



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)



## Referencer on Board's Report

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**The Companies Act, 2013 Series**



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# **PREFACE TO REVISED EDITION**

The fact that the Board's Report is a significant document can be understood from the fact that not only has the document been mandated to be attached to the Financial Statements but the contents comprising the same have also been detailed intricately under the Companies Act, 2013. It is for these contents and comprising elements and their comprehensively financial and non-financial nature that the document is considered to be an important means of communication by the Board of Directors of a company with its stakeholders.

It is for the purpose of bringing in uniformity and enhancing the compliance that the Institute had on prior occasions rolled out a Secretarial Standard on Report of the Board of Directors (SS-4) followed by a dedicated Guidance Note on Report of the Board of Directors, setting out explanations, procedures and practical aspects in respect of the provisions contained in SS-4 to facilitate the stakeholders.

However, a further need was felt for a more comprehensive document detailing the specimen formats, check lists, etc. which could be used as a ready referencer while drafting the Board's Report. In view of the same the Institute of Company Secretaries of India (ICSI) has brought forth this publication titled Referencer on Board's Report.

I place on record my sincere thanks to CS Makarand Joshi, CS Kalidas Ramaswami, CS Sudhakar Saraswatula for their efforts and contribution made in the preparation and finalisation of this Referencer. I commend the dedicated efforts put in by CS Disha Kant, Assistant Director in the Directorate of Professional Development led by CS Samir Raheja, Director under the overall guidance of CS Asish Mohan, Secretary, ICSI, in bringing out this publication.

I hope that this publication shall not only serve as the perfect work guide for our professional colleagues but will also ensure uniformity of disclosures in Board's Report, and in turn promote good Corporate Governance.

Given the fact that improvement is a continuous process, suggestions of the readers to improve this Referencer are most welcome.

Place: New Delhi

**CS Ashish Garg**

Date: 15th August, 2020

President

The Institute of Company Secretaries of India

## **PREFACE TO FIRST EDITION**

The Board's Report is the most important means of communication by the Board of Directors of a company with its shareholders. It is a comprehensive document which serves to inform the shareholders about the performance and various other aspects of the company, its major policies, relevant changes in management, future programmes of expansion, modernization and diversification, capitalization or reserves, etc. The Board's Report enables not only the shareholders but also the lenders, bankers, government and the public to make an appraisal of the company's performance and provides an insight into the future growth and profitability of the company.

The Companies Act, 2013 is based on enhanced disclosures and transparency. The Board's Report is a document, preparation of which requires thorough understanding of the subject. The Act requires the Board of Directors to disclose on various parameters including the risk management, board evaluation, implementation of Corporate Social Responsibility, a statement of declaration given by independent directors, extracts of annual return etc. The Secretarial Audit Report is also required to be annexed to the Board's Report.

This referencer attempts to guide, the corporates in preparing the Board's Report under the Companies Act, 2013 and the stakeholders in interpreting and understanding the Board's Report. It contains detailed analysis of the various requirements of a Board's Report under section 134 and otherwise.

I am confident that the publication will prove to be of immense benefit to companies and professionals.

I place on record my sincere thanks to CS Mamta Binani, Vice President, CS Vineet K. Chaudhary, Central Council Member and Chairman, Corporate Laws and Governance Committee, CS Ahalada Rao V, CS

Ramasubramaniam C, CS Ashish Garg, Central Council Members for their valuable inputs in finalizing the Referencer.

I am also thankful to CS Amit Ghosh, Company Secretary, Balmer Lawrie & Co., CS Siddhartha Murarka, Director, Intelligent Money Managers (P) Limited, CS Sudheendra Putty, Company Secretary, Cyient Limited and Dr. D K Jain, Practising Company Secretary for their valuable inputs in finalizing the Referencer.

I commend the dedicated efforts put in by team ICSI led by CS Alka Kapoor, Joint Secretary and comprising CS Banu Dandona, Deputy Director, CS Disha Kant, Assistant Education Officer, CS Naveen Kumar, Assistant and team ICSI- CCGRT in preparing the publication under the overall guidance of CS Sutanu Sinha, Chief Executive & Officiating Secretary.

In any publication, there is always scope for further improvement. I would personally be grateful to users and readers for offering their suggestions/ comments for further refinement.

