and take copies of the instrument of trust;
4. Right to transfer the beneficial interest, if he is competent to contract;
5. Right to sue for execution of trust;
6. Right to proper trustees; and proper number of trustees;
7. A beneficiary has a right to follow the trust property in the hands of a third person. Even where a trustee disposes of the trust property and acquires some other property with the help of the disposal money, the beneficiary is entitled to have the latter property, the same rights or as nearly as possible the same rights, he had over the trust property.

#### **Illustrations:**

- (a) A, a trustee for B wrongfully invests ₹ 10,000 in the purchase of certain land, B is entitled to the land.
- (b) A, a trustee, wrongfully purchases land in his own name, partly with his own money, partly with money subject to a trust for B. B is entitled to a charge on the land for the amount of the trust money so misemployed.

8. Right to compel to any act of duty.

### Liabilities

If a beneficiary commits a breach of trust or obtains any advantage, the other beneficiaries may attach the interest of such a beneficiary until the loss caused by the breach has been compensated.

### Extinction of a Trust (Section 77)

A trust is extinguished:

- (a) When its purpose is completely fulfilled; or
- (b) When its purpose becomes unlawful; or
- (c) When the fulfillment of its purpose becomes impossible by destruction of the trust property or otherwise; or
- (d) When the trust being revocable, is revoked.

### Revocation of a Trust (Section 78)

If a trust is created by a Will, it may be revoked by the revocation of the Will. A trust which has been created otherwise, by an instrument other than a Will or orally, can be revoked only:

- (a) with the consent of all the beneficiaries competent to contract;
- (b) by the exercise of power of revocation expressly reserved by the author of the trust (in cases of trusts declared orally or by non-testamentary instruments); or
- (c) where the trust is created for the payment of debts of the author of the trust, and has not been communicated to the creditors, at the pleasure of the author of the trust.

A conveys property to B in trust to sell the same, and pays out of the proceeds the claims of A's creditors. A reserves no power of revocation. If no communication has been made to the creditor. A may revoke the trust. But if the creditors are parties to the agreement, the trust cannot be revoked without their consent.

A trust is generally irrevocable unless a power of revocation is expressly reserved.

#### LESSON ROUND-UP

- A registered society is a legal entity but it is not a body corporate. It is separate from its members. It can own properties. It is capable of suing or being sued. The position of a society is comparable with an incorporated company under the Companies Act 1956.
- A society can be registered by minimum seven individuals which may include foreigners, or registered society for the promotion of literature, science or fine arts or diffusion of useful knowledge and political education or charitable purposes.
- As the society is a legal person having no physical existence, its governing body is its brain. Its activities are managed, executed and supervised by the governing body. It has to work within the objects of the society in accordance with the rules, regulations and bye-laws and to carry out the statutory duties under the main Act or the corresponding State Act.
- Dissolution of a society becomes necessary where the objects for which it is formed, has been fulfilled or where the purposes for which it is formed, have become irrelevant, invalid or inoperative or by passing of a resolution by 3/5th majority of the members present at a meeting to dissolve the society for utilisation of its assets for some other better uses.
- A 'trust' is an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another or of another and the owner.
- Trust in its origin was a form of contract distinctively enforced in equity. A contract creates a trust where it has brought into existence an obligation annexed to the ownership of property for the benefit of a person other than the owner.
- Every person capable of holding property may be a trustee. But if the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.
- The person or persons for whose benefit, a trust has been created, is called the beneficiary or beneficiaries. While the trustees hold the legal title in trust property, the beneficiary holds the beneficial interest in that property.



# Partnership Firms

## KEY CONCEPTS

- Partnership ■ Firm ■ Sharing of Profits ■ Partnership Deed ■ Partner by Estoppel

## Learning Objectives

### To understand:

- Rights and Liabilities of Partners
- Registration of Firms
- Relation between the Partner
- Admission of New partners
- Dissolution of Firms and Partnership.

## Lesson Outline

- Nature of Partnership
- Essentials of a Partnership Registration of Partnership
- Classification of Partnership
- Kinds of Partners
- Rights and Duties of Partners
- Relation of Partners to Third Parties
- Dissolution of Partnership
- Lesson Round-Up
- Test Yourself

## REGULATORY FRAMEWORK

- Indian Partnership Act, 1932

## INTRODUCTION

Likewise, companies which are regulated by Companies Act, 2013, the other form of business is partnership which is regulated by Indian Partnership Act, 1932. The partnership is considered as the convenient way to start a business. Suppose one wants to open a bookshop in the locality. There are various things that are required to start and run the business which may not be feasible to arrange all alone. These may include resources from money to place to management. In that case, the idea may be spoken to friends and relatives who may agree to run the bookshop by contributing a certain amount of money and other things required. So all of them join hands together to become the owners and agree to share profits and losses.

The law relating to partnership firm in India is prescribed in the Indian Partnership Act of 1932. The Indian Partnership Act, 1932, came into force w.e.f. 1<sup>st</sup> October, 1932 except section 69, which came into force on the 1<sup>st</sup> day of October, 1933. It extends to the whole of India except the state of Jammu and Kashmir.

It lays down the important provisions relating to partnership contracts. However, the general principles of the Indian Contracts Act, 1872 which formally contained the provisions of the law of partnership shall apply so far as they are not inconsistent with this Act. (Section 3)

## Partnership

A partnership depends on the existence of a relationship which results from a contract to carry on business. A partnership relationship can arise only by mutual consent. The agreement, which gives rise to the partnership relationship, may be express or inferred from parties' conduct.

According to Section 4 "Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all".

When analysed, the definition tells us that in order that persons may become partners, it is essential that:

There must be at least two persons

There must be relationship arising out of an agreement between two or more persons to do a business

The agreement must be to share the profits of a business

The business must be carried on by all or any of them acting for all

All these four elements must be present before a group or an association can be held to be partners. In other words, it can be said that all the aforesaid four elements must co-exist before a partnership can be said to come into existence. If any one of them is not proved to be present, there cannot be a partnership. The first element relates to the voluntary contractual nature of partnership; the second gives the motive which leads to the formation of firms, i.e. the acquisition of gains; the third shows that the persons of the group who conduct the business do so as agents for all the persons in the group, and are therefore liable to account to all the persons in the group (*Maliram Choudhary vs. Jagannath*, AIR 1972 Orissa 17).

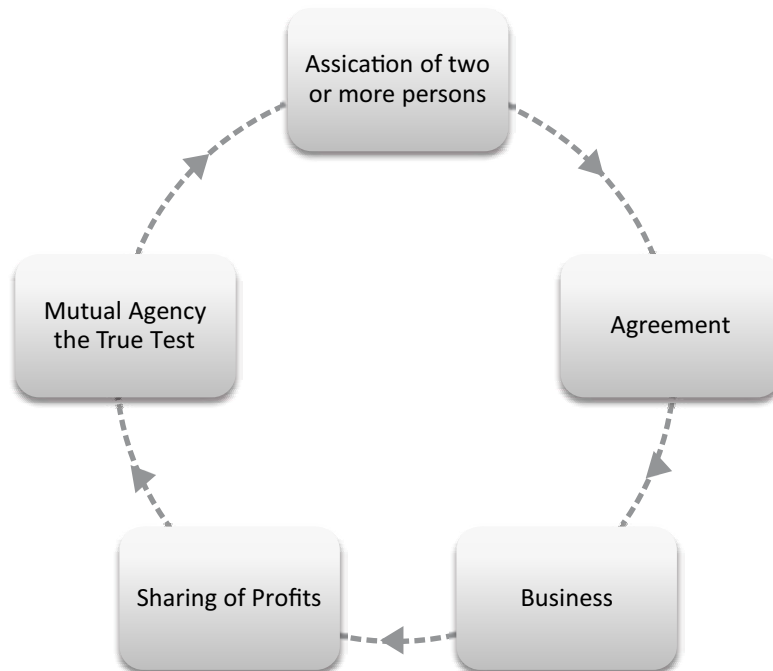
### Partners, Firm and Firm Name

Persons who have entered into partnership with one another are called individually “partners” and collectively “a firm”, and the name under which their business is carried on is called the “firm name”. (Section 4)

In law, “a firm” is only a convenient phrase for describing the partners, and the firm has no legal existence apart from its partners. It is neither a legal entity, nor is it a person as is a corporation; it is a collective name of the members of a partnership.

As regard the “firm name”, partners have a right to carry on business under any name and style which they choose to adopt, provided they do not violate the rules relating to trade name or goodwill. They must not adopt name calculated to mislead the public into confusing them with a firm of repute already in existence with a similar name. They must not use a name implying the sanction of patronage of the Government. A partnership firm cannot use the word “Limited” as a part of its name.

### Essentials of a Partnership and True Test of Partnership



These elements are discussed below in detail:

**(1) Association of two or more persons**

There must be a contract between two or more persons. Therefore unless there are at least two persons there cannot be a partnership. Persons must be competent to enter into a contract. They may all be natural or artificial or some natural and other artificial. Thus a corporation or limited partnership may itself be a partner in a general partnership.

**(2) Agreement**

Existence of an agreement is essential of partnership. Section 5 of the Act states that the relation of partnership arises from contract and not from status; and in particular, the members of a Hindu Undivided Family carrying on a family business as such, or a Burmese Buddhist Husband and wife carrying on business as such are not partners in such business.



Such an agreement between the partners may be express or implied. Further, the agreement must be a valid agreement and for a lawful object and purpose and between the persons competent to contract.

### (3) **Business**

Partnership implies business and when there is no association to carry on business there is no partnership. The term “business” is, however, used in the widest sense to cover trade, occupation and profession. As per Section 2(b) of the Act the term “business” includes every trade, occupation and profession. In the definition of partnership the word “business” is used in the sense of “carrying on business” which suggests continuity or repetition of acts. But it does not mean that it should be confined to lengthy operations, it may consist of a single adventure of a single undertaking, if there is continued participation of two or more persons for acquisition of gains.

The term must be understood in a particular sense . It refers to any activity which, if successful, would result in profit.

### (4) **Sharing of Profits**

To constitute a partnership, the parties must have agreed to carry on a business and to share profits in common. “Profits” mean the excess of returns over advances, the excess of what is obtained over the cost of obtaining it. Sharing of profits also involves sharing of losses. But whereas the sharing of profit is an essential element of partnership, the sharing of losses is not. It is open to one or more partners to bear all the losses of the business.

It follows that the sharing of profits is an essential ingredient of partnership and there would be no partnership where only one of the partners is entitled to the whole of the profits of the business. But it is open to the partners to agree to share the profits in any way they like. They may agree to share the profits either in specific proportions or in specific sums.

### **Sharing of Profits is not Conclusive**

Test although sharing of profits is a prima facie evidence of the existence of partnership, this is not the conclusive test of the same. A person may have a share in the partnership profits, but still may not be a partner. For instance, a joint owner of a property sharing its return or members of non-profit or non-trading associations will not be called partners.

#### **Illustrations:**

1. A and B buy 100 bales of cotton, which they agree to sell for their joint account, each party sharing profits and bearing losses equally. A and B are partners in respect of such account.
2. A and B buy 100 bales of cotton agreeing to divide these between them. A and B are not partners.
3. “A” a trader, owed money to XY&Z. He agreed to pay XY&Z out of the profits of his business (run under the supervision of X, Y and Z) what he owed to them. It was held that the arrangement does not make X, Y and Z the partners with A in the business.

### (5) **Mutual Agency The True Test**

Mutual agency is the foundation of partner’s liability. Each partner is both an agent and principal for himself and others; that is the significance of the phrase “carried on by all or any of them acting for all”. Each partner is an agent binding the other partners who are his principal and each partner is again a principal, who in turn is bound by the acts of the other partners. In other words, there must be facts or circumstances from which it can be inferred that each of the persons alleged to be partners was the agent, real or implied of another. What is essential is that the partner who conducts the business of the firm not only acts for himself but for the other partners also.

The true test, therefore, in determining whether a partnership exists, is to see whether the relation of principal and agent exists between the parties and not merely whether the parties share the profits or the business is carried on for the benefit of all. It is this relation of agency among partners which distinguishes a partnership from a single co-ownership on the one hand and the agreement to share profits on the other. The existence of this relation of agency can be gathered from the real intention of the parties and the circumstances of the case. The question of intention must be decided on the basis of the conduct of parties and of all the surrounding circumstances. The law of partnership is the extension of the law of agency therefore every partner is liable for the act of other partner if within authority upto unlimited extent. The relation of mutual agency is the conclusive test of partnership.

It may be observed that the question whether a person is or is not a partner depends almost in all cases upon whether he has the authority to act for other partners and whether other partners have the authority to act for him. It follows that the agency relationship is the most important test of partnership.

### Formation of Partnership

According to the definition of partnership under the Indian Partnership Act, 1932, there must be an agreement between the partners of a partnership firm.

The partnership agreement must comply with all the essentials of a valid contract. There must be free consent of the parties who must be competent to contract and the object of partnership should not be forbidden by law or immoral or opposed to public policy. Two exceptions, however, may be noted:

1. A minor may be admitted to the benefits of a partnership with the consent of all other partners.
2. As relations of partners inter se are that of agency, no consideration is required to create the partnership.

### Partnership Deed

The agreement of partnership may be oral but to avoid future disputes it is always advisable to have it in writing. The mutual rights and obligations of partners must be discussed in detail and should be put into writing in the shape of a 'Partnership Deed', before the partnership is actually started. Thus, the written document which contains the mutual rights and obligations of partners is known as partnership deed. (The partnership deed is also called as 'Partnership Agreement', 'Constitution of Partnership', 'Articles of Partnership' etc.). The deed must be properly drafted and stamped according to the provisions of the Indian Stamp Act. Each partner should be given a copy of the deed and if the firm is to be registered, a copy of the deed should be filed with the Registrar of Firms at the time of such legislation. The partnership deed is not a public document and therefore binds only third parties so far as they have notice of it.

#### Contents of Partnership Deed

The exact terms of the partnership deed (or agreement) will depend upon the circumstances but generally a partnership deed contains the following covenants:

- (i) The firm name and business to be carried on under that name.
- (ii) Names and addresses of partners.
- (iii) Nature and scope of business and address(s) of business place(s).
- (iv) Commencement and duration of partnership.
- (v) The capital and the contribution made by each partner.
- (vi) Provision for further capital and loans by partners to the firm.

- (vii) Partner's drawings.
- (viii) Interest on capital, loans, drawings and current account.
- (ix) Salaries, commission and remuneration to partners.
- (x) Profit (or loss) sharing ratio of partners.
- (xi) The keeping of proper books of accounts, inspection and audit, Bank Accounts and their operation.
- (xii) The accounting period and the date on which that accounts are to be prepared.
- (xiii) Rights, powers and duties of the partners.
- (xiv) Whether and in what circumstances, notice of retirement or dissolution can be given by a partner.
- (xv) Provision that death or retirement of a partner will not bring about dissolution of partnership,
- (xvi) Valuation of goodwill on retirement, death, dissolution etc.
- (xvii) The method of valuation of assets (and liabilities) on retirement or death of any partner.
- (xviii) Provision for expulsion of a partner.
- (xix) Provision regarding the allocation of business activities to be performed by individual partners.
- (xx) The arbitration clause for the settlement of disputes. The terms contained in the partnership deed may be varied with the consent of all the parties, and such consent may be express or implied by a course of dealing. [Section 11(1)]

### Classification of Partnership

A partnership may either be for a particular adventure or for a fixed period. It may also be a partnership at will. From the duration point of view, a partnership may be classified into the following two categories:

#### (i) **Particular Partnership (Section 8)**

“A person may become a partner with another person in a particular adventure or undertaking”. When two or more persons agree to do business in a particular adventure or undertaking, such a partnership is called “Particular Partnership”. Thus, a particular partnership may even be for a single adventure or undertaking.

#### (ii) **Partnership at Will (Section 7)**

“Where no provision is made by contract between the partners for the duration of their partnership or for the determination of their partnership, the partnership is called Partnership at Will”. A partnership is deemed to be a partnership at will when (i) no fixed period has been agreed upon for the duration of partnership, and (ii) there is no provision made as to the determination of partnership in any other way. The partnership at will has no fixed or definite date of termination and, therefore, death or retirement of a partner does not affect the existence of such partnership.

Section 43(1) provides that “Where the partnership is at will, the firm may be dissolved by any partner giving notice in writing to all the other partners of his intention to dissolve the firm. The firm is dissolved as from the date mentioned in the notice as the date of dissolution or, if no such date is mentioned, as from the date of communication of the notice”. This accounts for the importance of the definition of ‘Partnership at Will’.

### Co-ownership and Partnership

There is a possibility that two co-owners may employ their property in a business and share the profits, and still be not partners. A distinction between the two is in point. Partnership is between two persons Co- ownership is not always the result of an agreement: it may arise by the operation of law or from status, e.g., co-heirs of a property. Partnership must arise from an agreement. A partner is the agent of the other partners, but a co-owner is not the agent of the other co-owner(s). Co-ownership does not necessarily involve community of profits and loss, partnership does. A co- owner can without the consent of the others transfer his rights and interests to strangers, a partner cannot do so without the consent of all the other partners so as to make the transferee a partner in the firm. A co-owner can ask for division of property in specie, but no partner can ask for this. His only right is to have a share of the profits out of the properties.

Partnerships end at death or insolvency; co-ownerships end at death. A co-owner has no lien on the property while a partner has a lien on the firm property.

### Hindu Joint Family Firm and Partnership

A Hindu joint family firm differs from a partnership in the following ways:

A partnership comes into existence by means of a contract between the partners; a Hindu joint family firm arises as a result of status, i.e., by birth in the family. The death of a partner dissolves the partnership, but the death of a co- parcener does not dissolve the family firm. In a joint family firm only the Karta or manager (who is the head of the family) has implied authority to borrow and bind other members; in a partnership each partner is entitled to do so. Every partner is personally liable for the debts of the firm; in a joint family business only the Karta is personally liable. A minor is a member of a joint family firm from the very day of his birth by virtue of his status, but he is not personally liable. A minor cannot be a partner, although he may be admitted to the benefits of partnership. A partner can demand the accounts of the firm, a co-parcener cannot ask for accounts, his only remedy is to ask for partition of the assets of the family firm. No registration of a family firm is necessary, while a partnership firm must be registered before it can maintain suits against outsiders. Each partner has a definite share in the business and this can be changed only by agreement, but the share of a co-parcener is not fixed; it may be enlarged by death or reduced by a birth in the family. There is a definite limit to the number of partners, but there is no such limit in the case of a Hindu joint family firm. A Hindu joint family business is governed by Hindu Law, while Indian Partnership Act, governs partnerships and excludes Hindu joint family firms. (Section 5)

### Company and Partnership

The members constituting a partnership do not form a whole as distinct from the individuals composing it. The firm has no legal entity and has no rights and obligations separate from the partners. In a firm every partner is an agent of the rest of the partners, but a member of a company is neither the agent of the company nor of other members. A company, as soon as it is incorporated, say by registration under the Companies Act, becomes a legal entity distinct from its members constituting it (*Salomon v. Salomon & Co.*, 1897, A.C. 22). It can sue and be sued in its own name like any natural person. In a partnership, there are rights and obligations as against individual partners, but in the case of a company, the rights and obligations are as against the fictitious entity of the whole of the company and not the members composing it. The creditors of the partnership can call upon individual partners to pay the firm's debt, but the members of a company are not personally liable for the company's debts. In other words, a partner's liability is unlimited while the liability of the members of a company is limited to the extent of the amount remaining unpaid on their shares (*Prasad v. Missir*). Partnership firm may dissolve by the death or insolvency of a partner, but a company is not affected by the death or insolvency of a member. A partner cannot transfer his interest so as to substitute the transferee in his place as the partner, without the consent of all the other partners; a member can transfer his share to any one he likes.

### Change in a Firm

The Indian Partnership Act, 1932, contemplates the following changes in a partnership firm:

1. Changes in the constitution of a firm.
2. Changes in the nature of a business or undertakings.
3. Changes in the duration of a firm.

A change in the constitution of a firm takes place when:

- (a) a new partner is introduced as a partner in a firm; (Section 31)
- (b) a partner retires from a firm; (Section 32),
- (c) a partner is expelled from a firm; (Section 33),
- (d) a partner is adjudicated as an insolvent; (Section 34) and
- (e) a partner dies. (Section 35)

A change in the nature of the business can only be brought about by the consent of all the partners. Thus, a partnership formed for a definite purpose, agreed upon at the time of formation of the partnership, cannot depart from the agreed purpose without the consent of all the partners [Section 12(c)]. Section 17(c) provides for a case whether a partnership firm is formed for a particular undertaking or undertakings, it proceeds to carry on other undertaking or undertakings, in that event the mutual rights and duties of the partners in respect of the other adventures or undertakings are the same as those in respect of the original adventures of undertakings.

