



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)

o/c

MCA:PD: August

26<sup>th</sup> August, 2020

Shri Rajesh Verma, IAS  
Secretary  
Minister of Corporate Affairs  
Government of India  
Dr. Rajendra Prasad Road  
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New Delhi - 110001

प्राप्ति एवं प्रेषक अनुभाग/R & I Section  
भारत सरकार/Govt. of India  
कार्पोरेट कार्य मंत्रालय  
Ministry of Corporate Affairs  
डॉ. सं./Dy. No.....  
दिनांक/Date.....

401 26/8/2020

Respected Sir,

**Sub: Secretarial Audit for Bigger Companies under the Companies Act, 2013**

This has reference to our letter dated May 26, 2020 and earlier representation submitted to Ministry of Corporate Affairs (MCA) seeking Secretarial Audit for bigger class of companies under the Companies Act, 2013.

**Importance of Secretarial Audit**

Until the enactment of the Companies Act, 2013, audit was synonymous with an examination of the financial aspects of an entity. It is only with the enforcement of this Act that due significance has been accorded to the non-financial aspects of a corporate audit.

The intent behind the introduction of Secretarial Audit as an independent and objective audit mechanism was to give necessary comfort to the management, regulators and the stakeholders, as regards compliance of applicable laws, Governance functions and the existence of proper and adequate systems and processes of compliances in the Company. At the same time, the audit mechanism gives additional responsibility to a Company Secretary in Practice to verify legal and procedural compliance and processes.

Secretarial Audit is a means by which early detection of the violations by companies can be identified at an early stage, which prevents corporate wrongdoings, prevent them from possible non-compliance risk. There has been instances of corporate governance failures in the recent past in big companies, which warrants for further expanding the scope of Secretarial Audit.

**ICSI initiatives on Secretarial Audit**

We wish to bring to your kind notice that the Institute has been undertaking many initiatives towards the capacity building of members. It includes guiding the members by conducting various workshops/conferences, webinars on regular basis. Besides covering the subject of Secretarial Audit in the monthly journal, a **Guidance Note on Secretarial Audit** has also been released by the Institute. The Institute has constituted Auditing Standards Board to provide support to the members to develop the auditing techniques and tools to undertake Secretarial Audits of the companies. The Institute has released 4(four) ICSI Auditing Standards, which are required to be observed by the Company Secretaries in Practice undertaking Audits w.e.f 1<sup>st</sup> October, 2020.

**Amendment to the provision of Secretarial Audit**

We welcome the initiative taken by MCA in extending the ambit of Secretarial Audit to Private companies having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more, by amending the provisions of Rule 9 of the Companies (Appointment and remuneration of Managerial Personnel) Rules, 2014.

**Vision**

"To be a global leader in promoting good corporate governance"

**Motto**

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**Mission**

"To develop high calibre professionals facilitating good corporate governance"

Connect with ICSI

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### Submission

Having regard to the intent of legislature to have secretarial audit for all kind of bigger companies including private limited companies. It is submitted to include **Secretarial Audit for bigger private companies** in the purview of secretarial audit. The suggested amendment in Rule 9 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 as under:

- (a) Every **public** company having a paid-up share capital of fifty crore rupees or more; or
- (b) Every **public** company having a turnover of two hundred fifty crore rupees or more; or
- (c) Every company having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more.

### Justification for submission

The use of the word '**bigger companies**' in Section 204 of the Companies Act, 2013 suggests that every listed company, big or small and every big company, public or private, should be subject to Secretarial Audit. It does not envisage any distinction between private companies or public companies.

Given the wide scope and coverage of secretarial audit from gauging the decisions of the board of directors and documentation (or lack thereof) relating to those decisions; observance of the Secretarial Standards and Board processes, maintaining records, the process of Secretarial Audit has come across as a compliance audit and formed part of the total compliance management in an organisation. The multiplicity of laws, rules, regulations, etc. has necessitated the introduction of a compliance management system to ensure compliances of laws applicable to a company.

However, the Indian corporate sector is still represented by private companies with huge paid up capital, turnover, which are not subject to Secretarial Audit. The private companies, too, are custodian of huge resources of the country and are expected to play a larger role in growth of the economy. It is pertinent to note that non-compliances of law and governance standards in any organization, irrespective of their inherent nature and characteristics highlights lack of a strong governance framework irrespective of the structure and size of the entity.

It will be apt that such companies may also be brought within the ambit of Secretarial Audit so as to enhance the level of governance and improve the standards of compliance and transparency in such entities.

In view of the above, we request your goodself to consider our submission in the of the existing corporate scenario and the urging need to strengthen the mechanism of compliance and governance in India Inc.

We shall be pleased to provide any further information or clarification that may be desired in this regard.

Thanking you,

Yours faithfully,

(CS Asish Mohan)  
Secretary