

**GUIDANCE NOTE  
ON  
REPORT OF THE BOARD OF DIRECTORS**



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament

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**on**  
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MAY 2019

Price : Rs. 200/- (*Excluding postage*)

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Published by :

**THE INSTITUTE OF COMPANY SECRETARIES OF INDIA**

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New Delhi 110 003

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## **PREFACE**

The Board's Report is an important means of communication by the Board of Directors of a company with its stakeholders. The Board's Report provides the stakeholders with both financial and non-financial information, including the performance and prospects of the company, relevant changes in the management and capital structure, recommendations as to the distribution of profits, future and on-going programmes of expansion, modernisation and diversification, capitalisation of reserves, further issue of capital and other relevant information.

The Companies Act, 2013, mandates certain disclosures to be made in the Board's Report, additionally, a listed company is required to comply with disclosures requirement stated under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

To promote uniformity of disclosures in the Board's Report, the "Secretarial Standard on Report of the Board of Directors" (SS-4), was issued by the Institute of Company Secretaries of India (ICSI), effective from 1<sup>st</sup> October, 2018 for recommendatory observance.

This Guidance Note on Report of the Board of Directors issued by the ICSI, sets out the explanations, procedures and practical aspects in respect of the provisions contained in SS-4 to facilitate compliance thereof by the stakeholders.

I place on record my sincere thanks to CS Satwinder Singh, Chairman-Secretarial Standards Board (SSB), CS Narayan Shankar (Group Convener) and all Members of the SSB for their efforts and contribution made in the preparation and finalisation of this Guidance Note.

I commend the dedicated efforts put in by CS Rakesh Kumar, Assistant Director led by CS Banu Dandona, Joint Director under the overall guidance of CS Ashok Kumar Dixit, Officiating Secretary of the ICSI, in bringing out this Guidance Note.

I urge upon the Corporates as well as all my professional colleagues to ensure uniformity of disclosures in Board's Report, in the light of this Guidance Note so as to promote good Corporate Governance.

Improvement is a continuous process and therefore, suggestions of the readers to improve this Guidance Note are most welcome.

Place: New Delhi  
Date: 14<sup>th</sup> May, 2019

**CS Ranjeet Pandey**  
*President, ICSI*

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# **GUIDANCE NOTE ON REPORT OF THE BOARD OF DIRECTORS**

*The "Secretarial Standard on Report of the Board of Directors" (SS-4), formulated by the Secretarial Standards Board (SSB) of the Institute of Company Secretaries of India (ICSI) and issued by the Council of the ICSI, has been effective from 1<sup>st</sup> October, 2018. Adherence to SS-4 is recommendatory.*

*This Guidance Note sets out the explanations, procedures and practical aspects in respect of the provisions contained in SS-4 to facilitate compliance thereof by the stakeholders.*

## **INTRODUCTION**

The Companies Act, 2013, requires the Board of Directors of every company to attach its report to the financial statements to be laid before the members at the annual general meeting.

The Board's Report is an important means of communication by the Board of Directors of a company with its stakeholders. The Board's Report provides the stakeholders with both financial and non-financial information, including the performance and prospects of the company, relevant changes in the management and capital structure, recommendations as to the distribution of profits, future and on-going programmes of expansion, modernisation and diversification, capitalisation of reserves, further issue of capital and other relevant information.

The Companies Act, 2013, mandates certain disclosures to be made in the Board's Report.

A listed company is also required to comply with certain additional requirements as stated under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. Similarly, a company, whose securities are listed on an overseas stock exchange, is required to comply with additional requirements as may be specified by such stock exchange.

Further, a company which is regulated under other laws, may also be required to make additional disclosures in its Board's Report as stated in the respective applicable laws.

The Board's Report should be based on the company's standalone financial statement and not on the consolidated financial statement and should relate to the financial year for which such financial statement is prepared.

The Board's Report should avoid repetition of information. If any information is mentioned elsewhere in the financial statement, a reference thereof should be given in Board's Report instead of repeating the same.

## SCOPE

*With a view to ensure enhanced disclosures and transparency, the Companies Act, 2013 and rules made thereunder, as well as the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, provide for the disclosures in the Board's Report and other documents enclosed in the Annual Report. The matters to be reported in Board's Report require special focus, and hence this Guidance Note is intended to facilitate appropriate disclosure in a simplified and structured manner by adding the best practices therein.*

SS-4 prescribes a set of principles for making disclosures in the Report of the Board of Directors of a company and matters related thereto.

*This Guidance Note attempts to guide the companies in preparing the disclosures mentioned in SS-4, which inherently include the relevant provisions of the Companies Act, 2013 and rules made thereunder as well as the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.*

In case, a particular disclosure which is required to be made as per SS-4 is not applicable to a particular company, the company need not disclose the same in the Board's Report except where the Standard requires specific disclosure in this respect.

*For example, SS-4 provides that even if no amount is proposed to be transferred to reserves, or if no dividend has been recommended by the Board, a statement to that effect should be included in the Board's Report. The purpose of this requirement is to ensure the inclusion of certain important information that should be presented to the stakeholders in a single document.*

SS-4 is in conformity with the provisions of the Companies Act, 2013. However,

if due to subsequent changes in the Companies Act, 2013, any part of the Standard becomes inconsistent with the Act, the provisions of the Act shall prevail.

*Further, if due to Notification(s)/Circular(s)/Clarification(s) issued by the Ministry of Corporate Affairs and / or by the Securities and Exchange Board of India, the provisions of SS-4 or any part thereof become inconsistent with any of the provisions of the Act and / or the Listing Regulations or becomes inapplicable to any class of companies, such provisions of the Act and / or the Listing Regulations shall prevail.*

The Board's Report of a One Person Company (OPC) and Small Company shall be prepared in the abridged form as prescribed by the Central Government.

*The matters to be included in the Board's Report of a One Person Company and Small Company are provided in **Annexure-I**.*

*In addition to the disclosure requirements prescribed in this Standard, some sector specific Regulations/Guidelines may require additional disclosures to be made in the Board's Report/Annual Report of companies operating in specific sectors such as Public Sector Undertakings (PSUs), Insurance Companies, Non-Banking Financial Companies, Housing Finance Companies etc. Hence, such companies should make requisite disclosures in accordance with applicable sector specific Regulations/Guidelines in its Board's Report/Annual Report.*

## **DEFINITIONS**

The following terms are used in this Guidance Note with the meaning specified:

*"Act"* means the Companies Act, 2013 (Act No. 18 of 2013) or any previous enactment thereof, or any statutory modification thereto or re-enactment thereof and includes any Rules and Regulations framed thereunder.

*"Committee"* means a Committee of Directors mandatorily required to be constituted by the Board under the Act.

*"Listing Regulations"* means SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, including any amendment thereto.

*"Report"* means Board's Report or the Report of the Board of Directors.

*"Specified Securities"* means the specified securities as defined in the Listing Regulations.

*"Year"* means the financial year to which the Board's Report relates.

*As per the proviso to sub-section (41) of section 2 of the Act, for companies following a different financial year i.e. other than the period ending on 31<sup>st</sup> day of March every year, the term "Year" should mean such different financial year.*

Words and expressions used and not defined herein shall have the meaning respectively assigned to them under the Act and / or the Listing Regulations, as may be applicable.

## **GUIDANCE ON THE PROVISIONS OF SS-4**

### **PART I: DISCLOSURES**

The Report shall, *inter alia*, include the following:

#### **1. COMPANY SPECIFIC INFORMATION**

##### **1.1 Financial summary and highlights**

*The matters to be included in the Report are covered under Rule 8 of Companies (Account) Rules, 2014. Sub-rule 5(i) of the said rules provides that the financial summary or highlights thereof shall be disclosed in the Report.*

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

*In case of a listed company which has listed its specified securities, the business highlights should also be reported, to the extent possible, as per the segment reporting requirements. In case of an unlisted company, the financial summary in the Report may be disclosed segment wise.*

*The format for disclosure of financial information in the Report is placed at **Annexure-II**.*

##### **1.2 Amount, if any, which the Board proposes to carry to any reserves**

The amount proposed to be transferred to any reserves of the company. If no amount is proposed to be transferred to reserves, a statement to that effect shall be included.

*It may be noted that in case of declaration of dividend there is no*

*stipulation in the Act for mandatory transfer of any amount out of the profits for the year to any reserves. The transfer of profits to reserves is left at the discretion of the Board of Directors of the company.*

*However, disclosure with respect to application of discretion by the Board is considered as a good practice from governance point of view.*

*Therefore, in addition to the legal requirements of sub-section (3) of section 134 of the Act, which requires a company to disclose the amount which it proposed to carry to any reserves, the Standard requires that a statement be included in the Report. A disclosure should be made even if no amount is proposed to be transferred to reserves of the company.*

**Illustration**

*If no amount is transferred to the Reserves, the following statement be included in the Report:*

*“The Board of Directors of your company, has decided not to transfer any amount to the Reserves for the year under review.”*

### 1.3 Dividend

- a. The amount of dividend per share and the percentage thereof which the Board recommends for the year and the dividend distribution tax thereon. In case no dividend has been recommended by the Board, a statement to that effect shall be made.

*The Board may recommend the dividend to be declared by the Members at the Annual General Meeting in accordance with the dividend distribution policy of the company, if any. Unless the Dividend has been recommended by the Board, Members in the Annual General Meeting cannot on their own declare any Dividend.*

*Sub-section (3) of section 134 of the Act requires a company to disclose the amount of dividend recommended by the Board in its Report.*

*The Standard, in addition to the requirements of the Act and to promote uniformity in disclosures, requires a company to disclose the percentage of the dividend on a per share basis and the amount of applicable tax payable on distribution of such dividend.*

*This percentage of dividend should be based on the face value of the shares. For example, a dividend of Rs. 7.50 per Equity Share of the face value of Rs. 5 each would indicate that dividend @150% has been recommended by the Board.*

*While indicating the dividend distribution tax payable by a company, the amount of tax on distributed profits on the dividends declared by subsidiaries of the company as of the date of the Report and receivable during the current Financial Year (in which it is paid), should be indicated separately in the Report.*

***Illustration***

***A statement on the recommendation of dividend by the Board may be made as under:***

*"The Board of Directors of your company is pleased to recommend a dividend of Rs. \_\_\_\_\_ per equity share of the face value of Rs. \_\_\_\_\_ each (@\_\_\_\_%), payable to those Shareholders whose names appear in the Register of Members as on the Book Closure / Record Date.*

*An amount of Rs..... would be paid as dividend distribution tax on the dividend.*

*The dividend pay-out is in accordance with the company's dividend distribution policy."*

***Even if no dividend is recommended by the Board, a statement to that effect should be included in the Report. Such statement may be made as under:***

*"The Board of Directors of your company, after considering holistically the relevant circumstances and keeping in view the company's dividend distribution policy, has decided that it would be prudent, not to recommend any Dividend for the year under review."*

*Further, the disclosure under this paragraph of SS-4 should not include any amount capitalised for issue of Bonus shares. The issue of Bonus shares in lieu of dividend is prohibited under sub-section (3) of section 63 of the Act.*

- b. The amount and the percentage of interim dividend declared, if any, during the year and the dividend distribution tax thereon.

*The Board of Directors of a company may declare Interim Dividend during any financial year or at any time during the period from closure of financial year till holding of the Annual General Meeting. Once an Interim Dividend is declared by the Board, noting, approval, confirmation or ratification at a general meeting is not required. However, the Report should mention the amount of Interim Dividend declared and paid by the company during the financial year.*

*Accordingly, the Standard requires a company to disclose the amount and percentage of interim dividend declared by the Board of Directors in respect of the financial year for which accounts are to be adopted at the ensuing Annual General Meeting.*

*The amount of tax paid on the distribution of dividend should also be disclosed in the Report.*

**Illustration**

*A statement on the declaration of interim dividend by the Board may be made as under:*

*"The Board of Directors of your company after considering the company's dividend distribution policy has declared and paid an interim dividend of Rs.....per equity shares of the face value of Rs. \_\_\_\_\_ each (@\_\_\_\_%) during the year.*

*An amount of Rs..... was paid as dividend distribution tax on the interim dividend declared by the Board."*

- c. The total amount of dividend for the year.

*The cumulative amount of dividend including the Interim Dividend declared by the Board and the Final Dividend as recommended by the Board should also be disclosed in the Report.*

**Illustration**

*The total amount of dividend for the year may be disclosed as under:*

*"Cumulatively, the Board of Directors of your company has declared / recommended a total Dividend of Rs.....per equity shares (@\_\_\_\_%) for the year under review"*

- d. A statement on compliance with the Dividend Distribution Policy, if applicable, and the reasons for deviation and the rationale for additional parameters considered, if any.