### Partnership Property

It is open to the partners to agree among themselves as to what is to be treated as the property of the firm, and what is to be separate property of one or more partners, although employed for the purposes of the firm.

In the absence of any such agreement, express or implied, the property of the firm is deemed to include:

- (a) all property, rights and interests which have been brought into the common stock for the purposes of the partnership by individual partners, whether at the commencement of the business or subsequently added thereto;
- (b) those acquired in the course of the business with money belonging to the firm; and
- (c) the goodwill of the business. (Section 14)

The property of the firm belongs to the firm and not to the individual partner or partners. The ownership belongs to the firm, and no partner can deal with specific properties as if the properties are his own, nor does the partner possess any assignable interest in such property (*Narayanappa vs. Bhaskaia Krishnappa*, AIR 1966 SC 1300). What is meant by the share of a partner is his proportion of the partnership assets after they are all realised and converted into money, and all the partnership debts and liabilities have been paid and discharged. If certain partners jointly own immovable property which they use for the purposes of the partnership business, the mere use of such property does not make such property as partnership property. Whether such property is or is not partnership property depends upon the agreement between the partners (*Lachman Dass vs. Mrs. Gulab Devi*, AIR 1936 ALL. 270).

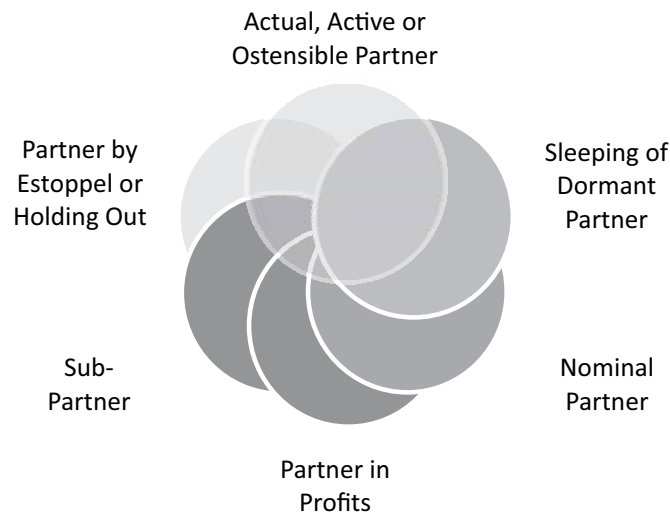
The ultimate test to determine the property of the firm is the real intention of the partners and the Court can take into consideration the following facts:

1. The source of the purchase money.
2. The reason due to which the property was purchased or acquired.
3. The object for which the property was purchased or acquired.
4. The mode in which the property was obtained.
5. The mode in which the property was dealt with.
6. The use to which the property was put to.

All such facts are matter of evidence and depend on the facts of each case. These facts indicate the intention of the parties but are not conclusive to make a property as partnership property. These facts can be established by entries in the books of account of the firm and of the partners, correspondence, the deed of partnership, etc.

### Kinds of Partners

The following kinds of partners generally exist in a partnership:



#### (i) **Actual, Active or Ostensible Partner**

These are the ordinary types of partners who invest money into the business of the firm, actively participate in the functioning and management of the business and share its profits or losses. Section 12(a) lays down that “Subject to contract between the partners, every partner is entitled to take part in the conduct of the business of the firm”. Such partner as actively participates in the firm’s business, binds himself and other partners by all his acts done in the usual course of partnership business. Such partner must give a public notice of his retirement from the firm in order to absolve (free) himself from liability for the acts of the other partners done after his retirement.

#### (ii) **Sleeping or Dormant Partner**

These partners invest money in the firm’s business and take their share of profits but do not participate in the functioning and management of the business. But even then their liability is unlimited. The Act specially provides that if an act is binding on the firm, every partner is liable for it.

A sleeping partner can retire from the firm without giving any public notice to this effect. His liability for the acts of the firm ceases soon after retirement. Such partner has no duties to perform but is entitled to have access to books and accounts of the firm and he can have a copy of them.

**(iii) Nominal Partner**

Some people do not invest or participate in the management of the firm but only give their name to the business or firm. They are nominal partners but are liable to third parties for all the acts of the firm. Unlike a sleeping partner, they are known to the outsiders as partners in the firm, whereas actually they are not.

**(iv) Partner in Profits Only**

A partner who is entitled to share in the profits of a partnership firm without being liable to share the losses, is called a partner in profits only. Thus, a person who has sufficient capital but is not prepared to take risk may be admitted to the partnership by the other partners. In spite of his specific position, he continues to be liable to the third parties for all acts of the firm, just like other parties.

**(v) Sub-Partner**

Where a partner agrees to share his profits in the firm with a third person, that third person is called a sub-partner. Such a sub-partner has no rights or duties towards the firm and does not carry any liability for the debts of the firm. Also he cannot bind the firm or other partners by his acts.

**(vi) Partner by Estoppel or Holding Out**

If the behaviour of a person arouses misunderstanding that he is a partner in a firm (when actually he is not), such a person is estopped from later on denying the liabilities for the acts of the firm. Such person is called partner by estoppel and is liable to all third parties.

Similarly, if a person who is declared to be a partner (when actually he is not) does not deny the fact that he is a partner, he being held out as a partner is responsible for all liability of the business. The law relating to partners by holding out is contained in Section 28 of the Act which lays down thus:

“Any one who by words, spoken or written or by conduct represents himself, or knowingly permits himself to be represented to be a partner in a firm, is liable as a partner in that firm to any one who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit”. The rule as to holding out is based on the doctrine of estoppel as contained in Section 115 of the Indian Evidence Act.

*Holding Out* means “to represent”. Strangers, who hold themselves out or represent themselves to be partners in a firm, whereby they induce others to give credit to the partnership are called “Partners by Holding Out”.

In case of “Partnership by Estoppel”, the representation is made by partners about a stranger within his knowledge and hearing and he does not contradict it. He is then held liable as a partner.

*Effects of Holding out*

The Holding Out partner becomes personally and individually liable for the acts of the firm. But he does not become a partner in the firm and is not entitled to any rights or claim upon the firm. An outsider, who has given credit to the firm thinking him to be a partner, can hold him liable as if he is a partner in that firm. As the liability of the partners is joint and several he can be held liable to pay the entire amount. But under the doctrine of subrogation as well as on the basis of quasi-contract, he can recover the amount so paid from the partners of the firm, if they are solvent.

### Exceptions to Holding Out

The doctrine of Holding Out is not applicable in the following cases:

- (1) It does not apply to cases of torts committed by partners. A person, therefore, cannot be held liable for the torts of another simply because that other person held himself to be his partner.
- (2) It does not extend to bind the estate of a deceased partner, where after a partner's death the business of the firm is continued in the old firm name. [Section 28(2)]
- (3) It also does not apply where the Holding Out partner has been adjudicated insolvent. (Section 45)

### Minor Admitted to the Benefits of Partnership

In view of Section 11 of the Indian Contract Act, 1872, and the decision of the Privy Council in *Nohori Bibi Dharmo Das Ghose*, (1903) 30 I.A 114, a minor's agreement is altogether void and unenforceable. An agreement is an essential ingredient in a partnership, it follows that a minor cannot enter into an agreement of partnership. On the same principle, a minor cannot be clothed with all the rights and obligations of a full-fledged partner through a guardian. Section 5 states "The relation of partnership arises from a contract..." The minor is incompetent to contract and, therefore, partnership cannot come into existence if the parties to a contract of partnership consist of one major and one minor. The only provision that Section 30 makes is that with the "consent of all the partners for the time being, a minor can be admitted into the benefits of partnership to which a minor is going to be admitted". A partnership firm cannot be formed with only minors as partners. There must be at least two major partners before a minor is admitted into the benefits of partnership.

### Rights of Minor

He is entitled to his agreed share and can inspect books of account of the firm [Section 30(2)]. He can bring a suit for account and his share when he intends to sever his connections with the firm, but not otherwise. [Section 30(4)]

A minor who was admitted to the benefits during his minority within six months of his attaining the age of majority or when he comes to know of his being so admitted (whichever date is later), he has to elect whether he wants to become a partner, or sever his connection with the firm. He may give public notice of his election to continue or repudiate, but if he fails to give any public notice within the period stated above, he will be deemed to have elected to become a partner in the firm. [Section 30(5)]

### Liabilities of Minor

#### 1. His Share in Liability

A minor partner's liability is confined only to the extent of his share in the firm. Section 30(3) provides that a minor's share is liable for the acts of the firm. But a minor is not personally liable in any such act. Thus, he is neither personally liable nor is his private estate liable for the acts of the firm.

#### 2. Personal Liabilities

Where a minor on attaining majority, elects to become a partner, he becomes personally liable as other partners to the third parties for all the acts of the firm done since he was admitted to the benefits of partnership.

### Election by Minor

A minor who was admitted to the benefits during his minority within six months of his attaining the age of majority or when he comes to know of his being so admitted (whichever date is later), he has to elect whether he wants to become a partner, or sever his connection with the firm. He may give public notice of his election to



continue or repudiate, but if he fails to give any public notice within the period stated above, he will be deemed to have elected to become a partner in the firm. [Section 30(5)]

If he becomes or elects to become a partner, his position will be as under:

1. His rights and liabilities will be similar to those of a full-fledged partner.
2. He will be personally liable for all the acts of the firm, done since he was first admitted to the benefits of the partnership.
3. His share of profits and property remains the same as was before, unless altered by agreement.

If he elects not to become a partner, then:

1. His rights and liabilities shall continue to be those of a minor upto the date of his giving public notice.
2. His share shall not be liable for any acts of the firm done after the date of the public notice.
3. He is entitled to sue the partners for his share of the property and profits in the firm. [Section 30(8)]

### Relation of Partners to one another

The relation of partnership arises through an agreement between the parties and such an agreement normally provides for mutual rights and obligations, or duties of the partners. Where, however, partnership arises by implication, or wherever the articles of partnership are silent, or where they do not exist, the rights and duties of partners are governed by the Act.

### Rights of Partners

Unless otherwise agreed by the partners, the following rules apply:

- (a) Every partner has a right to take part in the conduct and management of the business. [Section 12(a)]
- (b) Every partner whether active or dormant, has a right of free access to all records, books and accounts of the business and also to examine and copy them. [Section 12(d)]
- (c) Every partner is entitled to share in the profits equally, unless different proportions are stipulated. [Section 13(b)]
- (d) A partner who has contributed more than the share of the capital for the purpose of the business is entitled to an interest at a rate agreed upon, and where no rate is stipulated for, at six per cent per annum. But a partner cannot claim interest on capital, unless there is an agreement to pay it. [Section 13(d)]
- (e) A partner is entitled to be indemnified by the firm for all expenses incurred by him in the course of the business, for all payments made by him in respect of partnership debts or liabilities and disbursements made in an emergency for protecting the firm from loss. [Section 13(e)]
- (f) Every partner is, as a rule, a joint owner of the partnership property, and have it applied exclusively for the purposes of the partnership. (Section 15)
- (g) A partner has power to act in an emergency for protecting the firm from loss. (Section 21)
- (h) Every partner is entitled to prevent the introduction of a new partner into the firm without his consent. (Section 31)

- (i) Every partner has a right to retire by giving notice where the partnership is at will. [Section 32(1)(c)]
- (j) Every partner has a right to continue in the partnership and not to be expelled from it. [Section 33(1)]
- (k) An incoming partner will not be liable for any debts or liabilities of the firm before he becomes a partner. [Section 31(2)] (l)
- (l) Every outgoing partner has a right to carry on a competitive business under certain conditions. (Section 36)

### Duties of Partners

Apart from any duties imposed by the partnership articles, the following statutory duties are implied:

- (a) Every partner is bound to carry on the business of the firm to the greatest common advantage. (Section 9)
- (b) Every partner must be just and faithful to other partners. (Section 9)
- (c) A partner is bound to keep and render true, proper and correct accounts of the partnership. (Section 9)
- (d) Utmost good faith between the partners is the rule and one partner must not take advantage of the other. As an agent of other partners, every partner is bound to communicate full information to them. (Section 9)
- (e) Every partner must account for any benefits derived from the partnership business without the consent of the other partners, i.e., a partner must not make “secret profits”. [Section 16(a)]
- (f) A partner must not compete with the firm, without the consent of the other partners. Any profits made by such unauthorised competition can be claimed by the firm. [Section 16(b)]
- (g) Every partner is bound to attend diligently to the business of the firm and in the absence of any agreement to the contrary, he is not entitled to receive any remuneration. [Section 12(b) and 13(a)]
- (h) In the absence of an agreement to the contrary, every partner is bound to share losses equally with the others. [Section 13(b)]
- (i) Every partner must hold and use the partnership property exclusively for the firm. (Section 15)
- (j) Every partner is bound to indemnify the firm for any loss caused by fraud in the conduct of the business. (Section 10)
- (k) A partner who is guilty of wilful neglect in the conduct of the business and the firm suffers loss in consequence, is bound to make compensation to the firm and other partners. [Section 13(f)]
- (l) No partner can assign or transfer his partnership interest to any other person, so as to make him a partner in the business. (Section 29)
- (m) But a partner may assign the profits and share in the partnership assets. But the assignee or transferee will have no right to ask for the accounts or to interfere in the management of the business; he would be entitled only to share the actual profits. On dissolution of the firm, he will be entitled to the share of the assets and also to accounts but only from the date of dissolution. (Section 29)
- (n) Every partner is bound to act within the scope of his actual authority. If he exceeds his authority, he shall compensate the other partners for loss unless they ratify his act.

## RELATION OF PARTNERS TO THIRD PARTIES

### Partners as Agents

Every partner is an agent of the firm and of other partners for the purpose of the business of the firm (Section 18). In the case of a partnership each partner is a principal and each one is an agent for the other partners. A partner is both a principal and an agent. Thus, the general law of agency is incorporated into the law of partnership. The law of partnership is often regarded as branch of the law of agency. The acts of every partner who does any act for carrying on in the usual way the business of the kind carried on by the firm bind the firm and his partners unless:

- (i) The partner so acting has no authority to act for the firm in that matter; and
- (ii) The person with whom he is dealing knows that he has no authority; or
- (iii) Does not know or believe him to be a partner.

### Authority of a Partner

The authority of a partner means the capacity of a partner to bind the firm by his act. This authority may be express or implied.

- (i) **Express Authority:** - Authority is said to be express when it is given by words, spoken or written. The firm is bound by all acts of a partner done within the scope of his express authority even if the acts are not within the scope of the partnership business.
- (ii) **Implied Authority:** - The implied authority of a partner is also known as ostensible or apparent authority, Sections 19 and 22 contain provisions regarding the scope of the implied authority of a partner. The implied authority is subject to the following conditions:
  1. the act done must relate to the “normal business” of the firm;
  2. the act must be done in the usual way;
  3. the act must be done in the name of the firm.

### Implied Authority of a Partner

Subject to the limitations mentioned above, every partner has an implied authority to bind the firm by the following acts:

- (i) By selling firm's goods;
- (ii) By purchasing goods for the firm;
- (iii) By accepting any payment of debts due to the firm; and
- (iv) By engaging and discharging employees.

In a Trading Firm (one which carries on business of buying and selling goods), a partner has the following additional powers:

- (i) To borrow money on the firm's credit and to pledge the firm's goods for that purpose;
- (ii) To accept, make and issue negotiable instruments in the firm's name; and
- (iii) To employ a solicitor or attorney on behalf of the firm [*Bank of Australasia v. Berliat, (1847) 6 Moor, P.C. 152 at pp. 193-94*].

### Acts beyond Implied Authority

Section 19(2) states that in the absence of any usage or custom or trade to the contrary, the implied authority of a partner does not empower him to:

- (a) submit a dispute relating to the business of the firm to arbitration;
- (b) open a banking account on behalf of the firm in his own name;
- (c) compromise or relinquish any claim or portion of a claim by the firm;
- (d) withdraw a suit or proceeding filed on behalf of the firm;
- (e) admit any liability in a suit or proceedings against the firm;
- (f) acquire immovable property on behalf of the firm;
- (g) transfer immovable property belonging to the firm; and
- (h) enter into a partnership on behalf of the firm.

### Extent of Partners' Liability

It is, however, open to the partners by means of an express contract to extend or limit the implied authority, but third parties will be bound by such limitations only when they have notice of such curtailment.

All partners are liable jointly and severally for all acts or omissions binding on the firm including liabilities arising from contracts as well as torts (Section 25). This is known as the liability of partners for the acts of the firm. But in order that an act done may be an act of the firm and, therefore, binding on the firm, it is necessary that the partner doing the act on behalf of the firm must have done that act in the name of and on behalf of the firm and not in his personal capacity. And the act must have been done in the ordinary course of the business of the firm. [Sections 19(1) and 22]

### Liability of the Firm for Torts

Every partner is liable for the negligence and fraud of the other partners in the course of the management of business. A partner charges the firm if he acts as an agent for it. The firm is similarly liable where a partner commits a tort with the authority of his co-partners. (Section 26)

If a partner acting within the scope of his apparent authority receives the property of a third person and misapplies it, or if the firm in the course of its business receives the property of a third person and, while it is in the firm's custody, a partner misapplies it, in each case the firm is liable to make good the loss. (Section 27)

### Liability of an Incoming Partner

As a general rule, an incoming partner is not liable for the debts incurred before he joined the firm as a partner [Section 31(2)]. The incoming partner may, however, assume liability for past debts by novation, i.e., by a tripartite agreement between (i) the creditor of the firm, (ii) the partners existing at the time the debt was incurred, and (iii) the incoming partner.

### Liability of an Outgoing or Retiring Partner

An outgoing partner remains liable for the partnership debts contracted while he was a partner. He may, however, be discharged by novation, i.e., by an agreement between himself, the new firm and the creditors. He may also continue to be liable after retirement if he allows himself to be held out as a partner, e.g. by allowing his name to remain the firm name. To protect himself from his liability, he should give express notice of his retirement to the persons who were dealing with the firm before his retirement or give public notice in the

manner as laid down in Section 72 of the Act, that is to say, by publishing it in the Official Gazette and in at least one vernacular newspaper where the firm carries on the business. [Section 32(3)]

### Death or Insolvency

The estate of a partner who dies, or who becomes insolvent, is not liable for partnership debts contracted after the date of the death or insolvency. It will, however, be liable for debts incurred before death or insolvency. (Sections 34 and 35)

### Dissolution

According to Section 39 “The dissolution of partnership between all the partners of a firm” is called the “Dissolution of the Firm”. A dissolution does not necessarily follow because the partnership has ceased to do business, for the partnership may continue for the purpose of realising the assets.

The Partnership Act makes a distinction between the “dissolution of partnership” and “dissolution of firm”. Where there is dissolution of partnership between all the partners of a firm, it is a dissolution of the firm (Section 39). Where there is an extinction of relationship between some of the partners only, it is a dissolution of partnership. So the dissolution of a partnership may or may not include the dissolution of the firm, but the dissolution of the firm necessarily means the dissolution of the partnership as well.

#### Dissolution of Partnership

The dissolution of partnership takes place (even when there is no dissolution of the firm) in the following circumstances:

- (a) By the expiry of the fixed term for which the partnership was formed.[Section 42(a)]
- (b) By the completion of the adventure. [Section 42(b)]
- (c) By the death of a partner. [Section 42(c)]
- (d) By the insolvency of a partner. [Section 42(d)]
- (e) By the retirement of a partner. [Section 42(e)]

In all the above cases, the remaining partners may continue the firm in pursuance of an agreement to that effect. If they do not continue then the dissolution of the firm takes place automatically.