**(CS Atul H Mehta)**

Place : New Delhi

President

Date : 27-05-15

Institute of Company Secretaries of India

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# REFERENCER ON BOARD'S REPORT

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## INTRODUCTION

The Board of Directors of a company provides leadership, strategic guidance and objective judgment, and is also accountable to the stakeholders of the company and the statutory authorities. The Board must strive to maximize wealth while adhering to good corporate governance principles and practices. The efficacy of the Board of Directors is not determined simply by gauging whether it fulfils its legal requirements but, more importantly, by its philosophy and the manner in which it translates the understanding of its responsibilities for the benefit of the stakeholders of the company.

It is mandatory for the Board of Directors of every company to present financial statement to the shareholders along with its report, known as the "Board's Report" at every annual general meeting. Apart from giving a complete review of the performance of the company for the year under report, material changes till the date of the report, the report highlights the significance of various national and international developments which can have an impact on the business and indicates the future strategy of the company. The Board's Report, thus, is a comprehensive document circumscribing both financial and non-financial information, serving to inform the stakeholders about the performance and prospects of the company, relevant changes in management, capital structure, major policies, recommendations as to the distribution of profits, future programmes of expansion, modernization and diversification, capitalization of reserves, further issue of capital, etc.

The Board's Report enables shareholders, lenders, bankers, government, prospective investors, all the stakeholders and the public to make an appraisal of the company's performance and reflects the level of corporate governance in the company.

The matters to be included in the Board's Report have been specified in

Section 134 of the Companies Act, 2013 and Rule 8 of the Companies (Accounts) Rules, 2014. Apart from this, under Sections 67, 92, 129, 131, 135, 149, 160, 168, 177, 178, 188, 197, 204 of the Companies Act, 2013, relevant information has to be disclosed in the Board's Report. The Board's Report of companies whose shares are listed on a stock exchange must include additional information as specified in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred as "Listing Regulations") . Further, the Reserve Bank of India Act, 1934, the Securities and Exchange Board of India Act, 1992 and the regulations, rules, directions, guidelines, circulars, etc. issued thereunder, Disclosure under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, necessitate certain additional disclosures to be made in the Board's Report.

## **SCOPE**

This Referencer *inter alia* identifies and annotates the preparation and presentation of the Board's Report. It also prescribes certain practices which are desirable from the stand point of good corporate governance.

## **DETAILED CONTENTS**

### **1. DISCLOSURES PURSUANT TO THE COMPANIES ACT, 2013**

Section 134 of the Act enjoins upon the Board a responsibility to make out its report to the shareholders and attach the said report to financial statements laid before the shareholders at the annual general meeting, in pursuance of Section 129 of the Act.

The provisions of Section 134, which enumerates the disclosures required to be made in the Board's Report, are applicable to the Directors' Report for the financial year commencing on or after 1st April, 2014.

#### **1. Disclosures under Section 134(3)**

In terms of Sub-section (3) of Section 134, the Board's Report shall include:

- (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;
- (ca) 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;
- (d) a statement on declaration given by independent directors under sub-section (6) of section 149;
- (e) in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178;
- (f) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—
  - (i) by the auditor in his report; and
  - (ii) by the secretarial auditor in his report;
- (g) particulars of loans, guarantees or investments under section 186;
- (h) particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form i.e. Form no. AOC-2;
  - (i) the state of the company's affairs;
  - (j) the amounts, if any, which it proposes to carry to any reserves;
- (k) the amount, if any, which it recommends should be paid by way of dividend;
- (l) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report;
- (m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;

- (n) a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;
- (o) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;
- (p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, 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;
- (q) such other matters as may be prescribed

Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report.

Provided further that where the policy referred to in clause (e) or clause (o) is made available on company's website, if any, it shall be sufficient compliance of the requirements under such clauses if the salient features of the policy and any change therein are specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available.

The Central Government has been empowered to prescribe an abridged Board's report, for the purpose of compliance with this section by One Person Company or small company.

### **Element-wise Detailed Analysis of the requirements under Section 134(3):**

- (a) *the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;***

The earlier requirement of providing an extract of the Annual Return for the financial year ended in the Board's Report, in case of every company, has been discontinued by the Companies (Amendment) Act, 2017.

Considering the ease of doing business Companies (Amendment) Act, 2017 substituted the requirement of extract of annual return with the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed. However, section 92(3) has not yet been notified.

**(b) *Number of meetings of the Board;***

The Section requires the disclosure of the number of meetings of the Board in the Board's Report held in respective financial year.

Secretarial Standard on Report of the Board of Directors- (hereinafter referred to as SS-4) in Para No.6.4 states that 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 considering the requirement of ensuring that the gap between two meetings does not exceed 120 days as stipulated in Section 173(1), many companies make such disclosure voluntarily to give complete information. In order to promote uniformity in disclosures, the SS-4 requires that both number and dates of the meetings of the Board, should be disclosed in the Report.