*The Securities and Exchange Board of India (SEBI) vide its notification dated 8<sup>th</sup> July, 2016 inserted Regulation 43A to the Listing Regulations making it mandatory for top 500 companies to formulate a "Dividend distribution policy" including the following parameters:*

- (a) the circumstances under which the shareholders of the listed entities may or may not expect Dividend;*
- (b) the financial parameters that shall be considered while declaring Dividend;*
- (c) internal and external factors that shall be considered for declaration of Dividend;*
- (d) policy as to how the retained earnings shall be utilised; and*
- (e) parameters that shall be adopted with regard to various classes of shares:*

*If the listed company proposes to declare dividend on the basis of parameters in addition to clauses (a) to (e) above or proposes to change such additional parameters or the dividend distribution policy contained in any of the parameters, it shall disclose such changes along with the rationale for the same in its annual report and on its website.*

*The listed companies other than the top five hundred listed entities based on market capitalisation may disclose their dividend distribution policies on a voluntary basis in their annual reports and on their websites.*

*Though the above disclosure pertaining to dividend distribution policy is required to be made in the Annual Report only by the listed companies, this being an important disclosure, the Standard requires every company which has voluntarily formulated the dividend distribution policy to make a statement of compliance on the dividend distribution policy, and the reasons for deviation and the rationale for additional parameters considered, if any, in the Report.*

**Illustration**

*The statement on dividend distribution policy may be given as under:*

*“The Board of Directors of your company has approved and adopted the dividend distribution policy of the company and dividends declared/recommended during the year are in accordance with the said Policy.*

*The dividend distribution policy is placed at Annexure- to the Report and is also available on the weblink .....*”

- e. Payment of dividend from reserves.

*The Standard requires that if any dividend is declared and paid out of free reserves available for this purpose, the same should be disclosed in the Report.*

#### **1.4 Major events occurred during the year**

##### **a) State of the company's affairs**

The state of affairs of the company shall, *inter alia*, include the following information –

- i. segment-wise position of business and its operations;
- ii. change in status of the company;
- iii. key business developments;
- iv. change in the financial year;
- v. capital expenditure programmes;
- vi. details and status of acquisition, merger, expansion, modernization and diversification;

- vii. developments, acquisition and assignment of material Intellectual Property Rights;
- viii. any other material event having an impact on the affairs of the company.

*Sub-section (3) of section 134 of the Act requires a company to disclose the state of the company's affairs in the Report. The Standard provides further clarity by prescribing the aspects on which the disclosures should be made under this heading.*

*The disclosure under this heading should include a brief description of the nature of business of the company specifying growth achieved in terms of volume of the key products/services of the company, structural changes in the business, new acquisition and development of Intellectual Property Rights, joint ventures and strategic business and technological agreements, divestments, mergers and acquisitions undertaken during the year, etc. Since listed companies also present consolidated financial statements, it is necessary that the key highlights should also include material events relating to subsidiary (ies) which have impacted the state of affairs of the company.*

*It should specify all material events having an impact on the company's business including operational highlights indicating the overall growth of the company and diversification, if any, made during the year. In addition, if the company has identified and already disclosed its plan to venture into other segments, these should also be included in the Report.*

*In order to determine whether a particular event or information of a subsidiary is material in nature and will impact the affairs of the company, the company should consider various criteria which could inter alia include whether there would be any direct or indirect impact on the reputation of the company or the omission of an event or information in the Report will either result in any discontinuation or alteration of an event or information already available publicly or is likely to result in significant market reaction if the said omission came to light at a later date. In addition, the Report should also disclose the details of an event or information of a subsidiary, if the impact of such an event or information is*

*10% or more of consolidated turnover or consolidated net worth of the holding company.*

**b) Change in the nature of business**

In case the company has commenced any new business or discontinued/sold or disposed off any of its existing businesses or hived off any segment or division during the year, the Report shall disclose the details of the same highlighting the key focus areas.

*Sub-Rule (5)(iii) of Rule 8 of Companies (Accounts) Rules, 2014 requires a company to disclose in its Report, the changes during the year, if any, in the nature of business carried on by the company.*

*The Standard provides further clarity by prescribing the aspects on which the disclosures should be made under this heading such as commencement of any new business or discontinuance/sale or disposal of any of its existing businesses or hiving off any segment or division during the year. This will offer the investors and stakeholders of the company, a consolidated view on the changes that have occurred in the business scenario across the company. However, complete details of the transaction should be disclosed which would include the percentage of investment, divestment or disposal made, the amount of consideration and the consequential impact of the transaction on the company.*

*The Report should also disclose the details of significant changes in the nature of business carried on by its subsidiaries if the impact of such changes is 10% or more of the consolidated turnover or consolidated net worth of the holding company.*

**c) Material changes and commitments, if any, affecting the financial position of the company, having occurred since the end of the Year and till the date of the Report**

The effect of such changes and commitments and an estimate of their financial impact shall also be disclosed in the Report. If evaluation of such an estimate cannot be made, a statement to that effect be made.

The causes for such material changes and commitments and the remedial measures taken shall also be disclosed.

The Report shall also disclose the information with respect to changes in external and internal environment including technical, legal and financial, strikes, lockouts and breakdowns affecting the business of the company.

*Sub-section (3) of section 134 of the Act requires a company to disclose material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year and the date of the Report.*

*The Standard provides that the effect of such changes and commitments and an estimate of their financial impact should also be disclosed in the Report. If evaluation of such an estimate cannot be made, a statement to that effect should be made.*

*Further, the causes for such material changes and commitments and the remedial measures taken by the company should also be disclosed. In case, the company has not taken any remedial measures till the date of the Report, a broad strategy to be adopted by the company should be disclosed in the Report.*

**Illustration**

***If there are material changes and commitments but their impact on the financial position is not determinable, a statement should be disclosed in the Report as under :***

*“Following material changes and commitments have occurred between the end of the financial year to which the financial statements relate and the date of this Report and their impact on financial position of the company is not determinable.*

*(i) .....*

*(ii) .....*

*(iii) .....*

*The causes for such material changes and commitment as stated above and remedial measures taken by the company are given below:*

(i) .....

(ii) .....

(iii) .....“

***If there are no such material changes and commitments affecting the financial position of the company, a statement should be disclosed in the Report as under:***

*“There have been no material changes and commitments, which affect the financial position of the company which have occurred between the end of the financial year to which the financial statements relate and the date of this Report.”*

### **1.5 Details of revision of financial statement or the Report**

In case the company has revised its financial statement or the Report in respect of any of the three preceding financial years either voluntarily or pursuant to the order of a judicial authority, the detailed reasons for such revision shall be disclosed in the Report of the year as well as in the Report of the relevant financial year in which such revision is made.

*Sub-section (1) of section 131 of the Act provides for revision of the financial statements or Report, after the company has obtained approval of the Tribunal, in line with the provisions of such sections.*

*The said section further provides that such revised financial statement or Report shall not be prepared or filed more than once in a financial year and the detailed reasons thereof shall also be disclosed in the Report of the relevant financial year in which such revision is being made.*

*Such detailed reasons should include the financial impact, if any, due to the revision of the financial statements or the Report.*

*Further, sub-section (2) of section 131 of the Act also provides that in case if the previous financial statement or Report have been sent out to members or delivered to the Registrar or laid before the company in general meeting, the revisions shall be confined to:*

- (a) the correction in respect of which the previous financial statement or Report do not comply with the provisions of section 129 or section 134; and*
- (b) the making of any necessary consequential alternation.*

## 2. GENERAL INFORMATION

- 2.1 Overview of the industry and important changes in the industry during the last year;
- 2.2 External environment and economic outlook;
- 2.3 Induction of strategic and financial partners during the year; and
- 2.4 In case of a company, which has delisted its equity shares, during the year or till the date of the Report, the particulars of delisting activity giving details like price offered pursuant to delisting offer, offer period of delisting, number of shares tendered and accepted, total consideration paid and the holding of the Promoters in the company post delisting.

*In order to facilitate uniformity in disclosures, the Standard lays down the aspects of general information to be stated in the Report. Various macro-economic factors and industry specific developments play a crucial role in the growth of the company, and the stakeholders should be informed of the:*

- (a) Growth of the company vis-a-vis industry growth and outlook; and*
- (b) Economic factors that impacted the growth of the business during the year under review.*

*Further, if any strategic or financial partners have been inducted in a company, the same should be highlighted along with their contribution.*

## 3. CAPITAL AND DEBT STRUCTURE

**Any changes in the capital structure of the company during the year, including the following:**

- (a) change in the authorised, issued, subscribed and paid-up share capital;
- (b) reclassification or sub-division of the authorised share capital;
- (c) reduction of share capital or buy back of shares;
- (d) change in the capital structure resulting from restructuring; and
- (e) change in voting rights.

*In order to facilitate uniformity in disclosures, the Standard laid down the changes in the capital structure of a company which are required to be*

*disclosed in the Report. The information should be sufficiently detailed and should also cover the classes of shares across which such changes have been carried out.*

### **3.1 Issue of shares or other convertible securities**

During the year, if the company has issued any equity shares or preference shares or any securities which carry a right or option to convert such securities into shares, the disclosure shall include the following:

- (a) date of issue and allotment;
- (b) method of allotment (QIP, FPO, ADRs, GDRs, rights issue, bonus issue, preferential issue, private placement, conversion of securities, etc.);
- (c) issue price;
- (d) conversion price;
- (e) number of shares allotted or to be allotted in case the right or option is exercised by all the holders of such securities;
- (f) number of shares or securities allotted to the promoter group (including shares represented by depository receipts);
- (g) in case, shares or securities are issued for consideration other than cash, a confirmation that price was determined on the basis of a valuation report of a registered valuer.

*In order to facilitate uniformity in disclosures, the Standard lays down that the changes in the issued or paid-up capital structure are required to be disclosed in the Report.*

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

- (i) the price was determined on the basis of a valuation report of a registered valuer;*
- (ii) the valuation report was given by a registered valuer appointed by the Audit Committee or Board of the company, as the case may be;*
- (iii) all other provisions of section 247 of the Act and Rules made thereunder have been duly complied with.*

*In case of preferential issue of convertible securities, sub-rule 2(h) of Rule 13 of the Companies (Share Capital and Debenture) Rules, 2013 provides that the option of the price of the resultant shares pursuant to conversion shall be determined either:*

- (i) upfront at the time when the offer of convertible securities is made, which shall be on the basis of valuation report of a registered valuer given at the stage of such offer, or*
- (ii) at the time, which shall not be earlier than thirty days to the date when the holder of convertible security becomes entitled to apply for these shares, on the basis of valuation report of the registered valuer given not earlier than sixty days of the date when the holder of convertible security becomes entitled to apply for shares.*

*In case, if option mentioned at (ii) is exercised, such a fact should be disclosed in the Report.*

### **3.2 Issue of equity shares with differential rights**

The disclosure shall include the following:

- (a) total number of shares allotted with differential rights;
- (b) details of the differential rights relating to voting rights and dividend;
- (c) percentage of the shares with differential rights to the total post issue equity share capital with differential rights issued at any point of time and percentage of voting rights which the equity share capital with differential voting rights shall carry to the total voting rights of the aggregate equity share capital;
- (d) price at which shares with differential rights have been issued;
- (e) particulars of Promoters, Directors or Key Managerial Personnel to whom shares with differential rights have been issued;
- (f) change in control, if any, in the company consequent to the issue of equity shares with differential voting rights;
- (g) diluted earnings per share pursuant to the issue of each class of shares, calculated in accordance with the applicable accounting standards;

- (h) pre and post issue shareholding pattern along with voting rights in the prescribed format.

*Section 43 of the Act provides that a company limited by shares can issue equity shares with differential rights as to dividend, voting or otherwise in accordance with the rules prescribed under Rule 4 of the Companies (Share Capital and Debentures) Rules, 2014.*

### **3.3 Issue of Sweat Equity Shares**

The disclosure shall include the following:

- (a) class of Directors or employees to whom sweat equity shares were issued;
- (b) class of shares issued as sweat equity shares;
- (c) number of sweat equity shares issued to the Directors, Key Managerial Personnel or other employees showing separately the number of such shares issued to them, if any, for consideration other than cash and the names of allottees holding one percent or more of the issued share capital;
- (d) reasons or justification for the issue;
- (e) principal terms and conditions for the issue, including pricing formula;
- (f) total number of shares arising as a result of the issue ;
- (g) percentage of the sweat equity shares to the total post issued and paid up share capital;
- (h) consideration, including consideration other than cash, received or benefit accrued to the company from the issue ;
- (i) diluted earnings per share pursuant to the issue.

*Sub-section (1) of section 54 of the Act provides that where the equity shares of the company are listed on a recognised stock exchange, the sweat equity shares shall be issued in accordance with the regulations made by the Securities and Exchange Board of India in this behalf and if they are not so listed, the sweat equity shares shall be issued in accordance with Rule 8 of Companies (Share Capital and Debentures) Rules, 2014.*

*Rule 8(13) of Companies (Share Capital and Debentures) Rules, 2014 provides that the Board of Directors shall, inter alia, disclose the details of such issue of sweat equity in their Report.*

### **3.4 Details of Employee Stock Options**

The disclosure shall include the following details of all the Employee Stock Options Scheme(s) implemented from time to time:

- (a) options granted;
- (b) options vested;
- (c) options exercised;
- (d) the total number of shares arising as a result of exercise of options;
- (e) options lapsed;
- (f) the exercise price;
- (g) variation in terms of options;
- (h) money realised by exercise of options;
- (i) total number of options in force;
- (j) employee wise details of options granted to:
  - (i) Key Managerial Personnel;
  - (ii) any other employee who receives a grant of options in any one year of options amounting to five percent or more of total options granted during that year;
  - (iii) identified employees who were granted options, during any one year, equal to or exceeding one percent of the issued capital, excluding outstanding warrants and conversions, of the company at the time of grant.
- (k) in case of a company whose shares are listed:
  - (i) any material change to the scheme and whether such scheme is in compliance with the SEBI (Share Based Employee Benefits) Regulations, 2014;
  - (ii) web-link of disclosures made on the website of the company, as required under SEBI (Share Based Employee Benefits) Regulations, 2014.