### Dissolution of the Firm

In the following cases there is necessarily a breaking up or extinction of the relationship between all the partners of the firm, and closing up of the business:

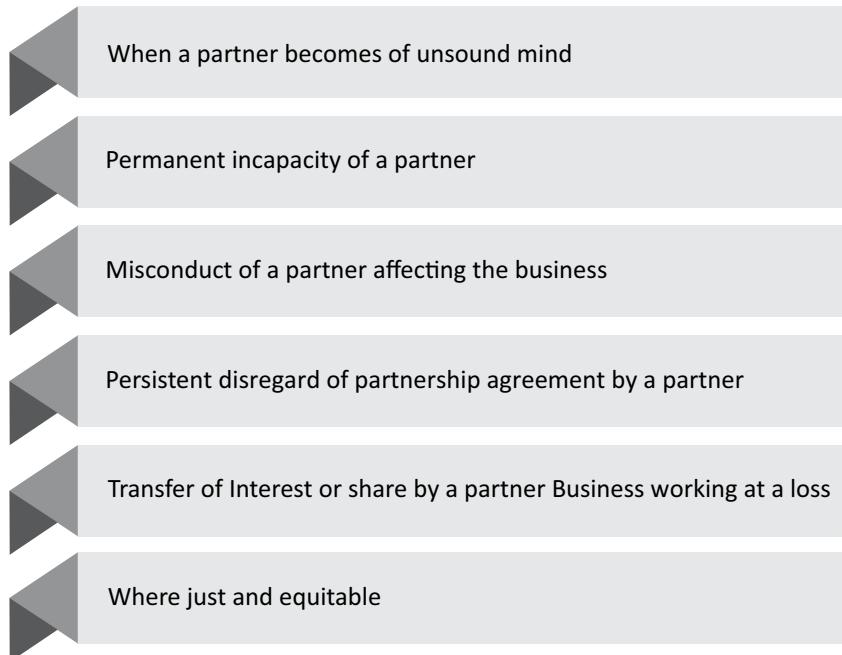
- (a) By mutual agreement: A firm may be dissolved where all the partners agree that it shall be dissolved. (Section 40)
- (b) By the insolvency of all the partners but one: If all the partners except one become insolvent, the firm must come to an end, as a partnership firm with one partner cannot continue. [Section 41(a)]
- (c) By business becoming illegal: If the business of the firm becomes illegal because of some subsequent events, such as change of law, it is automatically or compulsorily dissolved by the operation of law. [Section 41(b)]
- (d) By notice of dissolution: Where the partnership is at will, the firm may be dissolved at any time, by any partner giving notice in writing of his intention to dissolve the firm, to all the other partners. The

dissolution will take place from the date mentioned in the notice or, if no such date is mentioned, as from the date of the communication of the notice. (Section 43)

### Dissolution of the Firm through Court

Unlike a partnership at will, the partnership for a fixed period cannot be dissolved by a notice. It could only be dissolved by Court in a suit by a partner. Though remedy of dissolution by a suit is available in case of all kinds of partnership, it is of practical importance in case of partnership for a fixed period.

**As per Section 44, the Court may order dissolution of the firm in the following circumstances:**



- (a) *When a partner becomes of unsound mind:* As the insanity of a partner does not automatically dissolve the firm, either the lunatic through his guardian or other partners may file a suit for the dissolution of the firm, in either case the Court may order dissolution which will take effect from the date of the order.
- (b) *Permanent incapacity of a partner:* Where a partner has become permanently incapable of performing his duties as a partner, e.g., he becomes blind, paralytic, etc., the Court may, at the instance of any of the other partners, order the dissolution of the firm.
- (c) *Misconduct of a partner affecting the business:* Where a partner is guilty of misconduct, which is likely to affect prejudicially the business of the firm, the Court may dissolve the firm at the instance of any of the other partners. Gambling by a partner or conviction of a partner for travelling without ticket would be sufficient ground for dissolution.
- (d) *Persistent disregard of partnership agreement by a partner:* Where a partner frequently commits breaches of the partnership agreement and the other partners find it impossible to carry on the business, the Court may order dissolution at the instance of the other partners.
- (e) *Transfer of interest or share by a partner:* A partner is not entitled to assign away his interest so as to introduce a new partner into the firm. Where a partner has transferred the whole of his interest to a third person or where his interest has been attached under a decree or sold under a process of law, the other partners may sue for dissolution.

- (f) *Business working at a loss*: The Court may dissolve a partnership firm where it is satisfied that the business of the firm cannot be carried on except at a loss.
- (g) *Where just and equitable*: As the grounds mentioned are not exhaustive, the Court may dissolve a firm on any other ground if it is satisfied that it would be just and equitable to dissolve the firm. The Court may order dissolution where the sub-stratum of the partnership firm has gone or where there is a complete deadlock and destruction of confidence between the partners [re. *Yenidje Tobacco Co. Ltd. (1916) 2 Ch. 426*].

### Effect of Dissolution

#### **Continuing authority of partners**

The authority of partners to bind the firm continues so long as is necessary to wind up the business, provided that the firm is in no case bound by the acts of a partner who has been adjudged an insolvent except on the principle of holding out. (Section 47)

Also each partner has an equitable lien over the firm's assets entitling him to have them applied in payment of the firm's debts, and in payment of whatever is due to partner. This lien can be enforced by injunction forbidding unfair distribution. (Section 46)

#### **Continuing liability of partners**

The partners continue to be liable to outsiders for any act done by any of them which would have been an act of the firm if done before the dissolution, unless a public notice is given of the dissolution.

After dissolution, the rights and obligations of partners continue in all things necessary for the winding up of the business. The partners may complete unfinished transactions. But this authority is only for the winding up of the affairs of the firm and not for new transactions.

#### **Right to Return of Premium**

To buy entry into an existing firm, a new partner sometimes has to pay a premium to the existing partners in addition to any investment of capital. On dissolution, he is entitled to demand the return of a proportion of the premium if the partnership was for a fixed term and was dissolved before the expiry of that term, unless dissolution was caused by (i) agreement, or (ii) misconduct of the party seeking return of the premium, or (iii) death of a partner. (Section 51)

#### **Settlement of Accounts on Dissolution**

Section 48 of the Act provides that in settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

- (a) Losses, including deficiencies of capital shall be paid first out of undistributed profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits
- (b) The assets of the firm, including the sums, contributed by the partners to make up losses or deficiencies of capital shall be applied in the following manner and order:
  - (i) in paying outside creditors;
  - (ii) in repaying advances made by partners (distinct from investment of capital);
  - (iii) in repaying capital to partners; and
  - (iv) the ultimate residue, if any, shall be divided among the partners in the proportions in which profits are divisible.

Where the assets are not sufficient, the partners have to bear the loss in equal shares. After they have contributed their share of the deficiency they will be paid rateably the amount due to them by way of their capital (The Rule followed in the case of *Garner v. Murray*, 1904 73 L.J. Ch. 66).

### Loss due to insolvency of partners

In case a partner is insolvent and is not able to contribute towards the deficiency, the principle laid down in the case of *Garner vs. Murray* will be applicable.

It holds that:

- (a) The solvent partners will contribute only their share of deficiency in cash
- (b) The available assets should be distributed among the solvent partners in proportion to their capital.
- (c) Thus, the deficiency of capital of the insolvent partners will be distributed among the solvent partners in the ratio of their respective capitals.

### Goodwill

This is a partnership asset and means the benefit arising from a firm's business connections or reputation. "It is the advantage which is acquired by a business, beyond the mere value of the capital, stock fund and properly employed therein, in consequence of the general public patronage and encouragement which it receives from constant or habitual customers". Though an intangible asset, it has value; and unless otherwise agreed in the partnership articles, upon dissolution it must be sold and the proceeds of sale distributed as capital. Where dissolution is caused by death, the estate of the deceased partner is entitled to share in the proceeds of the sale.

If the goodwill is sold and there is no agreement as to its disposal, any partner can carry on the business, provided that by doing so he does not expose former partners to liability. But if by agreement the goodwill is assigned to any person, he can restrain partners as explained in the next para.

#### Sale of Goodwill

Where goodwill is sold, either to a partner or to an outsider, the value is divisible among the partners in the same manner as they share profits and losses, unless otherwise agreed.

The rights of the buyer and seller of the goodwill are as follows:

- (a) **Buyer's rights:** On the sale of goodwill the buyer may, unless the terms in the contract of sale provide otherwise:
  - (i) represent himself in continuing the business,
  - (ii) maintain his exclusive rights to the use of the firm name, and
  - (iii) solicit former customers of the business and restrain the seller of the goodwill from doing so.
- (b) **Seller's rights:** The vendors may enter into competition with the purchaser unless he is prevented by a valid restraint clause in the contract of sale.

### Registration of the Firm

Section 56-71 deal with the registration of a firm and consequences of non-registration.



## Registration

The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating:

- (a) the name of the firm;
- (b) the place or principal place of business of the firm;
- (c) the names of any other places where the firm carries on business;
- (d) the date when each partner joined the firm;
- (e) the names in full and permanent addresses of the partners; and
- (f) the duration of the firm.

The statement shall be signed and verified by all the partners or by their agents specially authorised in this behalf. (Section 58)

The Partnership Act, 1932, does not make registration of a firm compulsory but it introduces certain disabilities, which makes registration necessary at one time or other. An unregistered firm is not an illegal association.

## Effects of Non-registration

The following are the effects of non-registration of a firm:

1. Sub-section (1) of Section 69 places a bar on the right of the partners of a firm to sue each other or the firm for enforcing any right arising from a contract or conferred by the Partnership Act, if the firm is not registered and the person suing is or has not been shown in the Register of Firms as a partner in the firm.
2. Sub-section (2) of Section 69 places a bar on the institution of a suit by or on behalf of a firm against a third-party if the firm is not registered and the persons suing are or have not been shown in the Register of Firms as partners in the firm.
3. There is no bar on the right of third-parties to sue the firm or any partner. However, the Act allows the following suits:
  - (a) A suit for the dissolution of a firm.
  - (b) A suit for rendering of accounts of a dissolved firm.
  - (c) A suit for realisation of the property of a dissolved firm.
  - (d) A suit or claim of set-off, the value of which does not exceed one hundred rupees.
  - (e) A proceeding in execution or other proceeding incidental to or arising from a suit or claim for not exceeding one hundred rupees in value.
  - (f) A suit by a firm which has no place of business in the territories to which the Indian Partnership Act extends.
  - (g) A suit for the realisation of the property of an insolvent partner.
  - (h) A suit by a firm whose places of business are situated in areas which are exempted from the application of Chapter VII of the Indian Partnership Act, 1932.

Section 69 bars the very institution of a suit by an unregistered firm or by its partners. Registration is a condition precedent to the right to institute the suit and, therefore, the condition precedent must first be fulfilled before the institution of the suit. If, therefore, on the date of the institution of a suit, the firm is not registered, the subsequent registration cannot validate the suit. The only option left to the Court is to dismiss the suit [*Prithvi Singh vs. Hasan Ali*, (1950) Bom. L.R. 862]. By virtue of this provision a partner of an unregistered firm cannot institute a suit to compel the other partner or partners to join in the registration of firm. The only remedy of such a partner is to institute a suit for dissolution (*Keshav Lal vs. Chuni Lal*, AIR 1941 Rangoon 196). A suit by the firm is really a suit by all the partners who were its partners at the time of the accrual of the cause of action and, therefore, all must join in the institution of the suit.

However, an unregistered firm can bring a suit to enforce a right arising otherwise than out of contract e.g., for an injunction against a person for wrongful infringement of trade mark etc.

### Specific Performance of Partnership Agreement

It is not allowed. The working of a partnership depends upon the personal inclination of the partners, there can be no specific performance of a partnership agreement (*Scott v. Raymont*, 1868, 7 Fq. 112).

### Suit for Libel or Slander

A firm is merely a collection of partners and cannot bring a suit for libel or slander. Libel or slander against a firm imply a libel or slander of its partners. Such partners themselves or any one may file the suit for libel or slander (*P.K. Oswal Hosiery Mills v. Tilak Chand*, AIR 1969, Punj. 150).

### LESSON ROUND-UP

- The Indian Partnership Act, 1932 lays down the important provisions relating to partnership contracts.
- According to Section 4 “Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.
- A partnership may either be for a particular adventure or for a fixed period. It may also be a partnership at will.
- The minor is incompetent to contract and, therefore, partnership cannot come into existence if the parties to a contract of partnership consist of one major and one minor.
- Every partner is an agent of the firm and of other partners for the purpose of the business of the firm.
- The authority of a partner means the capacity of a partner to bind the firm by his act. This authority may be express or implied.
- All partners are liable jointly and severally for all acts or omissions binding on the firm including liabilities arising from contracts as well as torts.
- The dissolution of partnership between all the partners of a firm is called the “Dissolution of the Firm”.
- A dissolution does not necessarily follow because the partnership has ceased to do business, for the partnership may continue for the purpose of realising the assets.



### KEY CONCEPTS

■ Model Code ■ Non-Corporate Entity ■ Meeting ■ Chairman ■ Secretary

### Learning Objectives

#### To understand:

- Model Code for meeting of Non-Corporate Entity
- Notice of Meetings
- List of Agenda Item
- Adjournment of Meeting
- Passing of Resolution by Circulation
- Minutes of the Meeting

### Lesson Outline

- Introduction
- Definitions
- Model Code
- Convening a Meeting
- Frequency of Meeting
- Quorum
- Attendance at the Meeting
- Chairman
- Modification or cancellation of resolutions/decisions
- Specimen Notice of Meetings
- Standard List of Agenda Item
- Specimen Attendance Register of Members
- Specimen Minutes Book
- Lesson Round-Up
- Test Yourself

## INTRODUCTION

Companies deals with more stringent regulations as compared to Non-corporate Entities which majorly pursue common objectives or formed to provide benefits/services to its members. Non-corporate Entities may be incorporated in the form of society, trust, club, welfare association, civic bodies etc. Usually the Governing Body/Council of Non-corporate Entities comprises of members chosen from among the members of such entities or in some cases, nominee appointed by the Government. The affairs of Non-corporate Entities are managed by the Governing Body/Council by taking appropriate decisions at its meeting. To achieve the objectives of any entity, the effective decision making is inevitable and the same equally applies to Non-corporate Entities.

The legal principles and procedures with respect to Non-corporate Entities are laid down in the respective laws applicable to such entities or enshrined in their Bye-laws. In addition to applicable legal requirements, Model Code for Meetings of Non-corporate Entities issued by ICSI provides essential governance practices in convening and conducting the Meetings of the Governing Council/ Management Committee of such entities and aims to harmonise the prevalent diverse practices. Model code seeks to prescribe a set of principles for convening and conducting Meetings of the Governing Council/ Management Committee of Non-corporate Entities and matters related thereto.

The Non-corporate Entities are free to adopt the provisions of Model code voluntarily. If any of the provisions of Model code are or become inconsistent with the applicable laws to Non- corporate Entities, the provisions of such applicable laws shall prevail.

## DEFINITIONS

In Model code, unless the context otherwise requires –

“**Chairman**” means a person, by whatever name called, elected under the bye-laws of the Non-corporate Entity or appointed by a competent authority or by the members of the Governing Council.

“**Clear days**” means days excluding the day of the dispatch of notice/notes on agenda and the day of the Meeting, and includes Sundays and holidays.

“**Governing Council**” means the body of Members, by whatever name called, for governing the affairs of the Non-corporate Entity.

“**Government**” means the Central or State Government, as the case may be.

“**Head Office**” means the principal office of a Non-corporate Entity.

“**Interested Member**” means a Member having personal or financial interest, either directly or indirectly, in any matter placed before a Meeting of the Non-corporate Entity.

“**Member**” means a member of the Governing Council.

“**Meeting**” means a meeting of the Governing Council of the Non-corporate Entity.

“**Minutes**” means a formal written record, in physical or electronic form, of the proceedings of a Meeting.

“**Non-corporate Entity**” is any entity other than a company, body corporate, firms and includes a society, co-operative society, club, trust, civic bodies.

“**Secretary**” means a person elected, appointed, authorised or otherwise discharging the function of a secretary of the Non-corporate Entity, by whatever name called.

## CONVENING A MEETING

### Authority

The Secretary shall convene a Meeting on the direction of the Chairman or any other competent authority, if any, appointed for this purpose.

If a Meeting is statutorily required to be convened within a prescribed period, the Secretary shall convene such Meeting in consultation with the Chairman or any other competent authority, if any.

The Secretary, on requisition by the majority of the Members, shall consult the Chairman or the competent authority, if any, for convening the Meeting.

The Chairman or the competent authority may, whenever thought it, and shall, upon the written request of the majority of the Members, require the Secretary to call a Meeting within the prescribed period from the date of receipt of such request and to take such steps as may be necessary to convene the Meeting.

In case the Chairman or the competent authority fails to call a Meeting, then the vice-chairman or any other person authorised for this purpose may call such Meeting and require the Secretary to give notice to the Members and to take such steps as may be necessary to convene the Meeting.

### **Time, Place and Serial Number of Meeting**

A Meeting may be convened on any day, preferably between 8 am and 8 pm, at any place within the area of the Head Office or at such other place as may be approved by the Members or as prescribed in the Bye-laws of the Non- corporate Entity.

### **Every Meeting shall be serially numbered for ease of reference.**

Serial number of the original Meeting and the adjourned Meeting, if any, should be the same.

**[Illustration:** If serial number of the original Meeting is 10th, the serial number of the adjourned Meeting should be 10th Meeting (Adjourned)]

If, currently, the Non-corporate Entity is not following the practice of giving serial numbers, it shall start numbering its Meetings from the date of adoption of this Model Code.

### **Notice**

Notice of the Meeting shall be served within such clear days as prescribed under the applicable laws or in the Bye-laws of the Non-corporate Entity or at least seven days before the date of the Meeting.

For considering any urgent matter as decided by the Chairman, a Meeting may be convened at any time, subject to consent of the majority of the Members.

The Notice of a Meeting shall be given even if Meetings are held on pre-determined dates or at pre-determined intervals.

The Notice shall specify the serial number, date, day, time and full address of the venue of the Meeting.

Notice of the Meeting shall be issued by the Secretary or by such other officer as may be prescribed in the Bye-laws of the Non-corporate Entity for this purpose and in their absence, the Chairman or any other Member, authorised by the Non-corporate Entity for this purpose may issue the notice of the Meeting.

Notice in writing of every Meeting shall be given to every Member and such other officer as may be prescribed by the Government, either by hand or by post or by e-mail or by any other mode as may be prescribed.

In order to facilitate effective and timely communication, the notice of a Meeting may also be given through SMS or other software/ telecommunication means, if any, used by the Non-corporate Entity, followed by a copy of the Notice in writing as stated above.

The Notice shall also be affixed on the notice board, if any, of the Non-corporate Entity. In case of pre-determined dates, a general notice specifying the serial number, date, day, time and full address of the venue of the Meetings shall be kept affixed during such period.

The Notice shall be sent on the letter head of the Non-corporate Entity containing the contact details and authority of the person issuing the Notice.

Notice shall be sent at the registered address of the Member or such other address, if any, provided by the Member for the purpose.

The Non-corporate Entity shall maintain proof of sending notice and its delivery for such period as may be decided by the Non-corporate Entity, which shall not be less than three years from the date of the Meeting.

In case of delivery of notice by hand, the signature of the recipient should be obtained and be kept as record of proof of delivery.

In case of notice sent through e-mail, the proof of sending may be maintained in soft copy.

### **Notice of an Adjourned Meeting**

Notice of an adjourned Meeting shall be given to all Members including those who did not attend the Meeting on the originally convened date.

If the date of the adjourned Meeting is decided at the Meeting itself where all the Members are present, the Notice should be given forthwith at the Meeting.

Notice of every Meeting so adjourned shall be affixed on the Notice Board of the Non-corporate Entity.

### **Agenda of the Meeting**

The Secretary shall finalise the Agenda and Notes on Agenda of every Meeting in consultation with the Chairman. In the absence of the Chairman, the Agenda and Notes thereon shall be finalised in consultation with any other competent authority for this purpose.

Each item of business to be taken up at the Meeting shall be serially numbered.

Agenda setting out the business to be transacted at the Meeting and Notes on Agenda shall be given to all the Members along with the Notice of the Meeting, unless otherwise provided in the applicable laws or Bye-laws.

The Notes on Agenda shall specify details about the business to be transacted at the Meeting.

The Notes on Agenda may be sent separately after issuing the Notice, but at least 3 clear days before the Meeting, unless otherwise provided in the applicable laws or Bye-laws.

For considering any urgent matter as decided by the Chairman, the Agenda and Notes thereon may be given at any time before the Meeting, subject to consent of the majority of the Members.

Agenda and Notes on Agenda of the Meeting shall be sent by the Secretary or by such other person as may be authorised for this purpose.

### **Consideration of any other item of business**

No item of business other than those included in the Agenda shall be considered at a Meeting.

However, items of urgent nature may be taken up for consideration with the permission of the Chairman and with the consent of the majority of the Members present. The decision taken in respect of such item shall be final only on its ratification by the majority of Members, unless it was approved at the Meeting itself by the majority of Members.

### **FREQUENCY OF MEETING**

Members of the Governing Council of a Non-corporate Entity shall meet for the transaction of business as often as may be necessary.

Unless otherwise provided under the applicable laws, the Members shall meet at least once in every three months.

## **QUORUM**

### **Quorum for the Meeting of the Non-Corporate Entity**

Quorum for a Meeting shall be two members or one third of the total number of Members of the Governing Council for the time being, whichever is higher or such minimum number of Members as prescribed under the applicable laws or the Bye-laws.

Quorum shall be present throughout the Meeting.

If the required quorum is not present at any stage of the Meeting, the remaining item(s) of business shall not be taken up for consideration.