**(c) *Directors' Responsibility Statement;***

Directors' Responsibility Statement shall set out the following affirmations:

- 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 financial 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 this 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; and
- e. the directors, in the 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 were operating effectively;

The term "internal financial controls" here means the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company's policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information.

In view of the very wide meaning ascribed to the expression *Internal Financial Controls* explained above, it would be necessary for a company to lay down policies and procedures for ensuring efficient and effective conduct of business, safeguarding of its assets and prevention & detection of frauds and errors. It would also be necessary to put in place essential and complete Accounting policies and systems for ensuring timely and reliable MIS. Adoption of Accounting Manual, Internal Control Manual focussing on the Finance function, Internal Audit Manual and having a proper Fraud Prevention Policy would go a long way in helping the Board to make this assertion. It may be noted that Internal Financial Control is one of the elements in the overall Internal Control System and that adequacy of Internal Control System constitutes one of the reporting points, 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.



- f. the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

This statement is a very important disclosure made by the Board of Directors, and confirmation needs to be given on 3 points:-

- Existence of proper systems to ensure compliance with the provisions of all applicable laws
- Adequacy of such systems
- Efficient operating of such systems

It is recommended that the Board of Directors take care of this requirement at periodic intervals, which can help the Board to demonstrate that they have exercised their duties with due and reasonable care, skill and diligence and shall exercise independent judgement.

**(ca) 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;**

This clause was inserted by the Companies (Amendment), Act, 2015 with effect from 29.5.2015. This relates to Section 143(12) read with Rule 13 of Companies (Audit and Auditors) Rules, 2014 wherein it is provided that if the auditor of a company, in the course of the performance of his duties as a auditor, has a reason to believe that an offence by way of fraud involving less than rupees one crore, has been committed, the same shall be reported to the Audit committee or the Board by the auditor. Any fraud above this amount is to be reported to Central Government.

Auditor here refers to Statutory Auditor, Secretarial Auditor or Cost Auditor.

Further Rule 13(4) provides that the following details of frauds as reported by the Auditor to the Audit Committee/ Board, as the case may be during the year shall be disclosed in the Board's 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.

SS-4 under Para 6.13 additionally provides that the details of the frauds reported to the Central Government shall also be disclosed in the Report. Further the standards provide that if no fraud is reported by the Auditor, a statement to this effect shall be given in the Report.

**(d) *a statement on declaration given by independent directors under sub-section (6) of section 149;***

SS-4 under Para 6.3 provides that Report shall include a statement to the effect:

- (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.

Further it states that 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.

Declaration that the Independent Director meets the criteria of independence laid down in sub-section (6) of section 149, which is to be given by him at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director.

In case of listed companies, the independent directors, should in addition as per the provisions of Regulation 16(1)(b) of the Listing Regulations, also confirm that they are not aware of any

circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact their ability to discharge their duties with an objective independent judgment and without any external influence and that they are 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 with the above requirement, the Agenda for the Board Meeting held after receiving such confirmation / affirmation and Minutes thereof may include following statement:

“Pursuant to the requirements of Regulation 16(1)(b) of the SEBI (LODR) Regulations, 2015 and 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 declaration dated ....”

As stated above the SS-4 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 with the 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 the 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 Listing

Regulations, the term "Senior Management" as per Regulation 16(1) (d) of the said Regulations, ...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.

**The Format of the declaration is given at Appendix I**

- (e) *Company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178;***

The Board of directors of every listed company and the following classes of companies shall constitute Nomination and Remuneration Committee of the Board-

- (i) all public companies with a paid up capital of ten crore rupees or more;
- (ii) all public companies having turnover of one hundred crore rupees or more;
- (iii) all public companies, having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding fifty crore rupees or more.

The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees.

The Nomination and Remuneration Committee shall, while formulating the policy mentioned above ensure that-

- (a) the level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully;

- (b) relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and
- (c) remuneration to directors, key managerial personnel and senior management involves a balance between fixed and incentive pay reflecting short and long-term performance objectives appropriate to the working of the company and its goals.

It is required that such policy shall be placed on the website of the company, if any, and the salient features of the policy and changes therein, if any, along with the web address of the policy, if any, shall be disclosed in the Board's report.

Guidance Note on Report of the Board of Directors issued by ICSI (hereinafter stated as GN on SS-4) states further that the in case of public unlisted companies not having a website, such companies should attach said policy with the Report.