*Rule 12(9) of Companies (Share Capital and Debentures) Rules, 2014 provides that the Board of Directors shall, inter alia, disclose the details of Employees Stock Option Scheme (ESOS) in the Report, applicable in case of an unlisted company.*

*In case of a listed company, Regulation 14 of SEBI (Share Based Employee Benefits) Regulations, 2014 [SEBI (SBEB) Regulations] requires that in addition to the information that a company is required to disclose in relation to employee benefits under the Act, the board of directors of a company should disclose the details of the scheme(s) being implemented, as specified by SEBI in this regard.*

*SEBI vide its Circular CIR/CFD/POLICY CELL/2/2015 dated June 16, 2015 has specified the disclosures to be stated in this regard in the Report, which inter-alia also require disclosures in the Report on material changes in the Scheme as well as whether the Scheme is in compliance with the SEBI (SBEB) Regulations. Further details, as specified therein, should be disclosed on the company's website and a web-link thereto should be provided in the Report.*

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

The disclosure shall include the following:

- (a) names of the employees who have not exercised the voting rights directly;
- (b) reasons for not voting directly;
- (c) name of the person who is exercising such voting rights;
- (d) number of shares held by or in favour of such employees and the percentage of such shares to the total paid up share capital of the company;
- (e) date of the general meeting in which such voting power was exercised;
- (f) resolutions on which votes have been cast by persons holding such voting power;
- (g) percentage of such voting power to the total voting power on each resolution;
- (h) whether the votes were cast in favour of or against the resolution.

*Proviso to sub-section (3) of section 67 of the Act read with rule 16(4) of Companies (Share Capital and Debentures) Rules, 2014 states that where the voting rights are not exercised directly by the employees in respect of shares to which the scheme relates, the Board of Directors shall, inter alia, disclose the aforesaid details in the Report for the relevant financial year.*

*Sub-section (3) of section 67 suggests that disclosure in Report is required when voting rights are not exercised by the employees but are exercised by the Trustees.*

*The above disclosures do not apply in case of listed companies, as in case of such companies, the SEBI (SBEB) Regulations do not allow the trustees to vote. Therefore in case of listed companies, where trustees hold shares, details as mentioned at (a) to (h) above should not apply.*

*In case of unlisted companies, if trustees exercise the voting rights after exercise of options and allotment /transfer of shares to the employees, the details of employees who have not exercised their voting rights as mentioned above should be given.*

### **3.6 Issue of debentures, bonds or any non-convertible securities**

The disclosure shall include the following:

- (a) date of issue and allotment of the securities;
- (b) number of securities;
- (c) whether the issue of the securities was by way of preferential allotment, private placement or public issue;
- (d) brief details of the debt restructuring pursuant to which the securities are issued;
- (e) issue price;
- (f) coupon rate;
- (g) maturity date;
- (h) amount raised.

*In order to facilitate uniformity in the disclosures in the Report, the Standard lays down the parameters for disclosure in respect of issue of debentures, bond or any other non-convertible securities.*

*SEBI vide its Circular SEBI/HO/DDHS/CIR/P/2018/144 dated November 26, 2018 has specified norms and disclosure requirements by large listed entities fulfilling conditions stipulated in paragraph 2.2 of the Circular, in case of fund raising by issuance of debt securities.*

*If applicable, such large listed entities should include a statement in the Report as illustrated below.*

**Illustration**

*"Your company has issued bonds aggregating Rs. \_\_\_\_\_, pursuant to SEBI circular on fund raising dated November 26, 2018."*

### **3.7 Issue of warrants**

The disclosure shall include the following:

- (a) date of issue and allotment of warrants;
- (b) number of warrants;
- (c) whether the issue of warrants was by way of preferential allotment, private placement, public issue;
- (d) issue price;
- (e) maturity date;
- (f) amount raised, specifically stating as to whether twenty five percent of the consideration has been collected upfront from the holders of the warrants;
- (g) terms and conditions of warrants including conversion terms.

*In order to facilitate uniformity in the disclosures in the Report, the Standard lays down the parameters for disclosure in respect of issue of warrants.*

## **4. CREDIT RATING OF SECURITIES**

The disclosure shall include the following:

- (a) credit rating obtained in respect of various securities;
- (b) name of the credit rating agency;
- (c) date on which the credit rating was obtained;

- (d) revision in the credit rating;
- (e) reasons provided by the rating agency for a downward revision, if any.

*In addition to the above, as per the Listing Regulations, listed companies are required to disclose in the Corporate Governance Report a list of all credit ratings obtained by the company along with any revisions thereto during the relevant financial year, for all debt instruments of such entity or any fixed deposit programme or any scheme or proposal of the listed entity involving mobilization of funds, whether in India or abroad.*

*Further, listed companies are also required to place on its website all credit ratings obtained for all its outstanding instruments, updated immediately as and when there is any revision in any of the ratings.*

*Certain events which have a bearing on the performance/ operations of the company as well as which are price sensitive should be immediately intimated to the stock exchange where the shares of the company are listed in order to enable the stakeholders to appraise the position of the company.*

*In case a company obtains the credit rating but has not used / using the same, the reasons thereof should be mentioned in the Report.*

*As a matter of good corporate governance it is desirable that such material events like credit rating of the various securities of the company including the revision in credit rating should also be disclosed in the Report. Hence, the Standard requires appropriate disclosure in the Report.*

## **5. INVESTOR EDUCATION AND PROTECTION FUND (IEPF)**

The disclosure shall include the following:

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

- (v) application money received for allotment of any securities and due for refund along with interest accrued;
- (vi) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation;
- (b) details of the resultant benefits arising out of shares already transferred to the IEPF;
- (c) year wise amount of unpaid/unclaimed dividend lying in the unpaid account upto the Year and the corresponding shares, which are liable to be transferred to the IEPF, and the due dates for such transfer;
- (d) the amount of donation, if any, given by the company to the IEPF;
- (e) such other amounts transferred to the IEPF, if any, during the year.

*As a good corporate governance practice, the company should disclose the amounts, if any, which have been transferred during the year to the Investor Education and Protection Fund under sub-section (2) of section 125 of the Act and the IEPF (Accounting, Audit, Transfer and Refund) Rules, 2016.*

*Further, the Report should state the amounts, if any, which were to be transferred to the Investor Education and Protection Fund but have not been so transferred, along with the reasons for such failure.*

*Secretarial Standard on Dividend (SS-3) issued by the ICSI requires that the Annual Report of the company should disclose the total amount lying in the Unpaid Dividend Account of the company in respect of the last seven years and when such unpaid dividend is due for transfer to the Fund.*

*In addition to the above, it is suggested that the company should disclose the date and year of declaration of dividend and the amount to be transferred to the IEPF.*

*The amount of Dividend, if any, transferred by the company to the IEPF during the year should also be disclosed.*

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

#### **Details of the Nodal Officer**

*The details of the nodal officer appointed by the company under the provisions of IEPF and the web-address on which the said details are available should be disclosed in the Report.*

**Shares transferred to Investor Education and Protection Fund**

*In addition to the above, sub-section (6) of section 124 of the Act also requires that all shares in respect of which dividend has not been paid or claimed for seven consecutive years or more shall be transferred by the company in the name of IEPF along with a statement containing such details as may be prescribed.*

*It is suggested that the details of shares transferred to the IEPF during the year should be mentioned in the Report. If any benefits such as bonus, stock split, consolidation or fractional entitlement are accrued on the shares transferred to the IEPF, then details of such benefits transferred to the IEPF should also be mentioned in the Report.*

*As the above information is important, the standard requires all such disclosures should be incorporated in the Report itself.*

**6. MANAGEMENT****6.1 Directors and Key Managerial Personnel**

The disclosure shall include the following:

- (a) names of the persons who have been appointed /ceased to be Directors and/or Key Managerial Personnel of the company:
  - (i) during the year;
  - (ii) after the end of the year and up to the date of the Report;
- (b) mode of such appointment/cessation;
- (c) names of the Directors retiring by rotation at the ensuing annual general meeting and whether or not they offer themselves for re-appointment.

In case the company operates in a specific sector where approval of any regulatory authority is required before the appointment of a Director/ Key Managerial Personnel, the Report shall also state whether the company has obtained the approval of such regulatory authority.

*Sub-section (1) of section 168 provides that a director may resign from his office by giving a notice in writing to the company and the Board shall on receipt of such notice take note of the same and the company shall intimate the Registrar within 30 days thereof in e-form DIR-12 and shall also place the fact of such resignation in the Report laid in the*

*immediately following general meeting of the company. The Director who has resigned may also forward a copy of his resignation with the detailed reasons, within 30 days thereof to the Registrar in e-form DIR-11.*

*Further, Rule 8(5) of Companies (Accounts) Rules, 2014 requires that the Report shall contain the details of directors or key managerial personnel who were appointed or have resigned during the year.*

*As a measure of good corporate governance practice, the Standard has extended the disclosure requirement to include the persons who have been appointed /ceased to be Directors and/or Key Managerial Personnel of the company after the end of the year and up to the date of the Report. In addition, the Standard also requires that the mode of such appointment/cessation should also be disclosed in the Report. Mode of appointment may be by the Board, by the shareholders or by way of Nomination as the case may be. Mode of cessation may be by way of resignation, vacation, death, retirement or removal as the case may be.*

*Further, cessation would also include Independent Directors who have retired from the company post completion of their term as approved by the shareholders.*

*In case of a listed company which has listed its specified securities, the Corporate Governance Report should state the detailed reasons for the resignation of an independent director who resigns before the expiry of his tenure along with a confirmation by such director that there are no other material reasons other than those provided.*

*The Standard also requires that disclosure should also be made in respect of Directors retiring by rotation at the ensuing annual general meeting and whether or not they have offered themselves for re-appointment.*

## **6.2 Independent Directors**

The disclosure shall include the following:

- (a) in case of appointment of Independent Directors, the justification for choosing the proposed appointees for appointment as Independent Directors; and
- (b) in case of re-appointment after completion of the first term, the rationale for such re-appointment.

*Sub-section (10) of section 149 of the Act requires that the appointment of Independent Directors shall be disclosed in the Report.*

*In addition, the Standard requires that in case of appointment of Independent Directors, the justification for choosing the appointees for appointment as Independent Directors should also be disclosed in the Report.*

*The "Secretarial Standard on General Meetings (SS-2)" requires that the performance evaluation report or summary thereof shall be included in the explanatory statement in case of re-appointment of an Independent Director. In addition to such information being provided in the explanatory statement, it can also be included in the Report alongwith the rationale for re-appointment of the Independent Director.*

### **6.3 Declaration by Independent Directors and statement on compliance of code of conduct**

The Report shall include a statement:

- (a) that necessary declaration with respect to independence has been received from all the Independent Directors of the company;
- (b) that the Independent Directors have complied with the Code for Independent Directors prescribed in Schedule IV to the Act.

If the company has formulated a Code of Conduct for Directors and senior management personnel, the Report shall also include a statement on compliance of such Code.

*Sub-section (3) of section 134 of the Act requires that a statement on declaration given by the independent directors under sub-section (6) of section 149 (i.e. declaration of independence) shall be disclosed in the Report.*

*In case of listed companies, the independent directors, should in addition to the provisions of Regulation 16(1)(b) of the Listing Regulations, also confirm that he/she is not aware of any circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact his ability to discharge his duties with an objective independent judgment and without any external influence and that he/she is independent of the management.*

*Further, the board of directors of the listed company which has listed its specified securities should take on record the declarations and confirmations / affirmations given by the independent directors after undertaking due assessment of the veracity of the same.*

*For compliance of the above requirement, the first Board Meeting Agenda after receiving such confirmation / affirmation and Minutes thereof may include following statement:*

*“Based on the confirmation /affirmation received from Mr./Ms. \_\_\_\_\_, Independent Director, that he/she was not aware of any circumstances that are contrary to the declarations submitted by him/her, the Board acknowledges the veracity of such confirmation and takes on record the same.”*

*In addition, the Standard also requires that the Report should include a statement that the Independent Directors have complied with the Code for Independent Directors prescribed in Schedule IV to the Act and also a statement on compliance of Code of Conduct for directors and senior management personnel, if any, formulated by the company.*

*The term senior management has a different meaning for listed and unlisted companies.*

*For unlisted companies, as per the provisions of sub-section (8) of section 178 of the Act, “senior management” means personnel of the company who are members of its core management team excluding Board of Directors comprising all members of management one level below the executive directors, including the functional heads.*

*For listed companies, as per the provisions of the Act as well as the Listing Regulations, the term “Senior Management” means officers/ personnel of the company who are members of its core Management Team excluding Board of Directors and normally this should comprise of all members of management one level below the chief executive officer/managing director/whole time director/manager (including chief executive officer/manager, in case they are not part of the board) including the functional heads and should specifically include company secretary and chief financial officer.*

#### **6.4 Board Meetings**

The number and dates of meetings of the Board held during the year shall be disclosed in the Report.

*Sub-section (3) of section 134 of the Act requires that the Report shall include the number of meetings of the Board held during the year.*

*The dates of the meetings, which is an important disclosure, is not covered in the sub-section (3) of section 134 and many companies make such disclosure voluntarily to give complete information. In order to promote uniformity in disclosures, the Standard requires that both number and dates of the meetings of the Board, should be disclosed in the Report.*

## **6.5 Committees**

The Report shall disclose:

- (a) Composition of Committees constituted by the Board under the Act and the Listing Regulations as well as changes in their composition, if any, during the year;
- (b) The number and dates of meetings of such committees held during the year.