### **Disclosure of interest**

All Members present at the Meeting shall be counted for the purpose of quorum and entitled to participate and vote in respect of items considered at the Meeting, unless otherwise provided in the applicable laws or the Bye- laws.

An Interested Member shall disclose his interest before discussion and voting on the item in which he is interested. After disclosure of interest, the Interested Member may participate and vote in respect of such item.

If the Chairman is interested in any item of business, such fact shall be disclosed by him at the Meeting before the consideration of such item. After disclosure of interest, he may Chair the Meeting, participate and vote in respect of such item.

If disclosure of interest is already communicated to the Secretary before circulation of the Agenda and Notes on Agenda, then such disclosure shall be indicated in the Notes on Agenda in respect of such item.

The disclosure of interest by Interested Member(s) in a matter considered at the Meeting and the fact that they abstained/participated in the discussion and voting at the Meeting on the said matter shall be recorded in the Minutes.

## **ATTENDANCE AT THE MEETING**

### **Attendance**

Every Non-corporate Entity shall maintain a separate attendance register for the Meetings.

The attendance register shall contain the following particulars: Serial number and date of the Meeting; place of the Meeting; time of the Meeting; name and signature of the Members, the Secretary and of other person(s) attending the Meeting by invitation.

The attendance register shall be maintained at the Head Office or such other place as may be approved by the Non-corporate Entity.

The attendance register shall be open for inspection by the Members of the Governing Council.

Entries in the attendance register shall be authenticated by the Chairman or the Secretary or in their absence, by any other person authorised for this purpose.

Attendance register shall be kept in the custody of the Secretary or any other person authorised for this purpose.



The attendance register shall be preserved for a period of eight financial years from the date of the last entry therein or for such other period as may be specified in the Bye-laws of the Non- corporate Entity.

The attendance register or any other records shall not be destroyed except in accordance with the applicable laws or Bye-laws of the Non-corporate Entity.

### **Leave of Absence**

Leave of absence shall be granted to the Member(s) only when a request for such leave has been received by the Secretary or Chairman or any other person who issued the Notice of the Meeting.

The request for leave of absence received shall be placed / announced at the Meeting.

## **CHAIRMAN**

The Chairman of the Non-corporate Entity shall be the Chairman of the Meeting. If there is no such Chairman, then the Chairman shall be appointed by the majority of Members of the Governing Council or in accordance with the applicable laws or the Bye-laws of the Non-corporate Entity.

Where the Chairman is not able to attend the Meeting or unwilling to Chair the Meeting, the Members of the Governing Council may elect any of the Member to Chair and conduct the Meeting unless otherwise provided in the Bye-laws.

It would be the duty of the Chairman to check, with the assistance of Secretary, that the Meeting is duly convened and constituted in accordance with the applicable laws before proceeding to transact business. The Chairman shall then conduct the Meeting.

The Chairman shall read out the Agenda at the Meeting and explain the objective, need and implications of the matters / resolutions before they are put for discussion and voting at the Meeting.

The Chairman shall encourage deliberations and debate on the matters and assess the sense of the Meeting.

Unless otherwise provided in the Bye-laws, in case of an equality of votes, the Chairman shall have a second or casting vote.

## **ADJOURNMENT OF MEETING**

### **Adjournment of the Meeting for want of quorum**

If, at the appointed time for the Meeting, a quorum is not present, the Meeting shall be adjourned to any future day at such time and place as the Chairman or in his absence, the Members present at the Meeting may decide in accordance with the applicable laws or the Bye- laws of the Non-corporate Entity.

In case, if at the adjourned Meeting no quorum is present, the Members present, not being less than two, shall form the quorum.

### **Adjournment of the Meeting otherwise than for want of quorum**

The Chairman may, with the consent of majority of the Members present, adjourn a validly convened Meeting.

The facts and reasons of such adjournment shall be recorded in the Minutes of the Meeting.

If at a Meeting where quorum is present a few agenda items remain pending for discussion/ decision due to insufficiency of time, the Meeting may be adjourned to the following day or any other future day to discuss the un-nished agenda of that Meeting.

## PASSING OF RESOLUTION BY CIRCULATION

The Governing Council may transact any business by means of a Resolution by circulation.

### Authority

The Chairman or any other competent authority shall decide, before the draft Resolution is circulated to all members of the Governing Council, whether approval for the particular business shall be obtained by means of a Resolution by circulation.

Where not less than one-third of the total number of members for the time being require the Resolution under circulation to be decided at a Meeting, the Chairman or any other competent authority shall put the Resolution for consideration at a Meeting of the Governing Council.

### Procedure

A Resolution proposed to be passed by circulation shall be sent in draft, together with the necessary papers, to all the Members including Interested Members.

### Approval

The Resolution is passed when it is approved by a majority of the members entitled to vote on the Resolution.

### Recording

Resolutions passed by circulation shall be noted at a subsequent Meeting of the Governing Council and the text thereof with dissent or abstention, if any, shall be recorded in the Minutes of such Meeting.

## MODIFICATION OR CANCELLATION OF RESOLUTIONS/DECISIONS

No resolution of the Governing Council shall be modified or cancelled except through a resolution duly passed at a subsequent Meeting by a majority or such higher number of the total Members of the Governing Council as prescribed and permitted under the applicable laws.

Such modification or cancellation of a resolution shall be done within the time prescribed, if any, in the By-laws of the Non-corporate Entity.

## MINUTES OF THE MEETING

### Recording of Minutes

The proceedings of every Meeting shall be recorded in the Minutes Book by the Secretary or any other person appointed for this purpose.

The draft Minutes shall be circulated to all Members for comments within 15 days of the Meeting. The comments received from the Members shall be placed before the Chairman and minutes shall be finalised by him within 30 days from the date of the Meeting.

If the draft minutes are not being circulated for comments of the Members, the summary of the decisions taken at the Meeting shall be read over at the Meeting immediately after the end of the deliberations and the details be recorded accordingly in the Minutes Book.

Minutes shall be written in concise and plain language. Minutes shall contain a fair and correct summary of the proceedings of the Meetings including the following:

Minutes shall state, at the beginning, the serial number and type of Meeting, date, day, venue and time of commencement of the Meeting. Minutes shall also state at the end, the time of conclusion of the Meeting.

Minutes shall record the names of the Members present in the Meeting along with the names of the Secretary and the invitees.

In case the Meeting is convened at shorter notice, Minutes shall record the reason for convening the Meeting at shorter notice.

Dissenting views of Member(s), if any, on any matter of the Agenda shall be recorded in the Minutes with the name of the dissenting member.

Any document, report or notes placed before the Meeting and referred to in the Minutes shall be identified by initialing of such document, report or notes by the Secretary or the presiding authority of the Meeting.

### **Maintenance of Minutes**

The Secretary or in his absence any other person present at the Meeting and authorised for this purpose, shall maintain the Minutes.

Pages of the Minutes Book shall be consecutively numbered.

Minutes shall not be pasted or attached to the Minutes Book or tampered with, in any manner.

### **Signing of Minutes**

Minutes of the Meeting shall be signed and dated by the Chairman of that Meeting or the next Meeting.

The person signing the Minutes shall initial each page of the Minutes and sign the last page.

The date and place of signing the Minutes shall also be mentioned at the last page of the Minutes.

Minutes once entered in the Minutes Book, shall not be altered. Any alteration in the Minutes as entered shall be made only by way of approval of the Governing Council at its subsequent Meeting and shall be recorded in the Minutes of that Meeting.

### **Inspection of Minutes**

The Minutes of the Meeting of the Governing Council shall be open for inspection by any member of the Governing Council, at the Head Office of the Non- corporate Entity and a certified copy of the Minutes or an extract thereof shall be issued to a member of the Governing Council on his request, in accordance with the applicable laws or Bye-laws of the Non-corporate Entity.

### **Preservation of Minutes**

Minutes Book shall be kept in the custody of the Secretary or any other person authorized for this purpose.

Minutes Book shall be preserved permanently in physical or electronic form.

The Minutes Book shall be kept at the Head Office of the Non-corporate Entity.

### **Specimen Notice for Meetings of Governing Council**

**(On the letter head of the Non-corporate Entity)**

**Notice for \_\_\_ Meeting of the\_ (Name of the Governing Council/Committee)**

Date:

To

**Name & Address of the Member**

Madam/Sir,

This is to inform you that the ..... Meeting of ..... (name of the Governing Council / Committee) is scheduled to be held on ..... (Day & Date) from ..... (time) onwards at ..... (place) to discuss and transact the following matters:

- (i) .....
- (ii) .....
- (iii) .....
- (iv) .....

The detailed Agenda and Notes on Agenda are enclosed.

You are requested to kindly make it convenient to attend the Meeting.

Yours faithfully

(Signature)

(Name of Secretary/ Authorised Officer)

**Standard List of Agenda Item**

The following items shall invariably be included in the Agenda of Meetings:

- To grant Leave of Absence
- To take note of the Minutes of the previous Meeting.

Follow up and Action Taken Report (ATR) on the decisions of the Previous Meetings

- To take note of the Minutes of the Meetings of Committee/Sub-Committee(s) of the Governing Council
- Statement of Income and Expenditure and the reasons for auctuations in the financial statements, if any
- Item(s) placed for consideration /approval of Governing Council
- Review of deployment/utilisation of funds in the sanctioned project, if any
- Any other matter with the permission of the Chair and majority of members present at the Meeting.

**Specimen Attendance Register of Members**

(Name of the Non-corporate Entity)

Attendance at the \_\_\_\_\_ Meeting of the Governing Council/Committee

Day & Date of the Meeting: Place:

Time:

Type of Meeting (Ordinary/ Urgent)

<b>Sl. No.</b>	<b>Name of member present</b>	<b>Sign/Thumb impression</b>	<b>In time</b>	<b>Out time</b>	<b>Attested by Secretary/ Chairman (in case of thumb impression)</b>
1.					
2.					

3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

**Specimen Minutes Book of Non-corporate Entity Meeting**

(Name of the Non-corporate Entity) Minutes of the \_\_\_\_\_ Meeting of the Governing Council/Committee

Day & Date of the Meeting: Place:

Time:

Type of Meeting (Ordinary/ Urgent) Members Present

<b>Sl. No.</b>	<b>Name</b>	<b>Designation</b>	<b>Representing (Ward No. / Region – if applicable)</b>
1.			
2.			
3.			
4.			
5.			
6.			

**Minutes/Record of Proceedings:**

**Item No. 1**

.....  
 .....  
 .....

**Issue discussed: Decision:**

**Item No. 2**

.....  
 .....  
 .....

**Issue discussed:**

**Decision:**

**Item No. 3**

.....  
 .....  
 .....

**Issue discussed:**

**Decision:**

**Item No. 4**

.....  
 .....  
 .....

Issue discussed:

**Decision:**

Meeting concluded at \_\_ (time) with a Vote of Thanks to the Chair.

Date:

( Signature)

Place:

(Name of Chairman/Presiding Authority)

**LESSON ROUND-UP**

- Non-corporate Entities may be incorporated in the form of society, trust, club, welfare association, civic bodies etc. Usually the Governing Body/Council of Non-corporate Entities comprises of members chosen from among the members of such entities or in some cases, nominee appointed by the Government.
- The affairs of Non-corporate Entities are managed by the Governing Body/Council by taking appropriate decisions at its meeting. To achieve the objectives of any entity, the effective decision making is inevitable and the same equally applies to Non-corporate Entities.
- Secretary shall convene a Meeting on the direction of the Chairman or any other competent authority, if any, appointed for this purpose. If a Meeting is statutorily required to be convened within a prescribed period, the Secretary shall convene such Meeting in consultation with the Chairman or any other competent authority, if any. The Secretary, on requisition by the majority of the Members, shall consult the Chairman or the competent authority, if any, for convening the Meeting.
- Notice of the Meeting shall be served within such clear days as prescribed under the applicable laws or in the Bye-laws of the Non-corporate Entity or at least seven days before the date of the Meeting. For considering any urgent matter as decided by the Chairman, a Meeting may be convened at any time, subject to consent of the majority of the Members.
- The Secretary shall finalise the Agenda and Notes on Agenda of every Meeting in consultation with the Chairman. In the absence of the Chairman, the Agenda and Notes thereon shall be finalised in consultation with any other competent authority for this purpose.



### KEY CONCEPTS

■ Non-Corporate Entities (NCEs) ■ Accounting Standards ■ Financial Statements ■ Formats of Financial Statements ■ Reporting ■ Registration of Financial Documents

### Learning Objectives

#### To understand:

- Reporting requirement of Different Non-Corporate Entities (NCEs)
- Applicable accounting standards
- Standardization and quality reporting by NCEs
- Non-financial reporting by partnership firms, society & trust

### Lesson Outline

- Introduction
- Non-financial reporting by a Partnership Firm under the Partnership Act, 1932
- Organizational Forms for Nonprofit Organizations
- Permissible Purposes
- Non-profit Organization Activities
- Reporting
- Charitable or Public Benefit Status
- Local and Cross-Border Funding
- Compliance under the FCRA
- Applicability of Accounting Standards
- Financial Statements
- Lesson Round-Up
- Test Yourself
- References



## INTRODUCTION

Besides Financial Reporting, non-corporate entities such as Partnership Firms whether Registered Partnership Firms or Unregistered Partnership Firms, Society registered under any law for the time being in force, Trust (private or public) registered or unregistered under any law for the time being in force. are also required to submit non- financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.

### Non-financial reporting by a Partnership Firm under the Partnership Act, 1932

#### Application for Registration (Section 58)

A statement for the registration of a firm shall be sent or delivered to the Registrar within a period of one year from the date of constitution of the firm, effected by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated. The statement shall be in the prescribed form and accompanied by the prescribed fee and a true copy of the deed of partnership stating:

- (a) the firm-name,
- (aa) the nature of business of the firm,
- (b) the place or principal place of business of the firm,
- (c) the names of any other places where the firm carries on business,
- (d) the date when each partner joined the firm,
- (e) the names in full and permanent addresses of the partners, and
- (f) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

When the Registrar is satisfied that the provisions of section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement. On the date such entry is recorded and such statement is filed, the firm shall be deemed to be registered.

The firm, which is registered, shall use the brackets and word (Registered) immediately after its name.

If the statement in respect of any firm is not sent or delivered to the Registrar within the time of one year as stated above, then the firm may be registered on payment, to the Registrar, of a penalty of one hundred rupees per year of delay or a part thereof.

#### Recording of Alterations in Firm-Name, Nature of Business and Principal Place of Business (Section 60)

When an alteration is made in the firm name or in the nature of business of a firm or in the location of the principal place of business of a registered firm, a statement shall be sent to the Registrar, within a period of 90 days from the date of making such alteration, accompanied by the prescribed fee, specifying the alteration and signed and verified in the manner required under section 58.

#### Noting of Closing and Opening of Branches (Section 61)

When a registered firm discontinues business at any place or begins to carry on business at any place, such place not being its principal place of business, any partner or agent of the firm shall send intimation thereof to the Registrar, within a period of 90 days from the date of such discontinuance or, as the case may be, from the date on which the firm begins to carry on business at such place. The Registrar shall then make a note of such

intimation in the entry relating to the firm in the Register of Firms, and shall file the intimation alongwith the statement relating to the firm filed under section 59.

### **Noting of Changes in Names and Addresses of Partners (Section 62)**

When any partner in a registered firm alters his name or permanent address, an intimation of the alteration' shall be sent, within a period of 90 days from the date of making such alteration, by any partner or agent of the firm to the Registrar, who shall deal with it in the manner provided in section 61.

### **Recording of Changes in and Dissolution of a Firm (Section 63)**

A notice shall be given to the Registrar within a period of 90 days from the date of change in the constitution of a registered firm or dissolution of a registered firm by

- (i) every incoming, continuing or outgoing partner **in case** where change occurs in the constitution of a registered firm, and
- (ii) every person who was a partner immediately before the dissolution, or the agent of every such partner or person specially authorised in this behalf, when a registered firm is dissolved,

Notice shall specify date of such change or dissolution. Notice shall be filed long with statement relating to the firm filed under section 59.

The Registrar shall keep record of the notice by way of entry relating to the firm in the Register of Firms.

*Intimation by partners of firm constituted after change:* Where a change occurs in the constitution of a registered firm, all persons, who after such change are partners of the firm, shall jointly send an intimation of such change duly signed by them, to the Registrar, within a period of 90 days from the date of occurrence of such change and the Registrar shall deal with it in the manner provided by section 61.

*Recording of withdrawal of a minor:* When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, shall within a period of 90 days from the date of his election, give notice to the Registrar that he has or has not become a partner, and the Registrar shall record it in the Register of Firms.

### **Mode of Giving Public Notice (Section 72)**

A public notice under this Act is given:

- (a) Where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 63, and by publication in the Official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates, has its place or principal place of business, and
- (b) in any other case, publication in the Official Gazette, and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.

### **Power to Make Rules (Section 71)**

Power to prescribe rules w.r.t. fee payable under the Act for sending intimation under various provisions of the Act to Registrar of Firms as well as the Forms is vested in the State Government by virtue of section 71 of the Act.

- (1) Subject to the provisions of section 70A, the State Government may, by notification in the Official

Gazette, make rules prescribing the fees which shall accompany documents sent to the Registrar or which shall be paid in respect of any intimation, notice or application given to the Registrar or which shall be payable for the inspection of documents in the custody of the Registrar or for copies from the Register of Firms or which shall be paid for supply of any prescribed forms.

(Section 70 A provides that such fees shall not exceed the maximum fees specified in Schedule I.)

- (2) The State Government may also make rules
  - (a) prescribing the form of statement submitted under sub-section (1) of section 58 and of the verification thereof;
  - (aa) prescribing the manner of filing an appeal under sub-section (4) of section 58;
  - (b) requiring statements, intimations and notices under sections 60, 61, 62 and 63 to be in prescribed form, and prescribed the form thereof;
  - (c) prescribing the form of the Register of Firms, and the mode in which entries relating to firms are to be made therein, and the mode in which such entries are to be amended or notes made therein;
  - (d) regulating the procedure of the Registrar when dispute arises;
  - (e) regulating the filing of documents received by the Registrar;
  - (f) prescribing conditions for the inspection of original documents;
  - (g) regulating the grant of copies;
  - (h) regulating the elimination of registers and documents;
  - (i) providing for the maintenance and form of an Index to the Register of Firms;
  - (j) generally, to carry out the purposes of this Chapter;
- (3) All rules made under this section shall be subject to the condition of previous publication.

### Reporting obligations of Society under the Societies Registration Act, 1860

A society is a nonprofit membership organization formed by seven or more members for a literary, scientific, or charitable purpose. The definition of "society" and the scope of its permissible purposes may vary somewhat based on the relevant state law, though most state laws are based on the federal Societies Registration Act of 1860. Section 20(1) of the federal Act provides that it applies to: "Charitable societies, the military orphan funds,... societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the diffusion of political education, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of Art, collections of natural history, mechanical and philosophical inventions, instruments, or designs."

*List of governing body to be filed with the Registrar of Joint Stock Companies (Section 4):*

Annual list of managing body to be filed Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the societies is held, or, if it rules do not provide for an annual general meeting, in the months of January, list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses and occupations of the governors, council, director, committee, or other governing body then entrusted with the management of the affairs of the society.

### Charitable or Public Benefit Status

In order to obtain charitable status and therefore be eligible for tax exemption and deductible donations under the Income Tax Act (see section on Tax Law), Non-Profit Organisation (NPO) must have religious or charitable purposes according to the definition provided by the Income Tax Act 1961.

Section 2(15) of the Act states that “charitable purpose” includes:

- Poverty relief;
- Education and yoga;
- Medical relief;
- Preservation of the environment;
- Preservation of monuments or places or objects of artistic or historic interest; or
- “The advancement of any other object of general public utility.” An NPO providing advisory services to other NPOs and social enterprises, for instance, could fit within this category.

With its tax benefits, charitable status enables NPOs to more effectively raise donations and receive grants from individual donors, companies, governments, and foreign organizations.

Beyond annual audits and filing of their returns, charitable NPOs are subject to few additional duties in order to maintain their tax-exempt status.

As long as an NPO is registered, it may generally seek and receive funds from local sources to further its charitable purposes without any legal constraints. An NPO may mobilize local funds in any lawful manner, including by way of soliciting donations and grants or sponsorships or organizing public fund-raising events. NPOs are obligated to issue receipts and keep proper records of such funds.

Donors in India who seek to support either domestic or foreign NPOs must ensure that the NPO is registered. If they wish to receive a deduction, they should ensure that the NPO has also registered with the Income Tax Department and can provide an 80G certificate. A tax-exempt donor organization in India must also ensure that any organization it supports has the same or similar purposes. For instance, a domestic foundation that supports education and health care may lose its tax exemption if it provides support to an NPO that does not have one or both of these issues as its purpose.