*Sub-section (8) of section 177 of the Act requires that the Report shall disclose the composition of Audit Committee.*

*Sub-section (2) of section 135 of the Act also requires that the Report shall disclose the composition of the Corporate Social Responsibility Committee.*

*The Standard requires the disclosure of composition of all committees constituted by the Board under the Act and the Listing Regulations. Further, the changes in the composition of such committees during the year should also be disclosed in the Report.*

*Similar to the disclosure requirements for Board Meetings, the number and dates of the meetings of such committees held during the year should also be disclosed in the Report.*

## **6.6 Recommendations of Audit Committee**

Where the Board has not accepted any recommendation of the Audit Committee, a statement to that effect shall be disclosed in the Report along with the reasons for such non-acceptance.

*Sub-section (8) of section 177 of the Act, which provides that the Report shall disclose the composition of the Audit Committee and where the Board has not accepted any recommendation of the Audit Committee, the same shall be disclosed in such Report along with the reasons therefor.*

*In case of listed companies, where the board has not accepted any recommendation of any committee of the board which is mandatorily required, in the relevant financial year, the same should be disclosed along with reasons thereof in the Corporate Governance Report.*

*The above disclosure requirement should only apply where recommendation of / submission by the committee is required for the approval of the Board of Directors and should not apply where prior approval of the relevant committee is required for undertaking any transaction under the Listing Regulations.*

*As a measure of good corporate governance practice, unlisted companies can voluntarily disclose in the Report instances where the Board has not accepted any recommendation of any of the Committee of the Board constituted under the Act along with the reasons therefor.*

#### **Illustration**

*Audit committee of ABC Ltd. considered the matter and referred to Board (refer section 177(4)(iv) 2<sup>nd</sup> proviso)*

<b>Sl. No.</b>	<b>Situation</b>	<b>Disclosure required</b>
1	<i>Transaction in the Ordinary Course of Business or at arm's length and approved by the Audit Committee</i>	–
2	<i>Transaction in the Ordinary Course of Business or at arm's length but not approved by the Audit Committee and referred to the Board with (+ve) recommendations.</i>	<i>If board disapproves the transaction, disclosure is required for not accepting the recommendation of the audit committee</i>
3.	<i>Transaction in the Ordinary Course of Business or at arm's length but not approved by the Audit Committee and referred to the Board with (-ve) recommendations.</i>	<i>If board approves the transaction, disclosure is required for not accepting the recommendation of the audit committee</i>
4.	<i>Transaction in the Ordinary Course of Business or at arm's length but not approved by the Audit Committee and referred to the Board without any recommendations.</i>	–

### **6.7 Company's Policy on Directors' appointment and remuneration**

The Report of every listed public company and other prescribed class of companies shall disclose company's policy on directors' appointment and remuneration and the criteria for determining qualifications, positive attributes and independence of a Director. Where the said policy is available on the website of the company, it would be sufficient to disclose salient features of such policy, any change therein and the web-link at which the complete policy is available.

*Sub-section (3) of section 134 read with proviso to sub-section (4) of section 178 of the Act deals with the company's policy on directors' appointment and remuneration.*

*In case of public unlisted companies not having a website, such companies should attach said policy with the Report.*

### **6.8 Board Evaluation**

The Report of every listed company and other prescribed class of public companies shall include a statement indicating the manner in which formal annual evaluation of the performance of the Board, its Committees and of individual Directors has been made.

*Sub-section (3) of section 134 of the Act deals with the disclosure on annual performance evaluation of the Board, its Committees and of individual directors.*

*The requirement of performance evaluation applies to every listed company and every other public company having a paid up share capital of twenty five crore rupees or more calculated at the end of the preceding financial year.*

*Rule 8 of the Companies (Accounts) Rules, 2014, provides that the Report shall contain a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors.*

*The manner of performance evaluation should indicate the process of obtaining feedback, such as feedback sought by way of a structured questionnaire or otherwise, aspects covered in the feedback sought, and whether the Directors were satisfied with the evaluation process.*

*As per the provisions of sub-section (2) of section 178 of the Act,*

*evaluation of performance of Board, its committees and individual directors can be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency.*

*Further, as per the provisions of Schedule IV to the Act (Code for Independent Directors), the performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated. The Listing Regulations contain similar requirement in case of listed companies.*

*Accordingly, the Board should be responsible for conducting the performance evaluation of the Board, its Committees and of individual directors.*

*According to SEBI circular dated 10<sup>th</sup> May, 2018, listed company whose equity shares are listed on a stock exchange may consider the following as part of its disclosures on Board Evaluation:*

- i. Observations of board evaluation carried out for the year.*
- ii. Previous year's observations and actions taken.*
- iii. Proposed actions based on current year observations.*

## **6.9 Remuneration of Directors and Employees of Listed Companies**

The following disclosures, shall be made, either in the Report or by way of an annexure thereto:

- (a) the number of permanent employees on the rolls of the company;
- (b) the ratio of remuneration of each Director to the median remuneration of the employees of the company for the year;

[The expression "median" means the numerical value separating the higher half of a population from the lower half and the median of a finite list of numbers may be found by arranging all the observations from lowest value to highest value and picking the middle one; (ii) if there is an even number of observations, the median shall be the average of the two middle values.]

- (c) the percentage increase in remuneration of each Director, Chief Financial Officer, Chief Executive Officer, Company Secretary or Manager, if any, in the year;
- (d) the percentage increase in the median remuneration of employees in the year;

[The expression "Remuneration" means any money or its equivalent given or passed to an employee for services rendered by him and includes perquisites under the Income tax Act.]

- (e) average percentile increase already made in the salaries of employees other than managerial personnel in the last year and its comparison with the percentile increase in the managerial remuneration and justification thereof and whether there are any exceptional circumstances for increase in the managerial remuneration;
- (f) affirmation that the remuneration is as per the remuneration policy of the company.

In addition to the above, the Report shall include a statement indicating:

- (a) names of top ten employees of the company in terms of remuneration drawn.

Employees who have resigned / retired during the year shall also be considered for this purpose. In case of companies having less than ten employees, such statement shall include details of all employees.

- (b) name of every employee who:
  - (i) if employed throughout the year, was in receipt of remuneration not less than one crore and two lakh rupees in the aggregate;
  - (ii) if employed for a part of the year, was in receipt of remuneration not less than eight lakh and fifty thousand rupees per month in the aggregate;
  - (iii) if employed throughout the year or part thereof, was in receipt of remuneration which is in excess of that drawn by the Managing Director or Whole-time Director or Manager and who holds by himself or along with his spouse and dependent children, not less than two percent of the equity shares of the company.

The aforesaid statement shall also indicate the following:

- (a) designation of the employee;
- (b) remuneration received;

- (c) nature of employment, whether contractual or otherwise;
- (d) qualifications and experience of the employee;
- (e) date of commencement of employment;
- (f) the age of such employee;
- (g) the last employment held by such employee before joining the company;
- (h) the percentage of equity shares held by the employee along with his spouse and dependent children, if such shareholding is not less than two percent of the total equity shares;
- (i) whether any such employee is a relative of any Director or Manager of the company and if so, the name of such Director or Manager.

Particulars of employees posted and working in a country outside India, not being Directors or their relatives, drawing more than sixty lakh rupees per year or five lakh rupees per month, as the case may be, as may be decided by the Board, need not be circulated to the members in the Report, but such particulars shall be filed with the Registrar of Companies while filing the financial statement and the Report.

*Sub-section (12) of section 197 of the Act and rule 5 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 provides that the above information shall be disclosed in the Report of listed companies.*

#### **6.10 Remuneration received by Managing/Whole time Director from holding or subsidiary company**

In case the Managing/Whole time Director of the company is in receipt of any commission from the company, and also receives any remuneration or commission from its holding company or subsidiary company, details of such remuneration or commission shall be disclosed in the Report.

*Sub-section (14) of section 197 of the Act provides that any director who is in receipt of any commission from the company and who is a managing or whole-time director of the company, shall not be*

*disqualified from receiving any remuneration or commission from any holding company or subsidiary company of such company subject to its disclosure by the company in the Report. If the Managing/Whole Time Director has exercised any Employee Stock Options (ESOPs) granted by the subsidiary company, such exercise of ESOPs should also be disclosed.*

### **6.11 Directors' Responsibility Statement**

The Report shall include a Directors' Responsibility Statement stating the following:

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

*Sub-section (3) of section 134 of the Act provides that the Report shall include Directors' Responsibility Statement as per sub-section (5) of section 134 of the Act.*

*Sub-paragraph (f) of the Directors' Responsibility Statement, as stated above, is applicable only to listed companies.*

## 6.12 Internal Financial Controls

Details in respect of adequacy of internal financial controls with reference to the financial statement.

*Rule (8)(5) of the Companies (Accounts) Rules, 2014 provides that the Report shall contain the details in respect of adequacy of internal financial controls with reference to the financial statements.*

## 6.13 Frauds reported by the Auditor

The following details of frauds reported by the Auditor (Statutory Auditor, Secretarial Auditor or Cost Auditor) to the Audit Committee/ Board, as the case may be, and the frauds reported to the Central Government shall be disclosed in the Report:

- (a) nature of fraud with description;
- (b) approximate amount involved;
- (c) parties involved, if remedial action not taken;
- (d) remedial action taken to prevent occurrence of such frauds in future.

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

*Sub-section (3) of section 134 of the Act requires that the details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government, shall be disclosed in the Report.*

*Sub-section (12) of section 143 of the Act provides that if an auditor of a company in the course of the performance of his duties as statutory auditor has reason to believe that an offence of fraud involves or is expected to involve individually an amount of rupees one crore or above or such amount as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed.*

*Rule 13(3) of the Companies (Audit and Auditors) Rules, 2014 provides that the companies, whose Auditors have reported frauds involving amount less than rupees one crore or as may be prescribed under this*

*sub-section, to the audit committee or the Board but not reported to the Central Government, the company shall disclose the details about such frauds in the Report in such manner as may be prescribed.*

*Rule 13(4) of the Companies (Audit and Auditors) Rules, 2014 provides that the following details of each of the fraud reported to the Audit Committee or the Board during the year shall be disclosed in the Report:-*

- (a) Nature of Fraud with description;*
- (b) Approximate Amount involved;*
- (c) Parties involved, if remedial action not taken; and*
- (d) Remedial actions taken.*

*and the provision of this rule shall also apply, mutatis mutandis, to a Cost Auditor and a Secretarial Auditor during the performance of his duties under section 148 and section 204 respectively.*

*Since the disclosure in respect of frauds reported to the Central Government is also pertinent from stakeholder's perspective, the Standard requires that the details of frauds reported to the Central Government should also be disclosed in the Report.*

## **7. DISCLOSURES RELATING TO SUBSIDIARIES, ASSOCIATES AND JOINT VENTURES**

### **7.1 Report on performance and financial position of the subsidiaries, associates and joint ventures**

In case of companies having Subsidiaries, Associates and Joint Ventures, the Report shall include a separate section highlighting the performance of each of the Subsidiaries, Associates and Joint venture companies and their contribution to the overall performance of the company.

*Rule 8(1) of the Companies (Accounts) Rules, 2014 provides that the Report shall be prepared based on the stand alone financial statements of the company and shall contain a separate section wherein the report of the financial position of each of the subsidiaries, associates and joint venture companies, included in the consolidated financial statement is presented, and their contribution to the overall performance of the company during the period under Report. Since the information*

*requirements stipulated in the above Rule are covered as part of the information contained in AOC-1 required under section 129 of the Act, it is an industry practise to refer to AOC-1 in the Report, for the purpose of compliance thereof.*

*However, for disclosure of information on subsidiaries, associates and joint ventures mentioned in AOC-1, there exists a varied industry practise of disclosing the details of subsidiaries either as per the Act or as per the Accounting Standards. However, for the purpose of harmonising disclosures with Annual Return, the information mentioned in AOC-1 should be as per the Act.*

## **7.2 Companies which have become or ceased to be subsidiaries, associates and joint ventures**

During the year or at any time after the closure of the year and till the date of the Report, if the company has acquired or formed any new subsidiary, associate or joint venture, details of such companies shall be disclosed. Where any of the subsidiaries, associates or joint ventures of the company has ceased to be a subsidiary, associate or joint venture on account of sale of shares, amalgamation, or by any other manner, then, the names of such companies along with the manner of such cessation shall also be disclosed in the Report.

Companies which have listed their specified securities shall also state in the Report the name of its material subsidiary as per the Listing Regulations. If such material subsidiary has sold, disposed of and leased assets of more than twenty percent of the assets of the material subsidiary on an aggregate basis during a year then details of such sale shall be disclosed.

*Rule 8(5)(iv) of the Companies (Accounts) Rules, 2014 provides that the Report shall contain the names of companies which have become or ceased to be its subsidiaries, joint ventures or associate companies during the year.*

*The Standard extended the said disclosure requirement to also include the events that occurred after the closure of the year and till the date of the Report. Further the Standard requires that where any of the subsidiary, associate or joint venture of the company has ceased to be a subsidiary, associate or joint venture, the manner of such cessation should also be disclosed in the Report.*

*Regulation 24 of the Listing Regulations, which deals with corporate governance requirements with respect to subsidiaries of listed company which has listed its specified securities, provides that:*

- (i) a listed company shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than fifty percent or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognised stock exchanges within one day of the resolution plan being approved;*
- (ii) in order to sell, dispose and lease assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate basis during a financial year, it requires prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognised stock exchanges within one day of the resolution plan being approved.*

*Considering the importance of the above, the Standard requires the companies which have listed their specified securities to state in the Report the name of its material subsidiary as per the Listing Regulations and provide details as mentioned above, if any.*

*Regulation 16(1)(c) of the Listing Regulations defines the term "material subsidiary" as a subsidiary, whose income or net worth exceeds ten percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.*

## **8. DETAILS OF DEPOSITS**

The disclosure shall include the following:

- (a) details of deposits accepted during the year;
- (b) deposits remaining unpaid or unclaimed as at the end of the year;

- (c) whether there has been any default in repayment of deposits or payment of interest thereon during the year and if so, the number of such cases and the total amount involved:
  - (i) at the beginning of the year;
  - (ii) maximum during the year (i.e. highest number of cases pending repayment of deposits or interest during the year and maximum amount that was due);
  - (iii) at the end of the year;
- (d) details of deposits which are not in compliance with the requirements of the Act;
- (e) details of National Company Law Tribunal (NCLT)/National Company Law Appellate Tribunal (NCLAT) orders with respect to depositors for extension of time for repayment, penalty imposed, if any;
- (f) in case of a private company, details of amount received from a person who at the time of the receipt of the amount was a Director of the company or relative of the Director of the company.

*Rule 8(5)(v) of Companies (Accounts) Rules, 2014 and Rule 2(1)(c) of Companies (Acceptance of Deposits) Rules, 2014 states the above requirement to be disclosed in the Report.*

*In addition, as a matter of good corporate governance practice, the Standard also requires that the details of orders passed by National Company Law Tribunal (NCLT)/National Company Law Appellate Tribunal (NCLAT) with respect to depositors for extension of time for repayment and the penalty imposed, if any, should be disclosed in the Report.*

## **9. PARTICULARS OF LOANS, GUARANTEES AND INVESTMENTS**

Particulars of the loans given, investments made, guarantees given or securities provided during the year and the purpose for which the loans / guarantees / securities are proposed to be utilised by the recipient of such loan / guarantee / security.

A company shall disclose the aforesaid particulars in the notes to the financial statement and give reference thereof in the Report.

*Sub-section (3) of section 134 of the Act requires that the particulars of loans, guarantees or investments under section 186 shall be disclosed in the Report.*

*In addition, as a matter of good corporate governance practice, the Standard requires that alongwith the particulars of the loans given, investments made, guarantees given or securities provided during the year by the company, the purpose for which such loans/guarantees/securities are proposed to be utilised by the recipient should also be disclosed in the Report.*

*To facilitate uniformity in disclosures and to avoid repetition of information, the Standard provides that the company should disclose such particulars in the notes to the financial statement and a reference thereof should be given in the Report.*

## **10. PARTICULARS OF CONTRACTS OR ARRANGEMENTS WITH RELATED PARTIES**

The disclosure shall include the following:

- (a) contracts / arrangements / transactions with related parties which are not at arm's length basis;
- (b) material contracts / arrangements / transactions with related parties which are at arm's length basis;
- (c) contracts / arrangements with related parties which are not in the ordinary course of business and justification for entering into such contract.

Such disclosure in the prescribed form shall be annexed to the Report.

*Sub-section (3) of section 134 of the Act requires that the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form shall be disclosed in the Report. Form AOC-2 is prescribed under Rule 8(2) of Companies (Accounts) Rules, 2014 to disclose such particulars in the Report.*

*Further, sub-section (2) of section 188 of the Act provides that the justification for entering into such contract or arrangement with related parties shall also be disclosed in the Report.*

*Clauses (a) & (b) of the above Standard are specified under Form AOC-2, while clause (c) is prescribed in accordance with the requirement of sub-section (2) of section 188 of the Act.*

*Form AOC-2 mentions in its heading "Form for disclosure of particulars of contracts/arrangements entered into by the company with related parties referred to in sub-section (1) of section 188 of the Companies Act, 2013 including*

*certain arm's length transactions under third proviso thereto" and further divides disclosure as under:*

*(1) Details of contracts or arrangements or transactions not at arm's length basis;*

*(2) Details of material contracts or arrangement or transactions at arm's length basis*

*The word "certain" as mentioned in the heading of AOC-2 read with point (2) above should be interpreted to mean disclosure of only those transactions which are on an arms-length basis if they breach thresholds which are "material", as stated in point (2) of AOC-2.*

*The expression 'material' as a matter of practise has been differently applied by the listed and unlisted companies. Listed companies apply the thresholds of material related party transactions as stated in Explanation to Regulation 23(1) or Regulation 23(1A) of the Listing Regulations while unlisted companies apply the thresholds mentioned in Rule 15(3) of the Companies (Meetings of Board and its Powers) Rules, 2014. However, the reporting requirement stated under point (1) & (2) above is only with respect to contracts or arrangements provided in sub-section (1) of section 188 of the Act.*

*As per the provisions of the Listing Regulations, listed companies should in addition to the above disclose the following transactions with the related party in the Annual Report:*

*(1) The listed entity shall make disclosures in compliance with the Accounting Standard on "Related Party Disclosures".*

*(2) The disclosure requirements shall be as follows:*

<b>Sl. No.</b>	<b>In the accounts of</b>	<b>Disclosures of amounts at the year end and the maximum amount of loans/ advances/ Investments outstanding during the year.</b>
<i>(i)</i>	<i>Holding Company</i>	<ul style="list-style-type: none"> <li>● <i>Loans and advances in the nature of loans to subsidiaries by name and amount.</i></li> <li>● <i>Loans and advances in the nature of loans to associates by name and amount.</i></li> <li>● <i>Loans and advances in the nature of loans to firms/companies in which directors are interested by name and amount.</i></li> </ul>

(ii)	Subsidiary	Same disclosures as applicable to the parent company in the accounts of subsidiary company.
(iii)	Holding Company	Investments by the loanee in the shares of parent company and subsidiary company, when the company has made a loan or advance in the nature of loan.

*For the purpose of above disclosures directors' interest shall have the same meaning as given in section 184 of the Act.*

*(3) Disclosures of transactions of the listed entity with any person or entity belonging to the promoter/promoter group which hold(s) 10% or more shareholding in the listed entity, in the format prescribed in the relevant accounting standards for annual results.*

*(4) The above disclosures shall be applicable to all listed entities except for banks which are listed.*

## **11. CORPORATE SOCIAL RESPONSIBILITY (CSR)**

The Report shall disclose about the CSR policy of the company and the CSR initiatives taken during the year. Where the said policy is available on the website of the company, it would be sufficient to disclose salient features of such policy, any change therein and the web-link at which the complete policy is available.

The Report shall include an Annual Report on the CSR activities and shall comprise the following:

- (a) a brief outline of the CSR Policy, including overview of projects or programs proposed to be undertaken and a reference to the web link to the CSR Policy and projects or programs;
- (b) composition of the CSR Committee, number of meetings held during the year;
- (c) average net profits for the three immediately preceding years;
- (d) prescribed CSR expenditure i.e. two percent of clause (c) above;
- (e) details of amount spent on CSR during the year including total amount to be spent, amount unspent and manner in which the amount has been spent;
- (f) in case the prescribed CSR amount has not been spent, reasons for

not spending the same;

- (g) a responsibility statement from the CSR Committee that the implementation and monitoring of the CSR Policy is in compliance with the CSR objectives and policy of the company.

*Rule 9 of the Companies (Accounts) Rules, 2014, provides that the disclosure of contents of Corporate Social Responsibility Policy in the Report and on the company's website, if any, shall be as per annexure attached to the Companies (Corporate Social Responsibility Policy) Rules, 2014.*

*In case of companies not having a website, such companies should provide the details about the Corporate Social Responsibility (CSR) policy developed and implemented by the company on CSR initiatives taken during the year.*

## **12. CONSERVATION OF ENERGY, TECHNOLOGY ABSORPTION, FOREIGN EXCHANGE EARNINGS AND OUTGO**

The disclosure shall include the following:

### **(a) Conservation of energy –**

- (i) the steps taken or impact on conservation of energy;
- (ii) the steps taken by the company for utilising alternate sources of energy;
- (iii) the capital investment on energy conservation equipments.

### **(b) Technology absorption –**

- (i) the efforts made towards technology absorption;
- (ii) the benefits derived like product improvement, cost reduction, product development or import substitution;
- (iii) in case of imported technology (imported during the last three years reckoned from the beginning of the year under reference) –
  - a) details of the technology imported;
  - b) the year of import;
  - c) whether the technology has been fully absorbed and if not, areas where absorption has not taken place, and the reasons thereof;
- (iv) the expenditure incurred on Research and Development.

**(c) Foreign exchange earnings and Outgo –**

The Foreign Exchange earned in terms of actual inflows during the year and the Foreign Exchange outgo during the year in terms of actual outflows.

In cases where such disclosures are not applicable, the Report shall include a statement to that effect.

*In addition, as a matter of good corporate governance practice, the Standard provides that if the disclosures required under this paragraph are not applicable to a company, then a statement to that effect should be included in the Report.*

**Illustration**

*If there are no such disclosures applicable to a company, a statement should be disclosed in the Report as under:*

*“Disclosures pertaining to conservation of energy, technology absorption, foreign exchange earnings and outgo, are not applicable to your company during the year under review.”*

**13. RISK MANAGEMENT**

A statement indicating the development and implementation of a risk management policy for the company. Such statement shall, *inter alia*, disclose:

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

*Sub-section (3) of section 134 of the Act which requires that a statement indicating development and implementation of a risk management policy for the company including identification therein elements of risk, if any, which in the opinion of the Board may threaten the existence of the company, shall be included in the Report.*

*In addition, as a matter of good corporate governance practice, the Standard provides that the strategy to mitigate such risks should also be disclosed in the Report.*

#### 14. DETAILS OF ESTABLISHMENT OF VIGIL MECHANISM

Every listed company and other prescribed class of companies shall disclose in its Board's Report, details of establishment of a vigil mechanism.

The disclosure shall, *inter alia*, include the mechanism for:

- a) the Directors and employees to report their genuine concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct;
- b) providing adequate safeguards against victimisation;
- c) providing direct access to the higher levels of supervisors and/or to the Chairman of the Audit Committee, in appropriate or exceptional cases.

Web-link of the aforesaid mechanism shall also be disclosed in the Report.

*Sub-section (9) of section 177 of the Act read with Rule 7 of the Companies (Meetings of Board and its Powers) Rules, 2014 provides that every listed company and the companies belonging to the following class or classes shall establish a vigil mechanism for their directors and employees to report their genuine concerns or grievances:*

- (a) the Companies which accept deposits from the public;*
- (b) the Companies which have borrowed money from banks and public financial institutions in excess of fifty crore rupees.*

*Sub-section (10) of section 177 of the Act further provides that the vigil mechanism shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases and the details of establishment of such mechanism shall be disclosed by the company on its website, if any, and in the Report.*

*Rule 7(4) of the Companies (Meetings of Board and its powers) Rules, 2014 also provides that the vigil mechanism shall provide for adequate safeguards against victimisation of employees and directors who avail of the vigil mechanism and also provide for direct access to the Chairperson of the Audit Committee or the director nominated to play the role of the Audit Committee, as the case may be, in exceptional cases.*

*In view of the above, the Standard specifically provides for the disclosure of*

*(i) mechanism available for directors and employees to report their genuine concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct; (ii) the safeguards available against victimisation and (iii) direct access to the higher levels of supervisors/the Chairman of the Audit Committee, in appropriate or exceptional cases.*

*In case of listed companies, the Corporate Governance Report should inter alia also include an affirmation that no personnel has been denied access to the audit committee.*

## **15. MATERIAL ORDERS OF JUDICIAL BODIES /REGULATORS**

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

*Rule 8(5)(vii) of Companies (Accounts) Rules, 2014 provides that the details of significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future, shall be disclosed in the Report.*

*In addition, the Standard provides clarity that the disclosure in respect of significant and material orders passed by the Statutory and quasi-judicial body should also be included in the Report.*

## **16. AUDITORS**

Names of the Statutory Auditor, Cost Auditor and Secretarial Auditor and details of any change in such Auditors, during the year and up to the date of the Report due to resignation / casual vacancy / removal / completion of term shall be disclosed in the Report.

*To promote good corporate governance disclosures, the Standard provides that the names of the Statutory Auditor, Cost Auditor and Secretarial Auditor and the details of any change in such Auditors, with reasons thereof, should be disclosed in the Report.*

## **17. SECRETARIAL AUDIT REPORT**

The Secretarial Audit Report shall be annexed to the Report.