### ***Cross-Border Funding***

Under the Foreign Contributions Regulations Act (FCRA) 2010, all Non-Profit Organisations in India that wish to accept multiple foreign contributions must:

- Register with the Central Government;
- Agree to accept contributions through designated banks; and
- Maintain separate books of accounts with regard to all receipts and disbursements of funds

Beyond the constraints on Indian Non-Profit Organisation acceptance of foreign funds, Non-Profit Organisations are generally not subject to limitations with regard to contact or affiliation with foreign organizations or persons. Indian NPOs are not permitted to operate internationally, however. The Income Tax Law requires that the funds of an Indian NPO be used exclusively in India. If an NPO seeks to apply funds towards activities outside of India, it must first obtain approval from the Central Board of Direct Taxes.

### **Compliance under the FCRA**

As noted above, all organizations that receive funding from a foreign source must act in accordance with the Foreign Contributions Regulations Act (FCRA) 2010. Under the FCRA, foreign contributions include currency, securities, and articles. Funds collected by an Indian citizen in a foreign country on behalf of a Non-Profit Organisation registered in India are considered foreign contributions. Moreover, even funds received in India, in Indian currency, are considered foreign contributions if they are from a foreign source. Contributions from an expatriate Indian are not considered “foreign contributions” unless the individual has become a citizen of a foreign

country. Commercial receipts are not considered foreign donations. In other words, Non-Profit Organisations may receive consultancy or other commercial receipts from foreign sources without FCRA registration and FCRA-registered NPOs may deposit commercial receipts in their domestic, non-FCRA-designated bank accounts, and such receipts are not required to be reported to the FCRA department.

The FCRA requires all organizations falling within its scope to register with the Ministry of Home Affairs (MHA). The organization may either apply for a one-time prior permission to receive funds from a single foreign source, or it may register for a five-year permit to receive unlimited foreign contributions from several foreign sources. To register with the MHA, an organization must submit an online application form (Form FC-3A) on the MHA's online portal. The Intelligence Department has a role in reviewing applications, however, and may delay the process if it has additional inquiries about a Non-Profit Organisations applicant. FCRA registration must be renewed every five years. To register under the FCRA, an organization must already be registered under an existing statute as a trust, society, or company, and have been in existence for at least three years, undertaken reasonable activities in furtherance of its charitable activities, excluding administrative costs.

### Public Charitable Trusts

Three or more trustees may form and govern a public charitable trust. Such a trust may be established for a number of purposes, including poverty relief, education, medical relief, the provision of facilities for recreation, or any other objective of general public utility. Indian public trusts are generally irrevocable.

The laws governing charitable trusts vary from state to state. Most states have their own Public Trusts Act. Maharashtra State, for example, governs trusts under the Bombay Public Trusts Act 1950. The same Act is applicable in neighboring Gujarat State, with some variations. In states that do not have a Trusts Act, the federal Indian Trusts Act of 1882 applies.

The registration process for trusts varies from state to state. In states that have their own Trusts Act, a trust can register with the State Charity Commissioner. In states where there is no state Trusts Act or Charity Commissioner, the trustees may register the Deed of Trust with the office of the Registrar of Deeds or Assurances in accordance with the Indian Registration Act. The key registration document is the Deed of Trust. The Deed must specify the name of the trust, the names of its founders and trustees, the purposes of the trust, and how the trust should be governed.

### Permissible Purposes

A Non-Profit Organisation stated objectives must fall within the relevant definition as described above for each form, for the purpose of registration and carrying out activities. For the purpose of charitable tax exemptions and tax deductions for donors, an NPO must pursue a "charitable purpose" according to the definition provided by the Income Tax Act 1961.

Section 2(15) of the Act 1961 states that "charitable purpose" includes:

- Relief of the poor
- Education and yoga
- Medical relief
- Preservation of the environment (including watersheds, forests and wildlife)
- Preservation of monuments or places or objects of artistic or historic interest
- The advancement of any other object of general public utility.

The Income Tax authorities govern all three NPO forms (trust, society etc) for the purpose of tax exemption and deductions. In order to enjoy certain tax benefits, NPOs must register with the Income Tax Department under certain sections of the Income Tax Act. NPOs must register under Section 12AA in order to obtain tax exemption, and under Section 80G for donors to the organization to obtain to be able to give donors tax deductions.

Additionally, the Ministry of Home Affairs regulates all three NPO forms if they receive foreign contributions. An NPO seeking to receive funds from a foreign source must apply to the Ministry under the Foreign Contributions Regulation Act (FCRA) 2010.

Public charitable trusts must benefit a large class of beneficiaries and must be for the public benefit. Moreover, trustees of public charitable trusts may not engage in self-dealing.

### Reporting Obligations

Every Non-Profit Organization (NPO) registered in India is required to keep proper financial records and have them audited annually. They must file returns separately with each of the state and federal registering authorities, such as the Charity Commissioner, Income Tax Department, and Ministry of Home Affairs. NPOs do not have to regularly report to the government on their activities, though this is often required by donors.

An NPO is permitted to provide grants to individuals or institutions in any amount or proportion, at the discretion of the NPO's governing body, in order to further its objects. However, members of the governing body themselves and their families are not allowed to gain any personal benefit from such a grant, according to the Income Tax Act.

Beyond financial reporting requirements, NPOs are generally not under direct supervision of or obligation to any government authorities. NPOs are generally independent with regard to their internal governance, as well. The government has the right to regulate but not control the internal affairs of an NPO. Fines and penalties may be imposed for certain irregularities such as not filing audit returns in time. NPOs may also be subject to random financial or tax assessments by the regulatory authorities, at their discretion.

### Financial Reporting of Non-Corporate Entities & Applicability of Accounting Standards

Accounting Standards contain wholesome principles of accounting and can be viewed as standardised language of business to communicate high quality information in financial statements based on principles of transparency, consistency and also comparability and reliability. Accounting standards are a set of principles which entities follow while preparing the financial statements providing a standardised way of describing the entity's financial position and financial performance.

Following Accounting Standards are applicable wholly or partially to non-corporate entities as per their activities:

AS1: Disclosure of Accounting Policies

AS2: Valuation of Inventories

AS 3: Cash Flow Statements

AS 4: Contingencies and Events Occurring After the Balance Sheet Date

AS 5: Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies

AS 7: Construction Contracts (Revised 2002)

AS 9: Revenue Recognition

AS 10: Property, Plant & Equipment

- AS 11: The Effects of Changes in Foreign Exchange Rates (Revised 2003)
- AS12: Accounting for Government Grants
- AS 13: Accounting for Investments
- AS 14: Accounting for Amalgamations
- AS 15: Employee Benefits
- AS 16: Borrowing Costs
- AS 17: Segment Reporting
- AS 18: Related Party Disclosures
- AS 19: Leases
- AS 20: Earnings Per Share
- AS 21: Consolidated Financial Statements
- AS 22: Accounting for Taxes on Income
- AS23: Accounting for Investments in Associates in Consolidated Financial Statements
- AS 24: Discontinuing Operations
- AS 25: Interim Financial Reporting
- AS 26: Intangible Assets
- AS 27: Financial Reporting of Interests in Joint Ventures
- AS28: Impairment of Assets
- AS 29: Provisions, Contingent Liabilities and Contingent Assets.

### Applicability of Accounting Standards

Applicability of Accounting Standards.

Accounting Standards apply in respect of any entity engaged in commercial, industrial or business activities.

Exemption from complying Accounting Standards.

Exclusion of an entity from the applicability of the Accounting Standards is permissible only if no part of the activity of such entity is commercial, industrial or business in nature.

Applicability of AS if only small portion of business is commercial, industrial or business in nature.

Even if where a very small proportion of the activities of an entity were considered to be commercial, industrial or business in nature, the Accounting Standards would apply to all its activities including those, which are not commercial, industrial or business in nature.

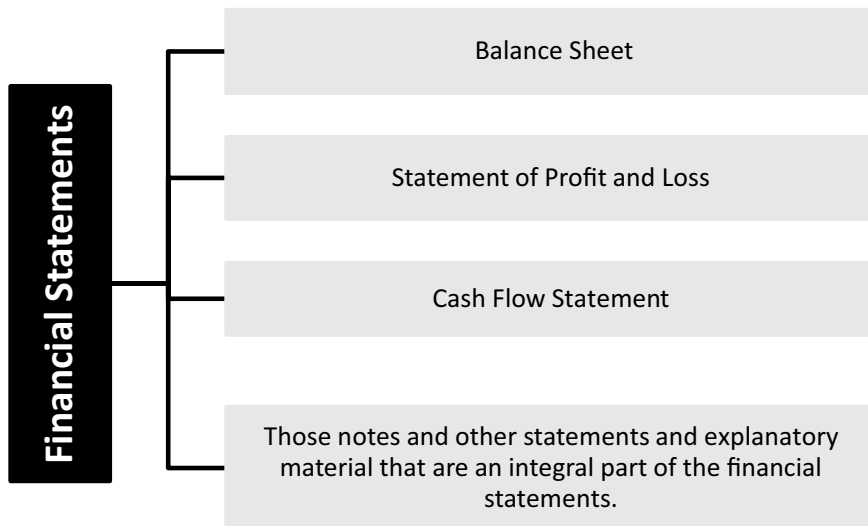
### ICAI- Technical Guide on Financial Statements of Non-Corporate Entities

The Institute of Chartered Accountants of India (ICAI), issued Technical Guide on Financial Statements of Non-Corporate Entities

The objective of this Technical Guide is

- (i) to deal with applicability of Accounting Standards to the non-corporate entities and
- (ii) to prescribe format of the financial statements for the non-corporate entities.

The objective of financial statements is to provide information about the financial position, performance and cash flows of an entity. A complete set of financial statements normally includes:



Technical guidance note aims to provide a standard format of Balance sheet and P& L Account for non-company entities which constitutes major part of the business world of India and are actually presenting financial statements in a format what is comfortable or what they feel is required by a particular statute or by a bank requirement, whatever is the requirement they are try to comply that alone. There is no standard format by which there is comparability of statements. Technical Guide Note provides for four fundamentals i.e. comparability, transparency, completeness and unbiasedness while preparing financial statements of Non-Corporate Entities.

Financial Statements form the backbone for financial planning, analysis, benchmarking and decision making. If Non-Corporate entities follow high quality reporting framework, its financial statements faithfully represent its transactions and are more reliable, complete and comparable. Technical guide note is only recommendatory.

#### LESSON ROUND-UP

- Besides Financial Reporting, non-corporate entities such as Partnership Firms whether Registered Partnership Firms or Unregistered Partnership Firms, Society registered under any law for the time being in force, Trust (private or public) registered or unregistered under any law for the time being in force. are also required to submit non- financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.



- A statement for the registration of a firm shall be sent or delivered to the Registrar within a period of one year from the date of constitution of the firm, effected by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated.
- A society is a nonprofit membership organization formed by seven or more members for a literary, scientific, or charitable purpose. The definition of “society” and the scope of its permissible purposes may vary somewhat based on the relevant state law, though most state laws are based on the federal Societies Registration Act of 1860.
- In order to obtain charitable status and therefore be eligible for tax exemption and deductible donations under the Income Tax Act (see section on Tax Law), Non-Profit Organisation (NPO) must have religious or charitable purposes according to the definition provided by the Income Tax Act 1961.
- For non-corporate entities, if audit of financial statements is required under a statute (e.g. tax audit under the Income Tax Act,1961), the Auditor shall conduct the audit and issue the Auditors’ Report in accordance with the Standards on Auditing issued by the ICAI.
- Besides Financial Reporting, non-company entities are also required to submit non- financial reporting in accordance with the law under which they are constituted/registered along with other laws applicable to their business or charitable activities carried by them.
- Beyond financial reporting requirements, NPOs are generally not under direct supervision of or obligation to any government authorities. NPOs are generally independent with regard to their internal governance, as well. The government has the right to regulate but not control the internal affairs of an NPO. Fines and penalties may be imposed for certain irregularities such as not filing audit returns in time. NPOs may also be subject to random financial or tax assessments by the regulatory authorities, at their discretion.

### TEST YOURSELF

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)*

1. Define non-corporate entities
2. What are the non-financial reporting requirement applicable to Societies under the Societies Registration Act, 1860?
3. What are the non-financial reporting requirement applicable to partnership firm under the Partnership Act, 1932?
4. State disclosure requirement under FCRA.
5. Enumerate the Accounting Standard applicable to non-corporate entities.

### REFERENCES

- Scheme of Accounting Standards for Non-Corporate Entities issued by ICAI applicable in respect of accounting periods commencing on or after April 1, 2020.
- Technical Guide Note issued by ICAI on financial statements of non-corporate entities
- India-Philanthropy Law Report, 2021

### KEY CONCEPTS

■ Non-Corporate Entity ■ Section 8 Company ■ Trust ■ Society ■ Foreign Contribution ■ Foreign Source

### Learning Objectives

#### To understand:

- Receive of Foreign Grant/funds
- Permission to accept Foreign Contribution
- Eligibility criteria for grant of registration
- Eligibility criteria for grant of prior permission
- Conditions to be met for the grant of registration

### Lesson Outline

- Introduction
- Application for grant of registration/prior permission
- Online application form for registration / prior permission
- Documents to be uploaded with the application
- Acceptance and Utilization of Foreign Contribution
- Utilisation of Funds
- Filing of Annual Return
- Renewal of registration
- Lesson Round-Up
- Test Yourself

## INTRODUCTION

Philosophically, foreign contribution (donation) is akin to gratifying intoxicant replete with medicinal properties and may work like a nectar. However, it serves as a medicine so long as it is consumed (utilised) moderately and discreetly, for serving the larger cause of humanity. Otherwise, this artifice has the capability of inflicting pain, suffering and turmoil as being caused by the toxic substance (potent tool) – across the nation. In that, free and uncontrolled flow of foreign contribution has the potentials of impacting the sovereignty and integrity of the nation, its public order and also working against the interests of the general public. It is open to a sovereign democratic nation to completely prohibit acceptance of foreign donation on the ground that it undermines the constitutional morality of the nation, as it is indicative of the nation being incapable of looking after its own affairs and needs of its citizens. The third world countries may welcome foreign donation, but it is open to a nation, which is committed and enduring to be self-reliant and variously capable of shouldering its own needs, to opt for a policy of complete prohibition of inflow/acceptance of foreign contribution (donation) from foreign source (*Noel Harper & Ors vs. Union of India & Anr judgement dated April 08, 2022, the Hon'ble Supreme Court of India*)

Foreign Contribution (Regulation) Act, 2010(FCRA) is the law that governs foreign funding in India. FCRA has the primary objective of regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations, with a view to ensuring that Parliamentary and political associations, academic and other institutions as well as individuals working in important areas of national life may function in a manner consistent with the values of a sovereign democratic republic. The Act prohibits acceptance of foreign contribution by election candidates, journalists, public servants, members of the legislature, and political parties or their office bearers and allows Associations having definite cultural, economic, educational religious or social programme to accept such contributions after complying with certain requirements.

### Registration and Prior Permission to accept Foreign Contribution

Any "Person" can receive foreign contribution subject to the following conditions: -

- (a) It must have a definite cultural, economic, educational, religious or social programme.
- (b) It must obtain the FCRA registration/prior permission from the Central Government
- (c) It must not be prohibited under Section 3 of FCRA, 2010.

As per Section 2(1)(h) of FCRA, 2010, "foreign contribution" means the donation, delivery or transfer made by any foreign source –

- (i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift is not more than such sum as may be specified from time to time by the Central Government by the rules made by it in this behalf;
- (ii) of any currency, whether Indian or foreign;
- (iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act, 1999.

Further, Foreign source, as defined in Section 2(1) (j) of FCRA, 2010 includes: -

- (i) the Government of any foreign country or territory and any agency of such Government;
- (ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

- (iii) a foreign company;
- (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
- (v) a multi-national corporation referred to in sub-clause (iv) of clause (g) of section 2 of FCRA, 2010;
- (vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely: -
  - (a) the Government of a foreign country or territory;
  - (b) the citizens of a foreign country or territory;
  - (c) corporations incorporated in a foreign country or territory;
  - (d) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory; e. foreign company; provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made thereunder, then, notwithstanding the nominal value of share capital of a company being more than one-half of such value at the time of making the contribution, such company shall not be a foreign source.
- (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- (ix) a society, club or other association or individuals formed or registered outside India;
- (x) a citizen of a foreign country.

There are two modes of obtaining permission to accept foreign contribution according to FCRA, 2010:

- i. Registration
- ii. Prior Permission.

For grant of registration under FCRA, 2010, the association should:

- (i) ***be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or Section 8 of Companies Act, 2013) etc;***
- (ii) be in existence for at least three years and has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised.

The applicant NGO/association will be free to choose its items of expenditure (excluding the administrative expenditure as defined in Rule 5 of FCRR, 2011) to become eligible for the minimum threshold of Rs. 15.00 lakh spent during the last three years. If the association wants inclusion of its capital investment in assets like land, building, other permanent structures, vehicles, equipments etc, then the Chief Functionary shall have to give an undertaking that these assets shall be utilized only for the FCRA activities and they will not be diverted for any other purpose till FCRA registration of the NGO holds.

### **Eligibility Criteria for Grant of Prior Permission**

An organization in formative stage is not eligible for certificate of registration. Such organization may apply for grant of prior permission under FCRA, 2010. Prior permission is granted for receipt of a specific amount from specific donor/donors for carrying out specific activities/projects. For this purpose, the association should meet following criteria:

- (i) be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956 etc;
- (ii) submit a specific commitment letter from the donor indicating the amount of foreign contribution and the purpose for which it is proposed to be given; and
- (iii) For Indian recipient organizations and foreign donor organizations having common members, FCRA Prior Permission shall be granted to the Indian recipient organizations subject to its satisfying the following:
  - (i) The Chief Functionary of the recipient Indian organization should not be a part of the donor organization.
  - (ii) At least 75% of the office-bearers/ members of the Governing body of the Indian recipient organization should not be members/employees of the foreign donor organization.
  - (iii) In case of foreign donor organization being a single person/individual that person should not be the Chief Functionary or office bearer of the recipient Indian organization.
  - (iv) In case of a single foreign donor, at least 75% office bearers/members of the governing body of the recipient organization should not be the family members and close relatives of the donor.

#### Conditions to be Met for The Grant of Registration and Prior Permission

In terms of Section 12(4) of FCRA, 2010, the following shall be the conditions for the grant of registration and prior permission:

- (a) The 'person' making an application for registration or grant of prior permission-
  - i. is not fictitious or benami;
  - ii. has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;
  - iii. has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;
  - iv. has not been found guilty of diversion or mis-utilisation of its funds;
  - v. is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;
  - vi. is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;
  - vii. has not contravened any of the provisions of this Act;
  - viii. has not been prohibited from accepting foreign contribution;
  - ix. the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;
  - x. the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him.
- (b) the acceptance of foreign contribution by the association/ person is not likely to affect prejudicially–
  - i. the sovereignty and integrity of India;
  - ii. the security, strategic, scientific or economic interest of the State;

- iii. the public interest;
  - iv. freedom or fairness of election to any Legislature;
  - v. friendly relation with any foreign State;
  - vi. harmony between religious, racial, social, linguistic, regional groups, castes or communities.
- (c) the acceptance of foreign contribution-
- i. shall not lead to incitement of an offence;
  - ii. shall not endanger the life or physical safety of any person.

### Who cannot receive foreign contribution?

As per Section 3(1) of FCRA, 2010, the following are prohibited to receive foreign contribution:

- (a) candidate for election;
- (b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Public Servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- (d) Member of any legislature;
- (e) Political party or office bearer thereof;
- (f) organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government;
- (g) association or company engaged in the production or broadcast of audio news or audio-visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 or any other mode of mass communication;
- (h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in point (g);
- (i) Individuals or associations who have been prohibited from receiving foreign contribution.

### Application for Registration

Application for grant of registration and prior permission is to be submitted online in form FC-3 A and FC-3 B respectively on the website- <https://fcraonline.nic.in>.

All requisite documents are to be uploaded with the application online only and no physical copies shall be accepted by Ministry of Home Affairs under any circumstances. All physical documents, even if received, shall be returned to sender immediately.

For all FCRA services provided through online portal, Aadhar Number & Darpan ID are mandatory.

The applicant should be ready with the scanned copies of the following documents before filing the application online:

#### (A) Registration

- (i) jpg file of signature of the chief functionary (size: 50kb)
- (ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:1mb) [if not in English/ Hindi, please also upload copy translated into English/Hindi].

- (iii) self-certified copy of relevant pages of Memorandum of Association/ Article of Association showing aim and objects of the association. (size :5mb) [if MOA/Article of Association is not in English/ Hindi, please also upload copy translated into English/Hindi].
- (iv) Activity Report indicating details of activities during the last three years (size: 3mb).
- (v) Copies of relevant audited statement of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income and Expenditure) clearly reflecting expenditure incurred on aims and objects of the association and on administrative expenditure (size: 5mb).
- (vi) Fee as prescribed is to be paid online through payment gateway.
- (vii) Affidavit from each office bearer in Proforma AA.

**(B) Prior Permission**

- (i) jpg file of signature of the chief functionary(size:50kb)
- (ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:1mb) [if not in English/ Hindi, please also upload copy translated into English/Hindi].
- (iii) duly signed Commitment Letter from Donor (size:5mb).
- (iv) If functioning as editor, owner, printer or publisher of a publication registered under the Press and Registration of Books Act, 1867, a certificate from the Registrar of Newspapers for India that the publication is not a newspaper in terms of section 1(1) of the said Act.
- (v) Fee as prescribed is to be paid online through payment gateway.
- (vi) Project Report for which FC will be received (size: 3mb).
- (vii) Affidavit from each office bearer in Proforma AA.

Status of pending applications for grant of registration/prior permission/renewal may be checked on-line at [fcraonline](https://fcraonline.nic.in) services using user ID and password created at the time of filing application. Application status can also be tracked on website <https://fcraonline.nic.in>.

Since the FCRA account through which foreign contribution is proposed to be received and utilised is to be mentioned in the application seeking registration or prior permission, as the case may be, the association has to open such an exclusive “FCRA Account” in the New Delhi Main Branch of SBI. This A/c number would be mentioned in the letter granting registration or prior permission to the association.

### Filing of Annual Returns

The Annual return is to be submitted online at <https://fcraonline.nic.in> in prescribed Form FC-4, duly accompanied by balance sheet and statement of receipt and payment, which is certified by a Chartered Accountant. Submission of a ‘NIL’ return, even if there is no receipt/utilization of foreign contribution during the year, is also mandatory. However, in such case, certificate from Chartered Accountant, audited statement of accounts is not required to be uploaded. Annual Return are to be filed online at <https://fcraonline.nic.in>.

The return is to be filed online for every financial year (1st April to 31st March) within a period of nine months from the closure of the year i.e. by 31st December each year.

The association should file the mandatory annual return on a yearly basis, till the amount of foreign contribution is fully utilized. Even if no transaction takes place during a year, a NIL return should be submitted.

If association not filing annual return on time may face the following consequences:

- (1) Imposition of penalty for late submission of return.

- (2) Cancellation of registration.
- (3) Prosecution for violation of provisions of FCRA, 2010.

### Renewal of Registration

As per Section 16 of FCRA, 2010 every person who has been granted a certificate of registration under Section 12 thereof shall have such certificate renewed within six months before the expiry of the period of the certificate.

Associations which desire to renew their registration certificate shall apply online only in Form FC-3C within 6 months before the expiry of their existing registration certificate. After successful payment of fees only, the application is deemed to have been completed.

*Documents required for renewal of registration:*

- (a) Darpan id of Section 8 Company/Trust/Society
- (b) Verification of aadhaar number of each member
- (c) Details of FCRA account of SBI, Main Branch New Delhi
- (d) Signature of Chief Functionary
- (e) Seal of the association
- (f) Registration certificate of the association, Memorandum of Association/ Trust Deed
- (g) FCRA Registration Certificate of association issued by MHA and affidavit in prescribed proforma AA to be executed by each member individually on Non- Judicial Stamp Paper of Rs. 10 attested by Notary Public or 1st Class Magistrate are to be uploaded for renewal of registration.

### For seeking FCRA services [Registration, Prior Permission and Renewal]

The applicant must:

- Obtain DARPAN ID from Darpan portal of NITI AYOOG
- Upload documents electronically online
- Pay application Fee electronically online
- Have a definite cultural, economic, educational, religious or social programme
- Have undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilized
- Open a dedicated FCRA Account in the State Bank of India, New Delhi Main Branch
- Intimate opening of additional dedicated Foreign Contribution Utilization Bank Account(s)
- Place the audited statement of accounts electronically online on receipts and utilization of the foreign contribution, including income and expenditure statement, receipt and payment account and balance sheet for every financial year beginning on the first day of April within nine months of the closure of the Financial Year in case of receipt of foreign contribution
- Maintain a separate set of accounts and records, exclusively, for the foreign contribution received and utilized and for which the registration is sought
- Apply to the Central Government six months before the date of expiry of certificate of registration, for its renewal



- To intimate any change in the designated bank account / utilization bank account / name / address / aims / objectives / key members in respect of association granted registration / prior permission under the FCRA, 2010.

### Advisory for NGOs Accepting Foreign Contribution

- While accepting foreign contribution by NGOs/Trust/Societies may note that:
- Do not mix Foreign Contribution with Domestic Receipts
- Do not transfer funds from FC Bank to Non-FC (even Direct Bank Transfer)
- Books of Accounts must be separate
- Keep separate Cash Box (it shows good cash control system)
- Do not deviate from the Purpose of the Grant
- Make sure while getting FC funds that the purpose is crystal clear for what purpose it is received
- Make sure that you used these funds for the very specific purpose
- Avoid Cash Payments. This requires extra efforts on the part of the organization to develop Financial Control System in such a way to encourage Bank Payments through “Account Payee” cheques only.
- Do not invest FC funds in Mutual Funds or Speculative Investments
- Do not receive foreign contribution directly in the utilization account(s) of the association/NGO/Society
- Do not mix foreign contribution with domestic funds
- Do not hide amount, source and manner in which the foreign contribution/remittance was received
- Do not avoid filing mandatory FC annual returns in electronic form
- Do not indulge in making of false statement, declaration or delivering false accounts
- Do not act in contravention of any provision of the FCRA, 2010.

### Charter For Associations Who Have Been Granted Prior Permission or Registration Under FCRA

- Registration and Prior Permission is granted for a definite cultural, economic, educational, religious or social programme under sections 11 and 12 of the FCRA, 2010. An association is granted registration for five years. The Prior permission is granted for a specific purpose/project for a specific amount from a specific source.
- Every certificate of registration shall have to be renewed before the date of expiry of its validity. The application for renewal is to be made online in Form FC-3C along with the prescribed fee to be paid through online payment gateway, six months before the date of expiry of the certificate of registration. In case, no application for renewal of registration is received or such application is not finally submitted accompanied by the requisite fee through the prescribed mode, the validity of the certificate of registration shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration. Such deemed to have ceased associations are not permitted to either receive or utilize foreign contribution anymore.
- An association granted prior permission or registration under the FCRA, 2010 should initially receive the foreign contribution only in the FCRA account at SBI, Main Branch located at Sansad Marg, New Delhi. This account number would be the same as has been intimated by the organisation in their application for prior permission/registration or intimated through FC-6C. Deposit of any local fund/

domestic contribution in this bank account is not allowed. One or more accounts in any PFMS enabled scheduled bank may be opened for utilizing the foreign contribution. For more clarity, Section 17 of the FCRA, 2010 is reproduced as below:

*‘17. (1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as “FCRA Account” by the bank, which shall be opened by him for the purpose of remittances offoreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf: Provided that such person may also open another “FCRA Account” in any of the scheduled bank of his choice for the purpose of keeping or utilising the foreign contribution which has been received from his “FCRA Account” in the specified branch of State Bank of India at New Delhi:*

*Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilising any foreign contribution received by him in his “FCRA Account” in the specified branch of the State Bank of India at New Delhi or kept by him in another “FCRA Account” in a scheduled bank of his choice: Provided also that no funds other than foreign contribution shall be received or deposited in any such account.*

*(2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened his foreign contribution account or the authorised person in foreign exchange, shall report to such authority as may be specified, —*

- (a) the prescribed amount of foreign remittance;*
- (b) the source and manner in which the foreign remittance was received; and*
- (c) other particulars, in such form and manner as may be prescribed.*

- Foreign contribution cannot be mixed with local/domestic funds being handled by the organisation.
- An association granted prior permission or registration is required to carry out the activities, for which foreign contribution is received, in India only and the amount should not be utilised for purposes other than for which it is received.
- The FC received by the association shall not be transferred to any other association for any other purpose.
- Any fixed asset acquired out of the foreign contribution and any article received in kind from the foreign source should be in the name of the association and not in the name of any individual in the association.
- Not more than 20% of the foreign contribution shall be defrayed to meet administrative expenses of the association. What constitutes ‘administrative expenses’ has been defined in Rule 5 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011).
- Any foreign contribution or any income (interest, rent, enterprise or FD etc.) arising out of utilization of FC shall not be used for “speculative business”. What constitutes ‘speculative business’ has been defined in Rule 4 of FCRR, 2011.
- An association granted prior permission or registration shall maintain a separate set of accounts, assets and records, exclusively for foreign contribution received and utilised. If the foreign contribution relates only to articles/ foreign securities, the intimation shall be submitted online in Form FC-1 and such articles/ securities shall be reflected in online Annual report FC-4.
- Every account giving details of the receipt and purpose-wise utilisation of the FC, including the interest earned on the FC amount, should be maintained on an yearly basis, commencing on the 1st day of April each year, and every such yearly account is to be uploaded online only, in the prescribed

Form FC- 4 and uploaded therewith the income and expenditure statement, balance sheet and statement of receipt and payment, duly certified by a chartered accountant, within nine months of the closure of the year, i.e., before 31st December on www.fcraonline.nic.in . A copy of a statement of account from the FCRA account in SBI, New Delhi Main Branch and utilization accounts in any scheduled bank duly certified by an officer of such bank should also be uploaded. The cash book and ledger account is to be maintained on double entry basis, where the FC relates to currency received and utilised.

- An online annual return in Form FC-4 shall reflect the foreign contribution received in the FCRA account at SBI, New Delhi Main Branch and include the details in respect of other FCRA bank accounts, if any, for utilisation. No physical copy of Annual return is accepted.
- The accounting statements shall have to be preserved by the NGO/association for a period of six years.
- Even if no FC is received during a year, a 'Nil' return is required to be filed online in Form FC-4 within the prescribed time limit. However, certificate from Chartered Accountant or Income & Expenditure statement or R&P account or balance sheet is not required to be uploaded.
- Intimation for Change of name, address, registration, nature of activities or aims and objectives of an association, bank and/or bank account number and opening of bank account for utilisation of foreign contribution should be intimated online only in Form FC-6(A to E) and uploading requisite documents within 15 days of effecting the change.
- For any change (addition/deletion) of any functionary or member, the associations shall apply online through FC-6E and seek approval from Central Government.
- All associations granted registration or prior permission under FCRA, 2010 shall be required to adhere to good practice guidelines of Financial Action Task Force (FATF).

***Good practice Guidelines to the Non-Profit Organisations (NPOs) to ensure compliance with the following FATF requirements:***

1. Wherever necessary, NPO shall inform the Ministry of Home Affairs (FCRA Wing) about the suspicious activities of the customer, without waiting for annual returns.
2. The Board of Directors / Chief Functionary of NPO shall issue directions regarding duties of official who shall be required to enforce these guidelines and other rules of FCRA, 2010 read with FCRR, 2011 as amended from time to time.
3. The NPO shall put its goals, objectives and activities on its website.
4. The NPO shall upload the details of key persons associated with NPOs activities on its website.
5. The NPO shall take due diligence of its employees at the time of recruitment.
6. The NPO shall maintain the information of beneficiaries of funds and upload on its website and monitor the activities of the beneficiaries. Wherever a beneficiary is a legal person, the details of beneficial owner shall also be uploaded.
7. The NPO shall ensure that the financial transactions involving more than Rs.20,000/- to be routed through Banking channels only.
8. The Board of Directors/Trustees of NPO's must ensure utilization of funds consistent with objectives as approved by MHA.

9. The Board of Directors/Trustee of NPO's shall conduct meeting once at least in six months to review the working of these instructions and shall record the minutes of these meetings.
10. The NPO shall train its staff on the FCRA and about the application of these guidelines.
11. When any transaction is under investigation by any authority, the MHA shall be informed by such NPO.

### **Illustrative List of Activities Permitted to Be Carried Out by Associations Having Different Nature**

Associations having definite cultural, economic, educational, religious or social programme can accept foreign contribution only after obtaining either prior permission or registration from the Central Government. Following are illustrative but not exhaustive list of activities which may be permissible and may be carried out by associations of different nature:

#### *Educational:*

- Construction and maintenance of schools/colleges.
- Construction and running of hostels for poor students.
- Grant of stipends/scholarships/assurances in cash or kind to poor/deserving children.
- Purchase and supply of educational material-books, notebooks etc.
- Conducting adult literacy programs.
- Conducting research.
- Non-formal education/schools for the mentally challenged.
- Non-formal education projects/coaching classes.
- Any other activities related to the above.

#### *Religious:*

- Celebrations of religious functions/festivals etc.
- Construction/repair/maintenance of places of worship, religious schools.
- Education of priests and preachers (dissemination of the message of good will etc. from the holy books).
- Publication and distribution of religious books/ literature.

#### *Economic:*

Following but not being commercial or profit-making activities:

- Micro-finance projects, including setting up banking co-operatives and self-help groups.
- Self-sustaining income generation projects/schemes.
- Agricultural activities.
- Rural development programmes/schemes.
- Animal husbandry projects.
- Setting up and running handicraft centres/cottages and khadi industry/social forestry projects.
- Vocational training, tailoring, motor repairs, computers etc.

- Projects for income generation activities or any other developmental projects for urban slum development.
- Any other activities related to the above, not being commercial activities.

*Social:*

- Construction/running of hospitals/dispensaries/clinics.
- Construction of community halls etc.
- Construction and management of old age homes.
- Welfare of the old aged persons or widows.
- Construction and management of orphanage.
- Welfare of the orphans.
- Construction and management of dharamshalas/shelters.
- Holding of free medical/health/family welfare/immunisation camps.
- Supply of free medicine, and medical aids, including hearing aids, visual aids, family planning aids etc.
- Provision of aids such as tricycles, callipers etc. to the handicapped.
- Treatment/rehabilitation of drug addicts.
- Welfare/empowerment projects/schemes for women.
- Welfare of children.
- Provision of free clothing/food to the poor, needy and destitutes.
- Relief/rehabilitation of victims of natural calamities.
- Help to the victims of riots/other social disturbances.
- Digging of bore wells.
- Sanitation including community toilets etc.
- Awareness camps/seminars/workshops/meetings/conferences.
- Providing free legal aids/running legal aid centres.
- Holding sports meet.
- Promoting awareness about Acquired Immune Deficiency Syndrome (AIDS)/treatment and rehabilitation of persons affected by AIDS.
- Welfare of the physically and mentally challenged.
- Welfare of the Schedules Castes.
- Welfare of the Scheduled Tribes.
- Welfare of the Backward Classes.
- Environmental programs.
- Survey for socio-economic and other welfare programs.

- Preservation and maintenance of wild life.
- Preservation of natural resources.
- Awareness against social evils.
- Rehabilitation of victims of heinous crimes.
- Rehabilitation of beggars, bootleggers, child labour etc.
- Creating awareness of Government schemes & laws to general public.
- Any other activities related to the above

*Cultural:*

- Celebration of national events (Independence/Republic Day/festivals).
- Theatre/films/puppet show/road show etc.
- Maintenance of places of historical and cultural importance.
- Preservation of ancient/tribal art forms.
- Preservation and promotion of cultural heritage or literature of India.
- Cultural shows.
- Any other activities related to the above.

#### LESSON ROUND-UP

- Philosophically, foreign contribution (donation) is akin to gratifying intoxicant replete with medicinal properties and may work like a nectar. However, it serves as a medicine so long as it is consumed (utilised) moderately and discreetly, for serving the larger cause of humanity.
- Foreign Contribution (Regulation) Act, 2010(FCRA) is the law that governs foreign funding in India. FCRA has the primary objective of regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations, with a view to ensuring that Parliamentary and political associations, academic and other institutions as well as individuals working in important areas of national life may function in a manner consistent with the values of a sovereign democratic republic.
- Foreign Contribution (Regulation) Act, 2010 prohibits acceptance of foreign contribution by election candidates, journalists, public servants, members of the legislature, and political parties or their office bearers and allows Associations having definite cultural, economic, educational religious or social programme to accept such contributions after complying with certain requirements.
- An organization in formative stage is not eligible for certificate of registration. Such organization may apply for grant of prior permission under FCRA, 2010. Prior permission is granted for receipt of a specific amount from specific donor/donors for carrying out specific activities/projects.
- Application for grant of registration and prior permission is to be submitted online in form FC-3 A and FC-3 B respectively on the website- <https://fcraonline.nic.in>. All requisite documents are to be uploaded with the application online only and no physical copies shall be accepted by Ministry of Home Affairs under any circumstances. All physical documents, even if received, shall be returned to sender immediately.

- The Annual return is to be submitted online at <https://fcraonline.nic.in> in prescribed Form FC-4, duly accompanied by balance sheet and statement of receipt and payment, which is certified by a Chartered Accountant. Submission of a 'NIL' return, even if there is no receipt/utilization of foreign contribution during the year, is also mandatory. However, in such case, certificate from Chartered Accountant, audited statement of accounts is not required to be uploaded. Annual Return are to be filed online at <https://fcraonline.nic.in>.
- As per Section 16 of FCRA, 2010 every person who has been granted a certificate of registration under Section 12 thereof shall have such certificate renewed within six months before the expiry of the period of the certificate. Associations which desire to renew their registration certificate shall apply online only in Form FC-3C within 6 months before the expiry of their existing registration certificate. After successful payment of fees only, the application is deemed to have been completed.

**TEST YOURSELF**

*(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation.)*

1. Can the fee paid by the foreign delegates/participants attending/participating in a conference/seminar etc. be termed as foreign contribution and thus require permission from FCRA?
2. Whether a Company incorporated in India under the Companies Act, 2013 having its operations in 2 or more countries is to be treated as a MNC under FCRA, 2010? Examine.
3. What are the eligibility criteria for grant of registration?
4. What are the conditions to be met for the grant of registration and prior permission?
5. Discuss the Charter for Associations who have been granted Prior Permission or Registration under FCRA.

### KEY CONCEPTS

■ Gram Panchayat ■ Municipality ■ Model Code for Meeting ■ Quorum ■ Secretary

### Learning Objectives

#### To understand:

- Model Code for meeting of Gram Panchayat
- Notice of Meetings
- List of Agenda Item
- Adjournment of Meeting
- Function of the Secretary
- Minutes of the Meeting

### Lesson Outline

- Local Self Governance
- Authority under Gram Panchayat
- Convening a Meeting
- Frequency of Meeting
- Quorum
- Attendance at the Meeting
- Specimen Notice of Meetings
- Standard List of Agenda Item
- Specimen Attendance Register of Members
- Specimen Minutes Book
- Lesson Round-Up
- Test Yourself



## LOCAL SELF GOVERNMENT

The concept of local self government is not new to our country and there is mention of community assemblies in the Vedic texts. Around 600 B.C., the territory north of the river Ganga comprising modern day north Bihar and eastern U.P. was under the suzerainty of small republics called Janapadas among which Lichhavis were the most powerful. In these Janapadas, the affairs of the State were conducted by an assembly consisting of local chieftains. In the post Mauryan times as well, there existed republics of Malavas and the Kshudrakas where decisions were taken by “sabhas”. The Greek Ambassador, Megasthenes, who visited the court of Chandragupta Maurya in 303 B.C. described the City Council which governed Pataliputra – comprising six committees with 30 members. Similar participatory structures also existed in South India. In the Chola Kingdoms, the village council, together with its sub-committees and wards, played an important part in administration, arbitrated disputes and managed social affairs. They were also responsible for revenue collection, assessing individual contribution and negotiating the collective assessment with the King’s representative. They had virtual ownership of village waste land, with right of sale, and they were active in irrigation, road building and related work. Their transactions, recorded on the walls of village temples, show a vigorous community life and are a permanent memorial to the best practices in early Indian polity. The present structure of Local Self Government institutions took shape in 1688 when the British established a Municipal Corporation at Madras which was followed by creation of similar bodies at Bombay and Calcutta (1726). Comprising a Mayor and a majority of British-born Councillors, these Corporations were basically units of administration enjoying considerable judicial powers. During the next 150 years, municipal bodies were created in several mufasil towns although their functions remained confined to conservancy, road repairs, lighting and a few other sundry items.