*Sub-section (1) of section 204 of the Act requires every listed company and other prescribed class of companies to annex with its Report, a secretarial audit report, given by a company secretary in practice.*

*Rule (9) of the Companies (Appointment and Remuneration Personnel) Rules, 2014 provides that for the purposes of sub-section (1) of section 204, the other class of companies shall be 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.*

*The said rule also provides that the format of the Secretarial Audit Report shall be in Form No. MR-3.*

*The Standard provides that the Secretarial Audit Report should be annexed to the Report and this is equally applicable to all such companies which have done their Secretarial Audit voluntarily.*

*Regulation 24A of the Listing Regulations states that every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex with its annual report, a secretarial audit report, given by a company secretary in practice, in such form as may be specified with effect from the year ended March 31, 2019.*

*Accordingly, in case of listed companies, its material unlisted subsidiaries incorporated in India should get the secretarial audit done and should annex with its annual report, a secretarial audit report, given by a company secretary in practice, in Form MR-3.*

*It is the onus of the listed entity to ensure the compliance of Regulation 24A and get the Secretarial Audit done in respect of material unlisted subsidiary incorporated in India. The fact of such compliance should be included in the Report of listed entity and if there are any reservations or adverse remarks or disclaimers made in the Secretarial Audit Report of the material unlisted subsidiary, the Report of the listed entity should also reproduce such adverse comments of Secretarial Auditor and response thereto given by the Board of material unlisted subsidiary.*

## **18. EXPLANATIONS IN RESPONSE TO AUDITORS' QUALIFICATIONS**

The Report shall include explanations or comments on every qualification, reservation or adverse remark or disclaimer made in the Auditor's Report and the Secretarial Auditor's Report.

If there are no qualifications, reservations or adverse remarks made by the

Statutory Auditors /Secretarial Auditors in their respective Report, a statement to this effect shall be given in the Report.

Further, if such qualification, reservation, adverse remark or disclaimer has a material adverse effect on the financial statement or on the functioning of the company, its likely impact and the corrective measures that are proposed to be taken shall also be disclosed in the Report.

*Sub-section (3) of section 204 of the Act provides that the Board in its Report shall explain in full any qualification or observation or other remarks made by the company secretary in practice in the Secretarial Auditor's Report.*

*Further, sub-section (3) section 134 of the Act requires that the Report shall include explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report and by the company secretary in practice in his secretarial audit report.*

*The Board should state detailed explanation for all the observations and qualifications given by the auditor in his audit report and in the notes attached to the financial statement sheet including the reasons for such material deviations and reasons that led to such deviations. If the auditors' report involves a debatable point on which differences of opinion has arisen, the Board should give full explanation about the same in its report. The Board's Report may also contain a confirmation of the follow-up action taken by the directors on the qualifications made in accounts for previous years.*

*In addition, as a matter of good corporate governance practice, the Standard provides that if there are no qualifications, reservations or adverse remarks made by the Statutory Auditors/Secretarial Auditors in their respective Report, a statement to this effect should be given in the Board's Report.*

*Further, if such qualification, reservation, adverse remark or disclaimer has a material adverse effect on the financial statement/ functioning of the company, its likely impact and the corrective measures that are proposed to be taken should also be disclosed in the Report.*

*Listed companies are required to note that with respect to the audit qualifications where the impact of the qualification is not quantifiable:*

- i. The management should make an estimate and the auditor should review the same and report accordingly;*
- ii. Notwithstanding the above, the management may be permitted to not provide estimate on matters like going concerns or sub-judice matters;*

*in which case, the management should provide the reasons and the auditor should review the same and report accordingly.*

## **19. COMPLIANCE WITH SECRETARIAL STANDARDS**

The Report shall include a statement on compliance of applicable Secretarial Standards and other Secretarial Standards voluntarily adopted by the company.

*Paragraph 9 of Secretarial Standard on Meetings of the Board of Directors (SS-1), provides that the Report of the Board of Directors shall include a statement on compliance of applicable Secretarial Standards. In case if a certain portion of applicable Secretarial Standards is not adhered, the same should be highlighted in the Report alongwith the reasons for not complying with the same. Compliance with Secretarial Standards voluntarily adopted by the company should also be stated in the Report. In case the voluntary adoption is partial the same need to be stated in the Report.*

## **20. CORPORATE INSOLVENCY RESOLUTION PROCESS INITIATED UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016 (IBC)**

The disclosure shall include the following:

- (a) details of any application filed for corporate insolvency resolution process, by a financial or operational creditor or by the company itself under the IBC before the NCLT;
- (b) status of such application; and
- (c) status of corporate insolvency resolution process, if any, initiated under the IBC.

*Considering the importance of resolution process under the IBC and its impact on the company, the Standard provides for specific disclosure in respect of application filed before National Company Law Tribunal (NCLT) for corporate insolvency resolution process under the IBC and status of such application.*

*The status of corporate insolvency resolution process, if any, initiated under the IBC also needs to be disclosed in the Report.*

## **21. FAILURE TO IMPLEMENT ANY CORPORATE ACTION**

In case the company has failed to complete or implement any corporate action within the specified time limit, the Report shall disclose the same and the reasons for such failure.

For the purpose of this clause, the term “corporate action” includes buy back of securities, payment of dividend declared, mergers and de-mergers, delisting, split and issue of any securities.

*As a matter of good corporate governance practice, the Standard provides that if a company has failed to complete or implement any corporate action within the specified time limit, the Report should disclose the fact and the reasons for such failure. This will also include any cancellation of the corporate action announced by the company.*

## **22. ANNUAL RETURN**

A copy of the annual return shall be placed on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Report.

*Sub-section (3) of section 134 of the Act requires that the Report shall include the web address, if any, where annual return has been placed.*

*Sub-section (3) of section 92 of the Act provides that an extract of the annual return in such form as may be prescribed shall form part of the Report. The Companies (Amendment) Act, 2017, amended sub-section (3) of section 92 of the Act to provide that every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Report. However, the amended sub-section is yet to be notified.*

*Further, Rule 12 of the Companies (Management and Administration) Rules, 2014 states that the extract of the annual return to be attached with the Report shall be in Form No. MGT-9.*

*Since the amended sub-section (3) of section 92 is yet to be notified, the companies are required to attach MGT-9 as well as state the web-link where the annual return i.e. MGT-7 of the financial year will be hosted.*

*It is recommended that both the provisions of the Act i.e. Sub-section (3) of section 134 and sub-section (3) of section 92 should be complied with. Once the amended sub-section (3) of section 92 gets notified, only the disclosure of web-link of the annual return in the Report should suffice.*

*In case of a company not having a website, such companies are not required to attach annual return to the Report.*

## 23. OTHER DISCLOSURES

Other disclosures shall include the following:

- (a) a statement, wherever applicable, that the consolidated financial statement is also being presented in addition to the standalone financial statement of the company.
- (b) key initiatives with respect to Stakeholder relationship, Customer relationship, Environment, Sustainability, Health and Safety.
- (c) reasons for delay, if any, in holding the annual general meeting;
- (d) a statement as to whether cost records are required to be maintained by the company pursuant to an order of the Central Government and accordingly such records and accounts are maintained.

*To promote good corporate governance practice, the Standard requires additional disclosures mentioned under sub-paragraph (a), (b) & (c) above.*

*Rule 8(5)(ix)(d) of the Companies (Accounts) Rules, 2014 provides for a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Act, is required by the company and accordingly such accounts and records are made and maintained.*

## 24. ADDITIONAL DISCLOSURES UNDER LISTING REGULATIONS

### 24.1 Statement of deviation or variation

Companies which have listed their specified securities shall furnish in the Report an explanation for any deviation or variation in connection with certain terms of a public issue, rights issue, preferential issue etc. as under:

- (a) Statement indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;
- (b) Statement indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between the projected utilisation of funds made by the company in its offer document or explanatory statement to the notice for the general meeting, as applicable, and the actual utilisation of funds.

*The above disclosure requirements are incorporated in accordance with Regulation 32 of the Listing Regulations.*

*Regulation 32 (1) of the Listing Regulations provides that the listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc. -*

- (a) indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;*
- (b) indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.*

*Regulation 32(4) of the Listing Regulations provides that the listed company shall furnish an explanation for the above variations in the directors' report.*

*Further, as per Regulation 32(7A) of the Listing Regulations, where an entity has raised funds through preferential allotment or qualified institutions placement, the listed entity shall disclose every year, the utilization of such funds during that year in its annual report until such funds are fully utilized.*

## **24.2 Management Discussion and Analysis Report (MDAR)**

In case of companies which have listed their specified securities, the Report shall include an MDAR, either as a part of the Report or as an annexure to the Report. The MDAR shall include the following details in relation to the company:

- (a) industry structure and developments;
- (b) opportunities and threats;
- (c) segment wise and product wise performance;
- (d) outlook;
- (e) risks and concerns;
- (f) internal control systems and their adequacy;
- (g) discussion on financial performance with respect to operational performance;

- (h) material developments in human resources / industrial relations, including number of people employed;
- (i) details of significant changes (i.e. change of 25% or more as compared to the immediately previous financial year) in key financial ratios, along with detailed explanations therefor, including:
  - (i) Debtors Turnover
  - (ii) Inventory Turnover
  - (iii) Interest Coverage Ratio
  - (iv) Current Ratio
  - (v) Debt Equity Ratio
  - (vi) Operating Profit Margin (%)
  - (vii) Net Profit Margin (%)

or sector-specific equivalent ratios, as applicable.

- (j) details of any change in Return on Net Worth as compared to the immediately previous financial year along with a detailed explanation thereof.

*Regulation 34(2) of the Listing Regulations provides that the annual report shall contain the Management Discussion and Analysis Report - either as a part of directors report or addition thereto.*

*According to Schedule V of the Listing Regulations, the Management Discussion and Analysis should include discussion on the above mentioned matters within the limits set by the listed entity's competitive position.*

### **24.3 Certificate on Compliance of conditions of Corporate Governance**

Companies which have listed their specified securities, shall annex with the Report a certificate obtained from either the Statutory Auditor or a practicing Company Secretary regarding compliance of the conditions of corporate governance.

*Schedule V of the Listing Regulations provides that the compliance certificate from either the auditors or practicing company secretaries regarding compliance of conditions of corporate governance shall be annexed with the Report.*

#### 24.4 Suspension of Trading

In case the securities of the company are suspended from trading, the Report shall explain the reasons thereof.

*Schedule V of the Listing Regulations provides that in case the securities are suspended from trading, the Report shall explain the reason thereof.*

##### **Illustration**

*In case the securities of the company are suspended from trading, the Report should include the following statement:*

*“During the year under review and until the date of the Report, the following securities of your company were suspended from trading for the reasons mentioned as under:*

*(i).....;*

*(ii).....”*

#### 25. DISCLOSURES PERTAINING TO THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

The disclosure shall include the following:

- (a) a statement that the company has complied with the provision relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- (b) the details of number of cases filed and disposed as required under the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013.

*For listed companies, Schedule V of the Listing Regulations provides for following disclosures pertaining to the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013, in the Corporate Governance Report:*

- (i) number of complaints filed during the financial year;*
- (ii) number of complaints disposed of during the financial year;*
- (iii) number of complaints pending as at the end of the financial year.*

*The disclosure stated above under sub-paragraph (a) is as per the provisions of Rule 8(5) of the Companies (Accounts) Rules, 2014.*

*The disclosure stated above under sub-paragraph (b) is as per the disclosure requirements of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013, as detailed below:*

**SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION & REDRESSAL) ACT, 2013**

*Section 21. Committee to submit annual report.*

*(1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.*

*(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.*

*Section 22. Employer to include information in annual report*

*The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.*

**Illustration**

*In view of above, following illustrative disclosure may be incorporated in the Report:*

*“The company has in place a Policy for prevention of Sexual Harassment at the Workplace in line with the requirements of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition & Redressal) Act, 2013.*

*Internal Complaints Committee (ICC) has been set up to redress complaints received regarding sexual harassment. All employees (permanent, contractual, temporary, trainees) are covered under this policy. The following is a summary of sexual harassment complaints received and disposed of during the year:*

- (a) Number of complaints pending at the beginning of the year;*
- (b) Number of complaints received during the year*
- (c) Number of complaints disposed off during the year*
- (d) Number of cases pending at the end of the year.”*

## **PART II: OTHER REQUIREMENTS**

### **26. APPROVAL OF THE REPORT**

The Report shall be considered and approved by means of a resolution passed at a duly convened meeting of the Board.

*Sub-section (3) of section 179 of the Act provides that the Board of Directors of a company shall approve the financial statement and the Report on behalf of the company by means of resolutions passed at meetings of the Board.*

*Accordingly, the Standard provides that the Report should be approved by passing a resolution at a duly convened meeting of the Board.*

*Further, if requisite quorum is present through physical presence of directors, any other director may participate through video conferencing or other audio visual means in such meeting.*

*However, the Report should not be taken up for consideration and approval by passing a Resolution by circulation.*

*The Specimen Resolution to be passed at a Meeting of the Board of Directors for approval of Report is placed at **Annexure-III**.*

### **27. SIGNING OF THE REPORT**

The Report shall be signed by the Chairman of the company, if authorised in that behalf by the Board or by two Directors one of whom shall be the Managing Director or in the case of a One Person Company, by one Director.

The annexures to the Report shall be signed in the similar manner as the Report, except the Report on CSR activities of the company, which is required to be signed by the Chief Executive Officer or the Managing Director or any other Director of the company and by the Chairman of the CSR Committee of the company.

*The signing of Report should be in accordance with sub-section (6) of section 134 of the Act which provides that the Report and Annexures thereto shall be signed by the chairperson of the company if he is authorised by the Board and where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.*

*The format for the Annual Report on CSR activities as provided under Companies (Corporate Social Responsibility Policy) Rules, 2014 also specified*

*the signing authority of the said Annexure. Therefore, all the annexures except the Annual Report on CSR activities should be signed in the manner similar to the Report.*

The financial statement, including consolidated financial statement, if any, shall be approved by the Board before they are signed on behalf of the Board. The statements so approved are required to be signed on behalf of the Board by the Chairman of the company if authorised in that behalf by the Board or by two Directors one of whom shall be the Managing Director and the Chief Executive Officer, the Chief Financial Officer and the Company Secretary of the company, wherever they are appointed or in the case of a One Person Company, by one Director.