In 1872, Lord Mayo introduced elected representatives for these municipalities and this was further developed by his successor, Lord Ripon, in 1882. By the 1880s, these urban municipal bodies had a pre-dominance of elected representatives in a number of cities and towns, including Calcutta and Bombay. A corresponding effective structure for rural areas came up with the enactment of the Bengal Local Self Government Act, 1885 which led to the establishment of district local boards across the entire territory of the then Bengal province. These boards comprised nominated as well as elected members with the District Magistrate as Chairman who was responsible for maintenance of rural roads, rest houses, roadside lands and properties, maintenance and superintendence of public schools, charitable dispensaries and veterinary hospitals. Within a span of five years, a large number of district boards came into existence in other parts of the country, notably Bihar, Orissa, Assam and North West Province. The Minto-Morley Reforms, 1909 and the Montague Chelmsford Reforms, 1919, when Local Self Government became a transferred subject, widened the participation of people in the governing process and, by 1924-25, district boards had a preponderance of elected representatives and a non-official Chairman. This arrangement continued till the country’s Independence in 1947 and thereafter till the late 1950s.

In 1990, a combined Constitution Amendment Bill, covering both Panchayati Raj Institutions (PRIs) & Urban Local Bodies (ULBs) was tabled in Parliament. It was a skeleton legislation which left the details to be crafted by the State Governments in their State enactments; even matters concerning elections were left completely to the discretion of the State Government. With the dissolution of the Government, this Bill too lapsed.

Finally in 1992, after synthesising important features of the earlier exercises on this subject, Government drafted and introduced the 73rd and 74th Amendments Bill in Parliament which were passed in 1993. These introduced new Parts IX and IXA in the Indian Constitution containing Articles 243 to 243ZG.

Part IX of the Constitution provides for among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at village and other level or levels; direct elections to all seats in Panchayats at the village and intermediate level, if any, and to the offices of Chairpersons of Panchayats at such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the

seats for women; fixing tenure of five years for Panchayats and holding elections within a period of six months in the event of super session of any Panchayat.

Part IX-A of the Constitution provides for among other things, constitution of three types of Municipalities, i.e., Nagar Panchayats for areas in transition from a rural area to urban area, Municipal Councils for smaller urban areas and Municipal Corporation for large urban areas, fixed duration of municipalities, appointment of state election commission, appointment of state finance commission and constitution of metropolitan and district planning committees. State/UTs have set-up their election Commissions. Elections to municipal bodies have been completed in all States/UTs except Jharkhand and Puducherry.

The 73rd and 74th Amendments to the Constitution constitute a new chapter in the process of democratic decentralisation in the country. In terms of these Amendments, the responsibility for taking decisions regarding activities at the grass roots level which affect people's lives directly would rest upon the elected members of the people themselves. By making regular elections to Panchayati Raj/Municipal bodies mandatory, these institutions have been given permanency as entities of self-government with a specific role in planning for economic development and social justice for the local area. In totality, the intention of these Amendments is to assign a position of command to them in the democratic framework of the country.

Our Constitution provides a clear mandate for democratic decentralisation not only through the Directive Principles of State Policy which exhorts the State to promote Panchayati Raj Institutions but more specifically now through the 73rd and 74th Amendments of the Constitution which seek to create an institutional framework for ushering in grass roots democracy through the medium of genuinely self-governing local bodies in both urban and rural areas of the country.

In a federation the powers and functions of the Government are divided among two Governments. In India it is the Union Government and the various State Governments. However, with the passage of 73rd and 74th amendment act of the Constitution of India, in 1993 the division of powers and functions have been further trickled down to Local Self Governments (Panchayat at Village levels and Municipalities and Municipal Corporations in towns and large cities). As such India now has not two but three tier of Governments in its federal setup.

## MODEL GOVERNANCE CODE FOR MEETINGS OF THE GRAM PANCHAYATS

**The following is the text of the Model Governance Code for Meetings of the Gram Panchayats issued by ICSI:**

### Introduction

This Code seeks to prescribe a set of principles for convening and conducting Meetings of Gram Panchayats and matters related thereto.

The principles enunciated in this Model Code for Meetings of the Gram Panchayats are equally applicable to meetings of Standing Committees, unless otherwise stated herein or otherwise stipulated by any other applicable laws, Guidelines, Rules or Regulations.

A Gram Panchayat cannot act by itself and it acts only through its elected members i.e. Panch(s) and Sarpanch. Moreover, Panch(s) and Sarpanch are in a fiduciary position vis-à-vis the Gram Panchayat and, to that extent, they are also deemed to be trustees of the properties and assets of the Gram Panchayat. They owe a duty to the people of the village and should exercise care, skill and diligence in the discharge of their functions and in the exercise of the powers vested with them. All the powers vested in Panch(s) and Sarpanch are exercisable by them only collectively through decisions taken at a validly convened meeting of the Gram Panchayat.

The fundamental principles with respect to Governance of Gram Panchayat Meetings are laid down in the respective State laws. This model code facilitates compliance with these principles by endeavouring to provide further clarity where there is ambiguity and establishing benchmark standards to harmonise prevalent diverse practices.

This model code does not seek to substitute or supplant any existing laws. It strives to supplement such laws for promoting better governance in the functioning of Gram Panchayat.

Gram Panchayats functioning under the different State Government(s) are free to adopt the provision of this Model Governance Code on Meetings of the Gram Panchayat. If any of the provisions of this code are or become inconsistent with the applicable laws, provisions of such applicable laws shall prevail.

## Definitions

In this Code, unless the context otherwise requires -

**“Clear days”** means days excluding the day of the dispatch of notice and the day of the meeting, however includes Sundays and holidays.

**“Competent Authority”** means such officer or authority as the State Government may, by notification in the Official Gazette, appoint to perform such functions and exercise such powers in relation to Gram Panchayats as are specified in the notification

**“Government”** or **“State Government”** means the State Government of the concerned State

**“Gram Panchayat”** means the institutions of self-Government for rural areas at the level of village(s).

**“Member”** means a member of a Gram Panchayat and includes a Sarpanch

**“Interested Member”** means a Member having personal or financial interest, either directly or indirectly, in any matter placed before a Meeting of the Gram Panchayat.

**“Panch”** means a member of a Panchayat, other than a Sarpanch

**“Prescribed”** means prescribed by respective State Acts or Rules made thereunder

**“Sarpanch”** means the President or Chairperson or Pradhan of the Gram Panchayat by whatever name called, elected directly by the persons registered in the electoral rolls relating to the village or the group of villages comprised within the area of the Panchayat.

**“Up-Sarpanch”** means the Vice-President or Vice-Chairperson or Up-Pradhan of a Gram Panchayat, by whatever name called, elected directly by the persons registered in the electoral rolls relating to the village or the group of villages comprised within the area of the Panchayat.

**“Secretary”** means a person appointed with such designation by the State Government or by such authority as may be authorised by the Government in this behalf, for a Panchayat.

**“Standing Committee”** means a Standing Committee constituted by the Panchayat

**“Special Meeting”** means a meeting, other than a regular meeting of the Gram Panchayat, convened suo moto by the Sarpanch or on the special request of the members, to discuss any specific item including matters of urgent nature.

Words and expressions used herein and not defined shall have the meaning respectively assigned to them under the State Act under which respective Gram Panchayat has been constituted.

## 1. Convening A Meeting

### 1.1 Authority

- 1.1.1 The Secretary, on the direction of the Sarpanch, shall summon a Meeting of the Gram Panchayat.
- 1.1.2 If a meeting is statutorily required to be convened within a prescribed period, the Secretary shall summon such meeting in consultation with the Sarpanch.

- 1.1.3 The Secretary on requisition by the prescribed number of Members shall consult the Sarpanch for convening the meeting.
- 1.1.4 The Sarpanch may whenever he thinks fit, and shall, upon the written request of the prescribed number of members, require the Secretary to call a special meeting within the prescribed period from the date of receipt of such request and to take such steps as may be necessary to convene the meeting.
- 1.1.5 In case the Sarpanch fails to call a special meeting, then the Up-Sarpanch or in his absence, the Competent Authority may call such meeting and require the Secretary to give notice to the Members and to take such steps as may be necessary to convene the meeting.

## 1.2 Time, Place and Serial Number of meeting

- 1.2.1 A meeting may be convened on any day, at any time **between 9 am to 5 pm**, at any place within the area of the Panchayat or at such other place as may be approved by the Gram Panchayat/ Government.
- 1.2.2 Every Meeting of the Panchayat shall be serially numbered for ease of reference.
- 1.2.3 Serial number of the original Meeting and the adjourned Meeting, if any, should be the same. The manner in which Meetings may be serially numbered is given below:

[Illustration: If serial number of the original Meeting is 6<sup>th</sup>, the serial number of the adjourned Meeting should be 6<sup>th</sup> Meeting (Adjourned)]

(i) *Serially numbering on Calendar Year basis as follows:*

*"1/2015", "2/2015", "3/2015" and so on.... In the next year, numbering would be "1/2016", "2/2016", "3/2016" and so on.*

(ii) *Serially numbering on financial year basis as follows:*

*"1/2015-16", "2/2015-16", "3/2015-16" and so on.... or 1/15-16,  
2/15-16, 3/15-16 and so on.....*

(iii) *Continuous serially numbering across years: 120th Meeting, 121st Meeting, 122nd Meeting and so on .....*

## 1.3 Notice

- 1.3.1 Notice of the meeting of the Gram Panchayat shall be served at least five clear days before the date of the meeting.
- 1.3.2 If a majority of the Members agree to convene a special meeting, the Notice thereof may be given at a shorter period of time than that stated above but at least 24 hours before the meeting.
- 1.3.3 Where the Meetings of the Gram Panchayat are held on pre-determined dates, such Meetings may be convened without any separate Notice, unless the applicable laws require for separate notice for each meeting.
- 1.3.4 Notice shall specify the serial number, date, day, time and full address of the venue of the Meeting.
- 1.3.5 Notice of the meeting of the Gram Panchayat shall be issued by the Secretary or by such other officer as prescribed by the Government for this purpose and in their absence, the Sarpanch or any other member, authorised by the Panchayat for this purpose may issue the notice of the Meeting.

- 1.3.6 Notice shall contain the contact details and authority of the person issuing the Notice.
- 1.3.7 Notice in writing of every Meeting (except where exempted in terms of para 1.3.3 above) shall be given to every Member and such officer as may be prescribed by the Government, by hand or by post or by e-mail.
- 1.3.8 Wherever the presence of a Patwari or other Tehsil level functionaries of the State Government or of a Panchayati Raj Institution, is required or desired by the Gram Panchayat at its meeting, the Notice of such meeting shall also be sent to them. The notice shall also be sent to such officer as may be prescribed by the Government.
- 1.3.9 In order to facilitate effective and timely communication, the Notice of a Meeting may be given through SMS or other software used by the Panchayat, followed by a copy of the written Notice as stated above.
- 1.3.10 The Notice shall also be affixed on the Notice Board of the Gram Panchayat. In case of pre-determined dates a general notice specifying day, interval, time and full address of the venue of the Meetings shall be kept affixed during such period.
- 1.3.11 The Notice should preferably be sent either on the letter- head of the person issuing the Notice or on the letter head of the Gram Panchayat, if any.
- 1.3.12 Notice shall be sent at the registered address of the Member or such other address, if any, provided by the Member for the purpose.
- 1.3.13 The Gram Panchayat shall maintain proof of sending Notice and its delivery.
- 1.3.14 In case of delivery of Notice by hand, the signature of the recipient will be obtained in a register maintained for this purpose and be kept as record of proof of delivery.
- 1.3.15 In case of Notice sent through e-mail, the proof of delivery may be maintained by way of the soft copy.
- 1.3.16 Proof of sending Notice and its delivery shall be preserved for a period of five years or such higher period as may be decided by the Gram Panchayat.

#### **1.4 Notice of an Adjourned Meeting**

- 1.4.1 Notice of an adjourned meeting shall be given to all Members including those who did not attend the Meeting on the originally convened date.
- 1.4.2 If the date of the adjourned Meeting is decided at the Meeting itself where all the Members are present, the Notice should be given forthwith at the Meeting.
- 1.4.3 Notice of every Meeting so adjourned shall be affixed on the Notice Board of the Panchayat.

#### **1.5 Agenda of the Meeting**

- 1.5.1 The Secretary shall finalise the Agenda and Notes on Agenda of every Meeting in consultation with the Sarpanch.
- 1.5.2 Each item of business to be taken up at the Meeting shall be serially numbered.
- 1.5.3 Agenda setting out the business to be transacted at the Meeting and Notes on Agenda shall be given to all the Members along with the Notice of the Meeting, unless otherwise provided in the applicable laws.
- 1.5.4 The Notes on Agenda shall specify details about the business to be transacted at the meeting.

- 1.5.5 The Notes on Agenda may be sent separately after issuing the Notice, but at least 3 clear days before the Meeting.
- 1.5.6 Agenda and Notes on Agenda of the Meeting of the Gram Panchayat shall be sent by the Secretary or by such other officer as prescribed by the Government for this purpose and in their absence, by the Sarpanch or any other Member, authorised by the Panchayat for this purpose.
- 1.5.7 Wherever the presence of the Patwari or other Tehsil level functionaries of the State Government or of a Panchayati Raj Institution, is required or desired by the Gram Panchayat at a Meeting, the Agenda and Notes on Agenda of such meeting shall also be sent to them.
- 1.5.8 Agenda and Notes on Agenda shall also be sent to such officer as may be prescribed by the Government.
- 1.5.9 If majority of the Members agree to convene a special Meeting, the Agenda and Notes on Agenda may be circulated at a shorter period of time than stated above. In such cases, the Agenda and Notes on Agenda shall be given at least 24 hours before the meeting.

### **1.6 Consideration of any other item of business**

- 1.6.1 No item of business other than those included in the Agenda shall be considered at a Meeting of the Gram Panchayat.
- 1.6.2 Any other item not included in the Agenda of the Meeting, may be placed at the next meeting of the Gram Panchayat or in case of urgent matters a special meeting may be convened.
- 1.6.3 However, items of urgent nature having wider public interest may be taken up for consideration with the permission of the Sarpanch and with the consent of the majority of the Members of the Gram Panchayat.

## **2. Frequency of Meeting**

- 2.1 A Gram Panchayat shall meet for the transaction of business as often as may be necessary.
- 2.2 Unless otherwise provided under the applicable laws, the Gram Panchayat shall meet at least once in every month.

## **3. Quorum**

### **3.1 Quorum for the Meeting of the Gram Panchayat**

- 3.1.1 Quorum for a Meeting of the Gram Panchayat shall be majority of the total number of Members of the Gram Panchayat for the time being or such minimum number of Members as prescribed under the applicable laws.
- 3.1.2 Quorum shall be present throughout the meeting.
- 3.1.3 If the required quorum is not present at any stage of the remaining item of business shall not be taken up for consideration and be deferred for the next meeting, with reasons to be recorded in writing.

### **3.2 Quorum of Non-Interested Members / Disclosure of interest**

- 3.2.1 An Interested Member (whether or not the Sarpanch/ Up-Sarpanch), shall neither be reckoned for Quorum nor shall participate during discussion and voting on respective item in which he is interested.
- 3.2.2 If the Sarpanch is interested in any item of business, such fact shall be disclosed by him at the

meeting before consideration of such item and he shall leave the Chair to any Non-interested member in respect of such item.

- 3.2.3 If disclosure of interest is already communicated to the Secretary before circulation of the Agenda and Notes on Agenda, then such disclosure shall be indicated in the Notes on Agenda in respect of such item.
- 3.2.4 The disclosure of interest by interested Member(s) in a matter to be considered at the Meeting and the fact that they abstained from the discussion/voting at the meeting on the said matter shall be recorded in the Minutes.

### **3.3 Adjournment of the Meeting for want of quorum**

- 3.3.1 If, at the appointed time for the Meeting, a quorum is not present, the Member(s) present shall wait for at least 30 minutes or for such longer period as may be prescribed by the Government or agreed to by the Member(s) present at the meeting and if within such period there is no quorum, the Meeting shall be adjourned to any future day on such time as the Chairperson or in his absence as the Member(s) present at the meeting may decide.
- 3.3.2 If even at an adjourned meeting no quorum is present, the Meeting shall stand cancelled.
- 3.3.3 If at a Meeting where the quorum is present, few agenda items remain pending for discussion/ decision due to insufficiency of time, the meeting may be adjourned to the following day or any other future day to discuss the unfinished agenda of that Meeting.

### **3.4 Adjournment of the meeting otherwise for want of quorum**

- 3.4.1 The Sarpanch with the consent of majority of the Members present may adjourn a validly convened Meeting of the Gram Panchayat.
- 3.4.2 The facts and reasons of such adjournment shall be recorded in the proceedings of the meeting.
- 3.4.3 The procedure of adjournment, if any, approved by the Gram Panchayat or the Government shall be complied with.

## **4. Attendance of the Meeting**

### **4.1 Attendance**

- 4.1.1 Every Gram Panchayat shall maintain a separate attendance register for the Meetings of the Gram Panchayat.
- 4.1.2 The attendance register shall contain the following particulars: Serial number and date of the Meeting; place of the Meeting; time of the Meeting; name and signature of the Members, the Secretary and of other person(s) attending the Meeting by invitation.
- 4.1.3 The attendance register shall be maintained at the Office of the Gram Panchayat or such other place as may be approved by the Gram Panchayat.
- 4.1.4 The attendance register shall be open for inspection by the Members.
- 4.1.5 Entries in the attendance register shall be authenticated by the Secretary or in his absence, by the person authorised by the Government.
- 4.1.6 Attendance register shall be kept in the custody of the Secretary or a person authorised by the Government.
- 4.1.7 The attendance register shall be preserved for a period of at least five years from the date of the last entry therein or for such other higher period as may be specified by the Government.

- 4.1.8 The attendance register or any other records of the Panchayat shall not be destroyed except in accordance with the policy approved by Government.

#### **4.2 Leave of Absence**

- 4.2.1 Leave of absence shall be granted to the Member(s) only when a request for such leave has been received by the Secretary or by the Sarpanch.
- 4.2.2 The request for leave of absence shall state a reason for his inability to attend the meeting.

### **5. Reading of Agenda at the Meeting**

The Sarpanch or the Secretary shall read out the Agenda at the Meeting. The Sarpanch or the Secretary shall explain the objective, need and implications of the matters/resolutions before they are put for discussion and voting at the Meeting.

### **6. Minutes of the Meeting**

#### **6.1 Recording of Minutes**

- 6.1.1 The proceedings of every meeting shall be recorded in the Minutes Book by the Secretary.
- 6.1.2 Minutes shall be read over at the Meeting immediately after deliberation and be accordingly recorded in the Minutes Book.
- 6.1.3 Minutes shall contain a fair and correct summary of the proceedings of the meetings including the following:
- Minutes shall be written in clear, concise and plain language either in Hindi or in the official language of the State.
  - Minutes shall state, at the beginning, the serial number and type of meeting, date, day, venue and time of commencement of the meeting. Minutes shall also state at the end, the time of conclusion of the Meeting.
  - Minutes shall record the names of the Members present in the meeting along with the names of the Secretary and the invitees.
  - Minutes shall record the reason for convening the meeting at shorter notice, if any
  - Dissenting views of Member(s), if any, on any matter shall be recorded in the Minutes with the name of the dissenting member.
- 6.1.4 Any Document, report or notes placed before the Meeting of the Gram Panchayat and referred to in the Minutes shall be identified by initialling of such document, report or notes by the Secretary or the Presiding authority of the Meeting.

#### **6.2 Maintenance of Minutes**

- 6.2.1 The Secretary shall maintain the Minutes.
- 6.2.2 Distinct Minutes Book shall be maintained for the meetings of the Gram Panchayat and its Standing Committees.
- 6.2.3 The Minutes shall be maintained in Hindi or in the official language of the State.
- 6.2.4 Pages of the Minutes Book shall be consecutively numbered.
- 6.2.5 Minutes shall not be pasted or attached to the Minutes Book or tampered with, in any manner.



### 6.3 Modification or Cancellation of Resolutions/Decisions

- 6.3.1 No resolution of a Gram Panchayat shall be modified or cancelled except through a resolution passed by a majority or such higher number of the total Members of the Gram Panchayat as prescribed and permitted under the applicable laws.
- 6.3.2 Such modification or cancellation of a resolution shall be done within the time prescribed, if any, by the Government.

### 6.4 Signing of Minutes

- 6.4.1 Minutes of the Meeting of the Gram Panchayat shall be signed and dated by the presiding authority of that meeting or the next Meeting.
- 6.4.2 The person signing shall initial each page of the Minutes and sign the last page.
- 6.4.3 The date and place of signing the Minutes shall also be mentioned at the last page of the Minutes.
- 6.4.4 Minutes once entered in the Minutes Book, shall not be altered. Any alteration in the Minutes as entered shall be made only by way of approval of the Gram Panchayat at its subsequent meeting and shall be recorded in the Minutes of that meeting.

### 6.5 Inspection of Minutes

The Minutes of the Meeting of the Gram Panchayat shall be open for inspection by any person, at the office of the Gram Panchayat and a certified copy of the Minutes or extract thereof may be issued to any person on his request, in accordance with the applicable laws.