The financial statement so approved and signed on behalf of the Board are required to be submitted to the auditor(s) for their report thereon. The financial statement is thus signed by the auditor(s) and the audit report thereon is submitted to the Board after such approval.

*Sub-section (1) of section 134 of the Act provides that the financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the Company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.*

*In addition, the Standard provides clarity on the signing of financial statements by the Board and Auditors. It has been clarified that the financial statement approved by the Board and signed on behalf of the Board, are required to be submitted to the auditor(s) for their report thereon. Thereafter, the financial statement will be signed by the auditor(s) and the audit report thereon will be submitted to the Board.*

*Therefore, in case the Auditor's Report is available on the date on which the financial statement is approved by the Board, the Report should bear the same date as that of Auditor's Report. However, in case the Auditor's Report is dated after the date of approval of the financial statement by the Board, the Report may bear a later date when such Report is approved by the Board. The Board's Report should always be dated on or after the date of the Auditor's Report and never on the preceding date.*

**SIGNING OF REPORT IN CASE OF A COMPANY UNDER INSOLVENCY LAWS**

*As per clause (b) of sub-section (1) of section 17 of Insolvency and Bankruptcy Code (IBC), a company of which Interim Resolution Professional (IRP) is appointed,, the powers of the Board of Directors stands suspended and shall be exercised by IRP.*

*It may be noted that though the powers of the Board of Directors are suspended, they are bound to provide all assistance to IRP as only the powers of the Board are suspended and not their duties. Further, sub-section (1) of section 19 of IBC provides that the personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the IRP as may be required by him in managing the affairs of the corporate debtor.*

*An insolvency professional should ensure that the company undergoing insolvency process complies with the applicable laws. It should be the responsibility of the Management/KMPs of the company to continue to comply with the applicable laws and report periodically to the insolvency professional.*

*The order passed by NCLAT in the case of **M/s. Subasri Realty Private Limited** strengthens this view by stating that after appointment of the Resolution Professional (RP) and declaration of moratorium, the Board of Director stands suspended, but that does not amount to suspension of Managing Director or any of the Director or officer or employee of the Corporate Debtor. To ensure that the Corporate Debtor remains a going concern, all the Director/ employees are required to function and to assist the Resolution Professional who manages the affairs of the Corporate Debtor during the period of moratorium.*

*Since the ultimate responsibility and powers of the Board lies with IRP/RP, in the aforesaid context, it appears that IRP/RP should approve and sign the Report. The IRP/RP may also direct the Directors/Officials of the Corporate Debtor to sign the Report and take all necessary actions for compliance of applicable laws.*

**28. DISSEMINATION****28.1 Right of Members to have Copies of the Report**

A copy of the Report along with the financial statement and the Auditor's Report shall be sent, either physically or in electronic form, to every member at least twenty-one clear days in advance of the annual general meeting.

The copies of the above documents can be sent less than twenty-one clear days in advance of the annual general meeting, if it is so agreed by members:

- (a) holding, if the company has a share capital, majority in number of members entitled to vote and who represent not less than ninety-five per cent of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or
- (b) having, if the company has no share capital, not less than ninety-five per cent of the total voting power exercisable at the meeting.

In case of section 8 companies, the said documents shall be sent to the members not less than fourteen clear days before the date of the annual general meeting.

*Sub-section (1) of section 136 of the Act states the above requirement to be disclosed in the Report.*

## **28.2 Placing of the Report on the Website**

The Report shall be placed on the website of the company, if any.

*Third proviso to sub-section (1) of section 136 of the Act states that a listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto, on its website, which is maintained by or on behalf of the company.*

*As a matter of good corporate governance practice, the above requirement is also company extended to unlisted companies having a website.*

## **29. FILING AND SUBMISSION OF THE REPORT**

### **29.1 The Report along with the audited financial statement of the company shall be filed with the Registrar of Companies.**

The resolution passed by the Board approving such Report shall also be filed with the Registrar of Companies. However private companies are not required to file such resolution with the Registrar of Companies.

*Sub-section (1) of section 137 of the Act provides that a copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under the Act, duly adopted at the annual*

*general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting.*

*Further, in terms of sub-section (3) of section 117 of the Act, the resolutions passed to approve financial statement and the Report shall also be filed with the Registrar.*

**29.2 Every listed company shall submit to the stock exchanges on which its securities are listed, its financial statement together with a copy of the Report within twenty one working days of it being approved and adopted in the annual general meeting.**

The following two requirements should be complied with by the listed companies w.r.t. 'Filing of Annual Report':

- (i) Regulation 34(1) of the Listing Regulations states that the listed company which has listed its specified securities shall submit the annual report to the stock exchange and publish on its website a copy of the annual report sent to the shareholders along with the notice of the annual general meeting not later than the day of commencement of dispatch to its shareholders.*
- (ii) As per BSE Circular dated 8<sup>th</sup> February, 2019, filings in respect of Annual Report has to be filed by all listed entities in XBRL mode in addition to the currently used PDF mode mandatorily, for periods ending March 31, 2019.*

### **CORPORATE GOVERNANCE REPORT**

*There are divergent practices followed in respect of Corporate Governance (CG) Report. While some companies includes the CG Report as annexure to the Board's Report, the other prefers to include it as a separate Report altogether forming part of the Annual Report.*

#### **Illustration**

*In both the cases stated above, it is suggested that a statement on corporate governance report should be included in the Report as under:*

*"The Report on Corporate Governance for the year under review, is placed as Annexure-\_\_ to this Report / placed in a separate section forming part of the Annual Report (refer page no.\_\_)"*

*The listed companies are required to prepare the CG Report in accordance with Schedule V (Part C) of the Listing Regulations.*

*It is advisable that the information already incorporated in any part of the Annual Report should be referred appropriately instead of repeating the same information.*

*The contents of Corporate Governance Report - (Disclosure under Schedule V- Part C of the Listing Regulations) are placed at **Annexure-IV**.*

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*ANNEXURES TO THE REPORT*

The following matters, wherever applicable, will be annexed to the Report:

- Particulars of prescribed contracts / arrangements with related parties in Form AOC-2 *(Refer Annexure-V)*
- Prescribed particulars of remuneration of Directors and employees. *(Refer Annexure-VI)*
- Secretarial Audit Report for the relevant year in Form MR-3. *(Refer Annexure-VII)*
- Annual Report on CSR activities. *(Refer Annexure-VIII)*
- Prescribed details of conservation of energy, research and development, technology absorption, foreign exchange earnings and outgo. *(Refer paragraph 12 of SS-4)*
- Auditors' certificate on Corporate Governance in case of companies which have listed their specified securities.
- Dividend Distribution Policy in case of companies which have listed their specified securities. *(For Model Dividend Distribution Policy refer Guidance Note on Dividend)*
- Company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters.

\*\*\*

**Annexure-I****Matters to be included in the Board's Report of a One Person Company and Small Company (Rule 8A of the Companies (Accounts) Rules, 2014)**

*The Board's Report of One Person Company and Small Company shall be prepared based on the stand alone financial statement of the company, which shall be in abridged form and contain the following:-*

- (a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;*
- (b) number of meetings of the Board;*
- (c) Directors' Responsibility Statement as referred to in sub-section (5) of section 134;*
- (d) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;*
- (e) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report;*
- (f) the state of the company's affairs;*
- (g) the financial summary or highlights;*
- (h) material changes from the date of closure of the financial year in the nature of business and their effect on the financial position of the company;*
- (i) the details of directors who were appointed or have resigned during the year;*
- (j) the details or significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future.*

*In addition, the Report of the Board shall contain the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.*

***Filing of Report by OPC***

*Third proviso to sub-section(1) of section 137 of the Act provides that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year.*

**Annexure-II \*****The format for disclosure of financial information in the Board's Report**

<b><i>Particulars</i></b>	<b><i>Current Financial Year (2019)</i></b>	<b><i>Previous Financial Year (2018)</i></b>
<i>Revenue from Operations</i>		
<i>Other Income</i>		
<i>Profit/loss before Depreciation, Finance Costs, Exceptional items and Tax Expense</i>		
<i>Less: Depreciation/ Amortisation/ Impairment</i>		
<i>Profit /loss before Finance Costs, Exceptional items and Tax Expense</i>		
<i>Less: Finance Costs</i>		
<i>Profit /loss before Exceptional items and Tax Expense</i>		
<i>Add/(less): Exceptional items</i>		
<i>Profit /loss before Tax Expense</i>		
<i>Less: Tax Expense (Current &amp; Deferred)</i>		
<i>Profit /loss for the year (1)</i>		
<i>Total Comprehensive Income/loss (2)</i>		
<i>Total (1+2)</i>		
<i>Balance of profit /loss for earlier years</i>		
<i>Less: Transfer to Debenture Redemption Reserve</i>		
<i>Less: Transfer to Reserves</i>		
<i>Less: Dividend paid on Equity Shares</i>		
<i>Less: Dividend paid on Preference Shares</i>		
<i>Less: Dividend Distribution Tax</i>		
<i>Balance carried forward</i>		

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

**Annexure-III****Specimen Resolution to be passed at a Meeting of the Board of Directors for approval of Board's Report**

*“RESOLVED that, pursuant to Section 134 and all other applicable provisions of the Companies Act, 2013, the draft of the Board's Report for the financial year ended....., as per the draft circulated to the Directors along with the Agenda / as tabled before the Board, duly initialed by the Company Secretary / Director for the purpose of identification, be and is hereby approved together with the annexures thereto and that the said Report be signed by Shri....., Chairman (DIN.....) on behalf of the Board and that the Company Secretary of the company be and is hereby authorised to issue the same to the members of the company together with the audited financial statements of the company.”*

**Annexure-IV****Corporate Governance Report****(Disclosure under Schedule V- Part C of the Listing Regulations)**

*The following disclosures shall be made in the section on the corporate governance of the annual report:*

- (1) A brief statement on listed entity's philosophy on code of governance.*
- (2) Board of directors:*
  - (a) composition and category of directors (e.g. promoter, executive, non-executive, independent non-executive, nominee director – institution represented and whether as lender or as equity investor);*
  - (b) attendance of each director at the meeting of the board of directors and the last annual general meeting;*
  - (c) number of other board of directors or committees in which a directors is a member or chairperson, and with effect from the Annual Report for the year ended 31<sup>st</sup> March 2019, including separately the names of the listed entities where the person is a director and the category of directorship;*
  - (d) number of meetings of the board of directors held and dates on which held;*
  - (e) disclosure of relationships between directors inter-se;*
  - (f) number of shares and convertible instruments held by non-executive directors;*
  - (g) web link where details of familiarisation programmes imparted to independent directors is disclosed.*
  - (h) A chart or a matrix setting out the skills/expertise/competence of the board of directors specifying the following:*
    - (i) With effect from the financial year ending March 31, 2019, the list of core skills/expertise/competencies identified by the board of directors as required in the context of its business(es) and sector(s) for it to function effectively and those actually available with the board; and*



- (ii) details of fixed component and performance linked incentives, along with the performance criteria;*
- (iii) service contracts, notice period, severance fees;*
- (iv) stock option details, if any and whether issued at a discount as well as the period over which accrued and over which exercisable.*

*(6) Stakeholders' grievance committee:*

- (a) name of non-executive director heading the committee;*
- (b) name and designation of compliance officer;*
- (c) number of shareholders' complaints received so far;*
- (d) number not solved to the satisfaction of shareholders;*
- (e) number of pending complaints.*

*(7) General body meetings:*

- (a) location and time, where last three annual general meetings held;*
- (b) whether any special resolutions passed in the previous three annual general meetings;*
- (c) whether any special resolution passed last year through postal ballot – details of voting pattern;*
- (d) person who conducted the postal ballot exercise;*
- (e) whether any special resolution is proposed to be conducted through postal ballot;*
- (f) procedure for postal ballot.*

*(8) Means of communication:*

- (a) quarterly results;*
- (b) newspapers wherein results normally published;*
- (c) any website, where displayed;*
- (d) whether it also displays official news releases; and*
- (e) presentations made to institutional investors or to the analysts.*

*(9) General shareholder information:*

- (a) annual general meeting - date, time and venue;*
- (b) financial year;*
- (c) dividend payment date;*
- (d) the name and address of each stock exchange(s) at which the listed entity's securities are listed and a confirmation about payment of annual listing fee to each of such stock exchange(s);*
- (e) stock code;*
- (f) market price data- high, low during each month in last financial year;*
- (g) performance in comparison to broad-based indices such as BSE sensex, CRISIL Index etc;*
- (h) in case the securities are suspended from trading, the directors report shall explain the reason thereof;*
- (i) registrar to an issue and share transfer agents;*
- (j) share transfer system;*
- (k) distribution of shareholding;*
- (l) dematerialization of shares and liquidity;*
- (m) outstanding global depository receipts or american depository receipts or warrants or any convertible instruments, conversion date and likely impact on equity;*
- (n) commodity price risk or foreign exchange risk and hedging activities;*
- (o) plant locations;*
- (p) address for correspondence.*
- (q) list of all credit ratings obtained by the entity along with any revisions thereto during the relevant financial year, for all debt instruments of such entity or any fixed deposit programme or any scheme or proposal of the listed entity involving mobilization of funds, whether in India or abroad.*