### 6.6 Preservation of Minutes

- 6.6.1 Minutes Book shall be kept in the custody of the Secretary or a person authorised by the Government for this purpose.
- 6.6.2 Minutes of all Meetings shall be preserved permanently in physical or electronic form.
- 6.6.3 The Minutes Book shall be kept at the office of the Gram Panchayat.

## 7. Functions of the Secretary

- 7.1 The Secretary of a Gram Panchayat is expected to perform the following functions:
- Take necessary steps to execute and implement the resolutions passed by the Panchayat at its Meetings.
  - Communicate the decisions concerning persons of respective Panchayat area to them.
  - Convene Meetings of Gram Panchayat and its Committees.
  - Attend every Meeting of the Gram Panchayat including the Gram Sabha Meetings.
  - Write the proceeding of every Meeting in the Minutes Book either in physical or electronic form.
  - Place all the correspondence received by him, especially various schemes of the Government and instructions issued by the Government, before the Sarpanch and also for the information of all the Members during the meeting.
  - Receive all correspondence on behalf of the Gram Panchayat and take appropriate action on the same.
  - Finalise, in consultation with the Sarpanch, the Agenda and Notes on Agenda of every Meeting.

- Maintain all the registers and records prescribed under the applicable laws.
- Report to the Block Development Officer for any vacancy in the office of the Sarpanch/Up-Sarpanch or a Member.
- Be responsible for the safe custody of Panchayat funds, assets and the records maintained by the Gram Panchayat.
- Report to the Block Development Officer about any illegal act or misconduct or misuse or abuse of powers, any infringement of the legal provisions by the Sarpanch or Up-Sarpanch or the members of the Gram Panchayat, as soon as the same come to his knowledge.
- Comply with the instruction issued by the Government from time to time.
- Maintain cordial relations with the elected representatives of Gram Panchayat.

### Notice for Meeting of Gram Panchayat

(Name of Panchayat & Block/ District)

Date:

To

#### Name & Address of the Member

Madam/Sir,

This is to inform you that the ..... Meeting of .....(name of Gram Panchayat) is scheduled to be held on ..... (Day & Date) from ..... (time) onwards at ..... (place) to discuss and transact the following matters :

- (i) .....
- (ii) .....
- (iii) .....
- (iv) .....

The detailed Agenda and Notes on Agenda are enclosed.

You are requested to kindly make it convenient to attend the meeting.

Yours faithfully (signature)

(Name of Secretary/ Authorised Officer)

### Standard List of Agenda Item

The following items shall be invariably be included in the Agenda of Meetings:

- To grant Leave of Absence;
- To take note of the Minutes of the previous Meeting;
- To take note of the Minutes of the Meetings of Standing Committee(s);
- Follow up and Action Taken Report (ATR) on the decisions of the Previous Meeting;
- Approval/Concurrent review of Gram Panchayat Budget and Annual Plan implementation/utilisation;
- Statement of Income and Expenditure and the reasons for fluctuations in the financial statements, if any;

- Approval of New Works and Schemes;
- Review of utilisation of funds under various schemes;
- Review of physical progress of construction work, other projects and activities;
- Review of Village Sanitation, Street Lighting, Rural Roads, Drinking Water, Anganwadi, Fair Price Shops, Maintenance of School Buildings; Health Centre, etc.
- Any other matter

### Attendance Register of Members

(Name of the Gram Panchayat)

(Block)

(District)

No. & Date of the Meeting:

Place:

Time:

Type of meeting (Ordinary/Special/Urgent)

Sl. No.	Name of Member Present	Ward No.	Sign/Thumb Impression	In Time	Out Time	Attested by Secretary/Sarpanch (in case of Thumb impression)
1)						
2)						
3)						
4)						
5)						
6)						
7)						
8)						
9)						
10)						
11)						
12)						
13)						
14)						
15)						
16)						
17)						

<b>Sl. No.</b>	<b>Name of Member Present</b>	<b>Ward No.</b>	<b>Sign/Thumb Impression</b>	<b>In Time</b>	<b>Out Time</b>	<b>Attested by Secretary/Sarpanch (in case of Thumb impression)</b>
18)						
19)						
20)						

**Minutes Book of Gram Panchayat Meeting**

(Name of the Gram Panchayat) (Block) (District)

(Name of the Gram Panchayat) (Block) (District) No. & Date of the Meeting:

Place:

Time:

Type of meeting (General/Emergency/Specially convened)

Members Present

<b>Sl. No.</b>	<b>Name</b>	<b>Designation</b>	<b>Representing Ward</b>
(i)			
(ii)			
(iii)			
(iv)			
(v)			
(vi)			

**Minutes/ Record of Proceedings:**

**Item No. 1**

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**Item No. 2**

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**Item No. 3**

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**Item NO.4**

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 .....

**Meeting concluded at\_00:00\_ with a Vote of Thanks to the Chair.**

Date: ...../...../.....

(Signature)

Place: .....

(Name of Sarpanch/Presiding Authority)

## **GOVERNANCE OF MUNICIPALITIES**

The basic objective of an urban local government has changed from the maintenance of law and order in the early years to the promotion of the welfare of the community in recent times. The State Municipal Acts provide an exhaustive list of functions, which are classified into obligatory and optional or discretionary functions. The former have to be necessarily performed by the local government and for which sufficient provision in the budget has to be made. Failure to perform any of these functions may compel the State government to supersede a municipality. Discretionary functions may be taken up depending upon the availability of funds. Municipal functions listed in the State municipal Acts generally fall in the following broad categories: (a) public health and sanitation; (b) medical relief; (c) public works; (d) education; (e) development; and (f) administrative.

Article 243 W of the Constitution of India deals with Powers, Authority and Responsibilities of Municipalities. It provides that subject to the provisions of the Constitution, the Legislature of a State may, by law, endow –

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to:
  - (i) the preparation of plans for economic development and social justice;
  - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

*Matters listed in the Twelfth Schedule are as under:*

1. Urban planning, including town planning;
2. Regulation of land-use and construction of buildings;
3. Planning for economic and social development;
4. Roads and bridges;
5. Water supply for domestic, industrial and commercial purposes;
6. Public health, sanitation, conservancy and solid waste management;
7. Fire services;
8. Urban forestry, protection of the environment and promotion of ecological aspects;

9. Safeguarding the interests of weaker sections of society, including the handicapped & mentally retarded;
10. Slum improvement and upgradation;
11. Urban poverty alleviation;
12. Provision of urban amenities and facilities, such as parks, gardens, playgrounds;
13. Promotion of cultural, educational and aesthetic aspects;
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums;
15. Cattle pounds; prevention of cruelty to animals;
16. Vital statistics, including registration of births and deaths;
17. Public amenities, including street lighting, parking lots, bus stops and public conveniences; and
18. Regulation of slaughterhouses and tanneries.

#### LESSON ROUND-UP

- The concept of local self government is not new to our country and there is mention of community assemblies in the Vedic texts. Around 600 B.C., the territory north of the river Ganga comprising modern day north Bihar and eastern U.P. was under the suzerainty of small republics called Janapadas among which Lichhavis were the most powerful. In these Janapadas, the affairs of the State were conducted by an assembly consisting of local chieftains. In the post Mauryan times as well, there existed republics of Malavas and the Kshudrakas where decisions were taken by “sabhas”.
- The present structure of Local Self Government institutions took shape in 1688 when the British established a Municipal Corporation at Madras which was followed by creation of similar bodies at Bombay and Calcutta (1726). Comprising a Mayor and a majority of British-born Councillors, these Corporations were basically units of administration enjoying considerable judicial powers.
- In 1992, after synthesising important features of the earlier exercises on this subject, Government drafted and introduced the 73rd and 74th Amendments Bill in Parliament which were passed in 1993. These introduced new Parts IX and IXA in the Indian Constitution containing Articles 243 to 243ZG.
- A Gram Panchayat cannot act by itself and it acts only through its elected members i.e. Panch(s) and Sarpanch. Moreover, Panch(s) and Sarpanch are in a fiduciary position vis-à-vis the Gram Panchayat and, to that extent, they are also deemed to be trustees of the properties and assets of the Gram Panchayat. They owe a duty to the people of the village and should exercise care, skill and diligence in the discharge of their functions and in the exercise of the powers vested with them. All the powers vested in Panch(s) and Sarpanch are exercisable by them only collectively through decisions taken at a validly convened meeting of the Gram Panchayat.
- “Sarpanch” means the President or Chairperson or Pradhan of the Gram Panchayat by whatever name called, elected directly by the persons registered in the electoral rolls relating to the village or the group of villages comprised within the area of the Panchayat.
- The Sarpanch may whenever he thinks fit, and shall, upon the written request of the prescribed number of members, require the Secretary to call a special meeting within the prescribed period from the date of receipt of such request and to take such steps as may be necessary to convene the meeting.

- Notice of the meeting of the Gram Panchayat shall be served at least five clear days before the date of the meeting. Notice of an adjourned meeting shall be given to all Members including those who did not attend the Meeting on the originally convened date.
- The Secretary shall finalise the Agenda and Notes on Agenda of every Meeting in consultation with the Sarpanch. Each item of business to be taken up at the Meeting shall be serially numbered. Agenda setting out the business to be transacted at the Meeting and Notes on Agenda shall be given to all the Members along with the Notice of the Meeting, unless otherwise provided in the applicable laws.
- Quorum for a Meeting of the Gram Panchayat shall be majority of the total number of Members of the Gram Panchayat for the time being or such minimum number of Members as prescribed under the applicable laws. Quorum shall be present throughout the meeting. If the required quorum is not present at any stage of the remaining item of business shall not be taken up for consideration and be deferred for the next meeting, with reasons to be recorded in writing.
- Minutes of the Meeting of the Gram Panchayat shall be signed and dated by the presiding authority of that meeting or the next Meeting. The person signing shall initial each page of the Minutes and sign the last page. The date and place of signing the Minutes shall also be mentioned at the last page of the Minutes.

**TEST YOURSELF**

*(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)*

1. Discuss the Model Code for Meetings of Gram Panchayat.
2. Discuss the functions of Secretary in convening meeting of Gram Panchayat?
3. Discuss the role of Sarpanch in the meeting of Gram Panchayat.
4. List out the matter listed in the Twelfth Schedule of the Constitution?
5. Discuss the Powers, Authority and Responsibilities of Municipalities?

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## **WARNING**

### ***Regulation 27 of the Company Secretaries Regulations, 1982***

*In the event of any misconduct by a registered student or a candidate enrolled for any examination conducted by the Institute, the Council or any Committee formed by the Council in this regard, may suo-moto or on receipt of a complaint, if it is satisfied that, the misconduct is proved after such investigation as it may deem necessary and after giving such student or candidate an opportunity of being heard, suspend or debar him from appearing in any one or more examinations, cancel his examination result, or registration as a student, or debar him from re-registration as a student, or take such action as may be deemed fit.*

*It may be noted that according to regulation 2(ia) of the Company Secretaries Regulations, 1982, 'misconduct' in relation to a registered student or a candidate enrolled for any examination conducted by the Institute means behaviour in disorderly manner in relation to the Institute or in or around an examination centre or premises, or breach of any provision of the Act, rule, regulation, notification, condition, guideline, direction, advisory, circular of the Institute, or adoption of malpractices with regard to postal or oral tuition or resorting to or attempting to resort to unfair means in connection with writing of any examination conducted by the Institute, or tampering with the Institute's record or database, writing or sharing information about the Institute on public forums, social networking or any print or electronic media which is defamatory or any other act which may harm, damage, hamper or challenge the secrecy, decorum or sanctity of examination or training or any policy of the Institute.*



# PROFESSIONAL PROGRAMME

## CSR & SOCIAL GOVERNANCE

### GROUP 1 • ELECTIVE PAPER 4.1

*(This test paper is for practice and self-study only and not to be sent to the Institute)*

Time allowed: 3 hours

Maximum Mark: 100

**Answer all Questions**

#### **PART I – CORPORATE SOCIAL RESPONSIBILITY (50 MARKS)**

##### **Question No. 1**

Corporate Social Responsibility (CSR) defines the statutory obligations and the Company's commitment to its stakeholders to conduct business in an economically, socially and environmentally sustainable manner, whereby organizations serve the interests of society by taking responsibility for the impact of their activities. Stakeholders include employees, investors, shareholders, customers, business partners, clients, civil society groups, Government and non-government organizations, local communities, environment and the society at large.

Companies recognizes the direct and indirect impact of its business activities on the society and strives to integrate its business values and operations which enable creation and distribution of wealth for the betterment of its stakeholders in an ethical and transparent manner to demonstrate its commitment to sustainable development and to meet the interests of its stakeholders. It is also committed to continuously upgrade its CSR endeavours to make positive impact on the society.

The CSR Policy of a company is a statement containing the approach and direction given by the Board, taking into account the recommendations of the CSR Committee of the Board. It includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

Objectives of CSR are to create value for the stakeholders and society that are fundamentally linked to company's core business strategies and operations through its services; enhance value creation and foster goodwill for the community in which it operates by enhancing the quality of life of people in the direct impact zone ; support the community by assisting the underprivileged people and communities; carry out developmental initiatives in order to meet the calls of the present without compromising the ability of future; support local populace by building the image of the company as patron of Arts and Sports and Culture and to operate in a socially, environmentally and economically responsible manner to succeed by seeking social license.

The inspiration of CSR strategy is linked to the core function of the company. By making efforts to "Give Back" to the community, the paradigm underlying company's Corporate Social Responsibility is centred on the idea of creating "shared value" focussing the Triple Bottom line approach (People, Planet & Profit). The thrust of the CSR of company shall clearly be on empowerment of communities, inclusive socio-economic growth, capacity building, environment protection, promotion of green and energy efficient technologies, development of backward regions and upliftment of the marginalized and under-privileged sections of the society.

The CSR projects in companies implemented under the guidance of CSR Committee (Board level committee) which comprises of functional and independent directors of the Company who shall be responsible formulating and recommending to the Board an Annual Action Plan in pursuance of the CSR Policy of the Company includes

(i) list of CSR projects/activities/programmes covered under the areas/subjects specified in the Schedule-VII; their Modus operandi. implementation schedules, monitoring & reporting mechanism (ii) the budget expenditure to be incurred on such CSR activities and modalities of utilisation of funds thereon (iii) details of need & impact assessment, if any, for the projects undertaken by the Company (iv) Monitor and recommend the alterations in the CSR Policy and Annual Action Plan of the company, based on reasonable justifications to that effect.

In view of the above, answer the following questions:

- (a) Discuss the broad framework of CSR provides under the Companies Act, 2013, CSR Rules and the composition of the CSR Committee for various categories of companies.
- (b) CSR is a Board-driven process. Discuss the responsibilities of the Board in relation to the CSR implementation.
- (c) As a part of CSR program, company contemplates to sponsor overseas sports trainings of Indian sportspersons representing State/Union Territories at National/International level. Advise the company.
- (d) Which entities are eligible to act as an implementing agency for undertaking CSR activities?
- (e) If a company cannot take the benefit of set off of excess amount spent in the previous financial year because of non-applicability of CSR provisions, will the excess amount lapse? Give your answer with illustration.

**(5 Marks each)**

**Question No. 2**

- (i) The CSR activities/projects listed in the approved Annual Plan shall be implemented using internal resources or through an identified suitable agency or through providing financial assistance to NGOs/ specialized agencies/trusts/institutions/foundations/ societies/bodies/international institutions. Draft a specimen CSR policy regarding “Execution & Implementation Methodology”.
- (ii) ABC Ltd. required to be spent on CSR is Rs. Forty-nine lakh rupees. As a Company Secretary of ABC Ltd. advise the requirement for constitution of the CSR Committee and the functions of the CSR Committee, in such cases.

**(5 Marks each)**

**Question No. 3**

- (i) The project should have commenced within the financial year to be termed as ‘ongoing’. The intent is to include a project which has an identifiable commencement and completion dates. After the completion of any ongoing project, the Board of the company is free to design any other project related to operation and maintenance of such completed projects in a manner as may be deemed fit on a case-to-case basis. Discuss the responsibilities of the Board in case ongoing projects are undertaken by the company?
- (ii) The purpose of impact assessment is to assess the social impact of a particular CSR project. Discuss the objective of providing impact assessment of CSR activities? Which companies are required to undertake impact assessment?

**(5 Marks each)**

**Question No. 4**

Discuss the different modes of incurring CSR expenditure? Are administrative overheads applicable only for expenses incurred by the company, or can they be applied to expenses incurred by the implementing agency as well?

**(5 Marks)**

**PART II – SOCIAL GOVERNANCE (50 MARKS)****Question No. 5**

The Rigveda refers to some elements of collective social entrepreneurship which manifested in the form of charity / faith-based philanthropy as a duty and responsibility of a conscious human being. During the reign of the Mauryas and Guptas (4th century BC to 5th century AD) and even later, a strong village community based on collective entrepreneurship and social cohesion was in existence across the country. The modern concept of social capital may partly be thought of as an offshoot of the above tradition of (i) charity / faith-based philanthropy; and (ii) strong and cohesive community life.

In later years, with the emergence of the Industrial Revolution in Europe, political ideas of equality, human rights and social welfare led to formation of intellectual groups and thereafter of organisations which started taking up issues of social concern. In India, such social action groups began taking shape in the early 19th century. The socio-cultural regeneration in 19th century India was occasioned by the colonial presence, but not created by it. Ideas of social reform combined with national sentiment led to the formation of Societies. Religion being the dominant ideology of the period, to some extent, it influenced the growth of the reform movement in the country. But, by and large, contemporary social action groups were inherently driven by intellectual and rational intentions. They created organisational structures which were solidly based on social support and participation.

In the early years of the 20th century, government thought of organizing farmers into voluntary groups which could secure cheap farm credit on a collective basis and thus save them from usurious practices of money lenders. Thus, cooperative societies were born. A legislation was enacted in 1904 titled the “Cooperative Credit Societies Act, 1904”. The inspiration for this Act had come from the success of the cooperative movement in Europe. Though, the first steps in this direction were initiated by the government, the concept received excellent response from rural India and within a few years a number of cooperative societies were in existence in large parts of the country. Provinces like Bombay, Madras, Bihar, Orissa and Bengal made all out efforts to expand cooperatives in their territory and made their own enactments on the pattern of the 1912 Act.

In order to provide legal recognition to voluntary organisations, the then Government came up with legislative enactments in the later part of the 19th century. The first in the series was the Societies Registration Act of 1860; a soft law under which institutions, if they liked, could register themselves. This legislation was followed by the Religious Endowments Act of 1863, the Indian Trusts Act of 1882 and the Charitable Endowments Act of 1890.

These enactments too were rather mild, as at that stage the intention of the government was just to register the presence of such institutions; imposing strong regulatory controls was not on their mind. Towards the beginning of the 20th century, the British Government added legislations such as the Charitable and Religious Trusts Act, 1920; and the Trade Unions Act, 1926. After Independence the Union and State Governments enacted several laws with regard to Public Trusts, Waqfs, Producer Companies, other voluntary sector / civil society organisations and cooperative societies.

In view of the above, answer the following questions:

- (a) Discuss the contributions of Societies and Trusts in the Nation Building.
- (b) Discuss the essential requirements for registration of a Society under the Societies Registration Act, 1860 and enumerate the list of Documents required for Registration of a Society.
- (c) “We generally understand the meaning of ‘society’ in the broader sense. It usually denotes the grouping of several individuals who come together for a common cause or interest, from religious, cultural, political, to charitable, scientific, and more”. Based on the given statement, briefly explain the purpose of society registration.

- (d) Are all Societies trust? What are the purposes for which a trust may be created?
- (e) The Indian Trusts Act, 1882 is the principal legislation which recognises and gives legal basis to the concept of trust as was understood in Britain and its colonies. What legal constraints should be taken into consideration when transferring assets to a trust?

**(5 Marks each)**

**Question No. 6**

- (i) Effective social governance is essential for building a more just, equitable, and inclusive society that promotes the well-being of all its members. Discuss some examples of social governance practices.
- (ii) State the eligibility conditions for being Identified as a Social Enterprise.

**(5 Marks each)**

**Question No. 7**

- (i) Whether registration of a partnership firm is compulsory? Discuss the effects of non-registration.
- (ii) The Secretary of the Non-Corporate Entity shall convene a Meeting on the direction of the Chairman or any other competent authority, if any, appointed for the purpose of meeting. Discuss the role of Secretary pertaining to convene a Meeting of the Non-Corporate Entity.

**(5 Marks each)**

**Question No. 8**

The minimum reporting standards have been created by benchmarking elements from various national and international frameworks of measurement that have been developed and are being deployed. Enumerate the main elements of the reporting standard.

**(5 Marks)**



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