*(10) Other Disclosures:*

- (a) *disclosures on materially significant related party transactions that may have potential conflict with the interests of listed entity at large;*
- (b) *details of non-compliance by the listed entity, penalties, strictures imposed on the listed entity by stock exchange(s) or the board or any statutory authority, on any matter related to capital markets, during the last three years;*
- (c) *details of establishment of vigil mechanism, whistle blower policy, and affirmation that no personnel has been denied access to the audit committee;*
- (d) *details of compliance with mandatory requirements and adoption of the non-mandatory requirements;*
- (e) *web link where policy for determining 'material' subsidiaries is disclosed;*
- (f) *web link where policy on dealing with related party transactions is disclosed;*
- (g) *disclosure of commodity price risks and commodity hedging activities.*
- (h) *Details of utilization of funds raised through preferential allotment or qualified institutions placement as specified under Regulation 32 (7A).*
- (i) *a certificate from a company secretary in practice that none of the directors on the board of the company have been debarred or disqualified from being appointed or continuing as directors of companies by the Board/Ministry of Corporate Affairs or any such statutory authority.*
- (j) *where the board had not accepted any recommendation of any committee of the board which is mandatorily required, in the relevant financial year, the same to be disclosed along with reasons thereof:*

*Provided that the clause shall only apply where recommendation of / submission by the committee is required for the approval of the Board of Directors and shall not apply where prior approval of the relevant committee is required for undertaking any transaction under these Regulations.*

- (k) total fees for all services paid by the listed entity and its subsidiaries, on a consolidated basis, to the statutory auditor and all entities in the network firm/network entity of which the statutory auditor is a part.*
- (l) disclosures in relation to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:*
  - a. number of complaints filed during the financial year*
  - b. number of complaints disposed of during the financial year*
  - c. number of complaints pending as on end of the financial year.*
- (11) Non-compliance of any requirement of corporate governance report of sub-paras (2) to (10) above, with reasons thereof shall be disclosed.*
- (12) The corporate governance report shall also disclose the extent to which the discretionary requirements as specified in Part E of Schedule II have been adopted.*
- (13) The disclosures of the compliance with corporate governance requirements specified in regulation 17 to 27 and clauses (b) to (i) of sub-regulation (2) of regulation 46 shall be made in the section on corporate governance of the annual report.*

*As per the SEBI Circular dated 15<sup>th</sup> November, 2018, on disclosures regarding commodity risks by listed entities, the listed companies shall disclose the following:*

*Exposure of the listed entity to commodity and commodity risks faced by the entity throughout the year:*

- a. Total exposure of the listed entity to commodities in INR*
- b. Exposure of the listed entity to various commodities in terms of the format mentioned in the said Circular*
- c. Commodity risks faced by the listed entity during the year and how they have been managed.*

*The disclosure pertaining to exposure & commodity risks may apply only for those commodities where the exposure of the listed entity in the particular commodity is material.*

*(Materiality in such cases shall be according to the materiality policy approved by the Board of Directors of the listed entity in this context)*

**Annexure-V****FORM NO. AOC-2****[Pursuant to clause (h) of sub-section (3) of section 134 of the Act and Rule 8(2) of the Companies (Accounts) Rules, 2014]**

*Form for Disclosure of particulars of contracts/arrangements entered into by the company with related parties referred to in sub section (1) of section 188 of the Companies Act, 2013 including certain arm's length transaction under third proviso thereto.*

*1. Details of contracts or arrangements or transactions not at Arm's length basis.*

<b>Sl. No.</b>	<b>Particulars</b>	<b>Details</b>
a)	<i>Name (s) of the related party &amp; nature of relationship</i>	
b)	<i>Nature of contracts/arrangements/transaction</i>	
c)	<i>Duration of the contracts/arrangements/transaction</i>	
d)	<i>Salient terms of the contracts or arrangements or transaction including the value, if any</i>	
e)	<i>Justification for entering into such contracts or arrangements or transactions'</i>	
f)	<i>Date of approval by the Board</i>	
g)	<i>Amount paid as advances, if any</i>	
h)	<i>Date on which the special resolution was passed in General meeting as required under first proviso to section 188</i>	

*2. Details of material contracts or arrangements or transactions at Arm's length basis.*

<b>Sl. No.</b>	<b>Particulars</b>	<b>Details</b>
a)	<i>Name (s) of the related party &amp; nature of relationship</i>	
b)	<i>Nature of contracts/arrangements/transaction</i>	
c)	<i>Duration of the contracts/arrangements/transaction</i>	

d)	<i>Salient terms of the contracts or arrangements or transaction including the value, if any</i>	
e)	<i>Date of approval by the Board</i>	
f)	<i>Amount paid as advances, if any</i>	

3. Details of contracts or arrangements or transactions not in the ordinary course of business.

<b>Sl. No.</b>	<b>Particulars</b>	<b>Details</b>
a)	<i>Name (s) of the related party &amp; nature of relationship</i>	
b)	<i>Nature of contracts/arrangements/transaction</i>	
c)	<i>Duration of the contracts/arrangements/transaction</i>	
d)	<i>Salient terms of the contracts or arrangements or transaction including the value, if any</i>	
e)	<i>Justification for entering into such contracts or arrangements or transactions'</i>	
f)	<i>Date of approval by the Board</i>	
g)	<i>Amount paid as advances, if any</i>	
h)	<i>Date on which the special resolution was passed in General meeting as required under first proviso to section 188</i>	

*Form shall be signed by the people who have signed the Board's Report.*

**Annexure-VI**

**Details of Remuneration as required under section 197(12) of  
the Companies Act, 2013 read with Rule 5(1) of the Companies  
(Appointment and Remuneration of Managerial Personnel) Rules, 2014**

<b><i>Name of Director/KMP</i></b>	<b><i>Designation</i></b>	<b><i>Ratio to median remuneration</i></b>	<b><i>% increase in remuneration in Financial Year....</i></b>

\* Footnotes:

- *The percentage increase in the median remuneration of employees for the financial year..... is.....%*
- *The number of permanent employees on the rolls of the company as on 31st March ..... is.....*
- *The average increase in the managerial remuneration for the F.Y.....is.....% \_\_\_\_\_and the average increase in the salary of employees other than managerial personnel for the FY.....is .....%.*
- *The remuneration stated above is in accordance with the remuneration policy of the company.*

**Annexure-VII****Form No. MR-3****SECRETARIAL AUDIT REPORT**

FOR THE FINANCIAL YEAR ENDED ... ..

*[Pursuant to section 204(1) of the Companies Act, 2013 and rule No.9 of the Companies (Appointment and Remuneration Personnel) Rules, 2014]*

To,

*The Members,*

*..... Limited*

*I/We have conducted the secretarial audit of the compliance of applicable statutory provisions and the adherence to good corporate practices by..... (name of the company). (hereinafter called the company). Secretarial Audit was conducted in a manner that provided me/us a reasonable basis for evaluating the corporate conducts/statutory compliances and expressing my opinion thereon.*

*Based on my/our verification of the ..... (name of the company's) books, papers, minute books, forms and returns filed and other records maintained by the company and also the information provided by the Company, its officers, agents and authorized representatives during the conduct of secretarial audit, I/We hereby report that in my/our opinion, the company has, during the audit period covering the financial year ended on, complied with the statutory provisions listed hereunder and also that the Company has proper Board-processes and compliance-mechanism in place to the extent, in the manner and subject to the reporting made hereinafter:*

*I/we have examined the books, papers, minute books, forms and returns filed and other records maintained by ..... ("the Company") for the financial year ended on, according to the provisions of:*

- (i) The Companies Act, 2013 (the Act) and the rules made thereunder;*
- (ii) The Securities Contracts (Regulation) Act, 1956 ('SCRA') and the rules made thereunder;*
- (iii) The Depositories Act, 1996 and the Regulations and Bye-laws framed thereunder;*

- (iv) *Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder to the extent of Foreign Direct Investment, Overseas Direct Investment and External Commercial Borrowings;*
- (v) *The following Regulations and Guidelines prescribed under the Securities and Exchange Board of India Act, 1992 ('SEBI Act'):-*
  - (a) *The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;*
  - (b) *The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992/2015;*
  - (c) *The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009/2018;*
  - (d) *The Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999/The Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014;*
  - (e) *The Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008;*
  - (f) *The Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 regarding the Companies Act and dealing with client;*
  - (g) *The Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; and*
  - (h) *The Securities and Exchange Board of India (Buyback of Securities) Regulations, 1998/2018;*
- (vi) .....(Mention the other laws as may be applicable specifically to the company)

*I/we have also examined compliance with the applicable clauses of the following:*

- (i) *Secretarial Standards issued by The Institute of Company Secretaries of India.*
- (ii) *The Listing Agreements entered into by the Company with ..... Stock Exchange(s), if applicable;*

*During the period under review the Company has complied with the provisions of the Act, Rules, Regulations, Guidelines, Standards, etc. mentioned above subject to the following observations:*

**Note:** *Please report specific non compliances / observations / audit qualification, reservation or adverse remarks in respect of the above para wise.*

*I/we further report that –*

*The Board of Directors of the Company is duly constituted with proper balance of Executive Directors, Non-Executive Directors and Independent Directors. The changes in the composition of the Board of Directors that took place during the period under review were carried out in compliance with the provisions of the Act.*

*Adequate notice is given to all directors to schedule the Board Meetings, agenda and detailed notes on agenda were sent at least seven days in advance, and a system exists for seeking and obtaining further information and clarifications on the agenda items before the meeting and for meaningful participation at the meeting.*

*Majority decision is carried through while the dissenting members' views are captured and recorded as part of the minutes.*

*I/we further report that there are adequate systems and processes in the company commensurate with the size and operations of the company to monitor and ensure compliance with applicable laws, rules, regulations and guidelines.*

**Note:** *Please report specific observations / qualification, reservation or adverse remarks in respect of the Board Structures/system and processes relating to the Audit period.*

*I/we further report that during the audit period the company has.....  
.....*

*(Give details of specific events / actions having a major bearing on the company's affairs in pursuance of the above referred laws, rules, regulations, guidelines, standards, etc. referred to above)*

*For example:*

- (i) Public/Right/Preferential issue of shares / debentures/sweat equity, etc.*

- (ii) Redemption / buy-back of securities.*
- (iii) Major decisions taken by the members in pursuance to section 180 of the Companies Act, 2013.*
- (iv) Merger / amalgamation / reconstruction, etc.*
- (v) Foreign technical collaborations.*

*Place :*

*Signature:*

*Date :*

*Name of Company Secretary in Practice /  
Firm: ACS/FCS No.*

*C P No.:*

*This report is to be read with our letter of even date which is annexed as Annexure 1 and forms an integral part of this report.*

**'Annexure -1'**

To,  
 The Members  
 XYZ Limited

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*Our report of even date is to be read along with this letter.*

1. *Maintenance of secretarial record is the responsibility of the management of the company. Our responsibility is to express an opinion on these secretarial records based on our audit.*
2. *We have followed the audit practices and processes as were appropriate to obtain reasonable assurance about the correctness of the contents of the Secretarial records. The verification was done on test basis to ensure that correct facts are reflected in secretarial records. We believe that the processes and practices, we followed provide a reasonable basis for our opinion.*
3. *We have not verified the correctness and appropriateness of financial records and Books of Accounts of the company.*
4. *Where ever required, we have obtained the Management representation about the compliance of laws, rules and regulations and happening of events etc.*
5. *The compliance of the provisions of Corporate and other applicable laws, rules, regulations, standards is the responsibility of management. Our examination was limited to the verification of procedures on test basis.*
6. *The Secretarial Audit report is neither an assurance as to the future viability of the company nor of the efficacy or effectiveness with which the management has conducted the affairs of the company.*

Date:

Signature:

Place:

(Name)

*Practising Company Secretary*

*Membership No. ....*

*Certificate of Practice No. ....*

**Annexure-VIII****FORMAT OF THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED  
IN THE BOARD'S REPORT**

<b>Sl. No.</b>	<b>Particulars</b>	<b>Remarks</b>
1	<i>A Brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and project or programs.</i>	
2	<i>The Composition of the CSR Committee.</i>	
3	<i>Average net profit of the company for last three financial years.</i>	
4	<i>Prescribed CSR Expenditure (two percent of the amount as in item 3 above).</i>	
5	<i>Details of CSR spent during the financial year:</i>  <i>a) Total amount to be spent for the financial year</i>  <i>b) Amount unspent, if any;</i>  <i>c) Manner in which the amount spent during the financial year is detailed below</i>	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sl. No.	CSR project or activity Identified	Sector in which the Project is covered	Projects or programs (1) Local area or other (2) Specify the State and district where projects or programs was undertaken	Amount outlay (budget) project or programs wise	Amount spent on the projects or programs Sub-heads: (1) Direct expenditure on projects or programs (2) Overheads:	Cumulative expenditure upto to the reporting period	Amount spent: Direct or through implementing agency *
1							
2							
	TOTAL						

*\*Give details of implementing agency:*

1. *In case the company has failed to spend the two percent of the average net profit of the last three financial years or any part thereof, the reasons for not spending the amount in its Board's Report.*
2. *A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.*

<i>(Chief Executive Officer or Managing Director)</i>	<i>(Chairman CSR Committee)</i>	<i>(Person specified under clause (d) of sub-section (1) of section 380 of the Act)</i>  <i>(Where applicable)</i>