**(f) *explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made–***

1. by the auditor in his report; and
2. by the Secretarial Auditors in his secretarial audit report;

Para 18 of SS-4 provides that If there are no qualifications, reservations or adverse remarks made by the Statutory Auditors/ Secretarial Auditors in their respective Reports, a statement to this effect shall 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 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.

GN on SS-4 provides that the Board should provide 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 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.

Further, 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 an estimate on matters like going concern or sub-judice matters; in which case, the management should provide the reasons and the auditor should review the same and report accordingly

**(g) *particulars of loans, guarantees security and investment under section 186;***

Para 9 of SS-4 provides that the 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 respect of companies which are exempt from the provisions of Section 186 the provisions with respect to disclosures as required above shall not apply.

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 utilized 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.

**(h) *particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form;***

Para 10 of SS-4 provides that the disclosure in Board Report 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 read with Rule 8(2) of Companies (Accounts) Rules, 2014 provides that the e particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in AOC-2

Further the GN on SS-4 provides that the justification for entering into such contract or arrangement with related parties shall also be disclosed in 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.

**The format of AOC-2 is given at Appendix II.**

**(i) *the state of the company's affairs;***

The SS-4 brings a lot of clarity on the information and data which are usually considered pertinent and necessary for the purpose of a proper appreciation of the state of affairs of a company. Accordingly, 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.
  - a. The state of affairs of the company should relate to the period for which the financial statements have been prepared.
  - b. Relevant changes which have occurred, as compared to the position as stated in the previous year's Board's Report which have a material bearing on the performance of the company should be indicated in the Board's Report.



- c. The figures of the previous year relating to achievement of targets of production and sales should also be given in the Board's Report to facilitate comparison and the reasons for any substantial deviation therefrom should be explained in brief.

Further the GN on SS-4 provides that 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.

**(j) the amounts, if any, which it proposes to carry to any reserves;**

The term 'Reserve' has been defined under the Guidance Note on Terms Used in Financial Statements issued by the Institute of Chartered Accountants of India (ICAI) as under:

"The portion of earnings, receipts or other surplus of an enterprise (whether capital or revenue) appropriated by the management for a general or specific purpose other than a provision for depreciation or diminution in the value of assets or for a known liability. A capital reserve is that reserve which is not available for distribution as dividend.

A revenue reserve is a reserve which is other than a capital reserve."

A reserve may be a capital reserve or a revenue reserve, but there must be a clear indication to show whether it is of the one or the other kind. The fact that it constituted a mass of undistributed profits cannot automatically make it a reserve. [*CIT v. Century Spinning and Manufacturing Company Ltd.*, (1953) 23 Com Cases 462: AIR 1953 SC 501]. Terminology or descriptions used by the Board in its report or in reference to entries are not conclusive of the matter. A provision for dividend does not amount to reserve even if so described. [*Indian Tube Co. P. Ltd. v. IT* (1992) Comp LJ 317 (SC)].

The Board's Report should disclose the amount which has been transferred to reserves in the financial statements, for instance, general reserve, debenture redemption reserve, capital redemption reserve, etc.

According to SS-4 the amount proposed to be transferred to any reserves of the company shall be included in the Report. If no amount is proposed to be transferred to reserves, a statement to that effect shall be included.

Further the GN on SS-4 clarifies 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

**(k) *the amount, if any, which it recommends should be paid by way of dividend;***

It is worth noting that Section 123 of the Act stipulates that a dividend can be declared only out of

- Profits of the company for the year; or
- Accumulated Profits for any previous financial year(s) after providing for Depreciation

Third Proviso to subsection (1) of the section enjoins that no dividend shall be declared / paid by a company from its reserves other than free reserves.

A company cannot declare any dividend if it has defaulted in compliance with the provisions relating to acceptance / repayment of deposits.

Further it is also provided that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year

According to SS-4 following shall be disclosed in the Board's Report

- 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.

- b. The amount and the percentage of interim dividend declared, if any, during the year and the dividend distribution tax thereon.
- c. The total amount of dividend for the year.
- 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 Board's Report shall disclose the amount per share and the percentage which the Board recommends to be paid as dividend. Articles of Association of companies – in line with Article 80 of Table F of Schedule I to the Act – typically stipulate that the company in general meeting may declare dividend, but no dividend shall exceed the amount recommended by the Board. In effect, the Shareholders can reduce the dividend recommended but cannot increase the same or declare any dividend if not recommended by the Board. Further, till the company in its general meeting accepts the recommendation and declares the dividend, it only remains a recommendation which may be withdrawn or modified by the Members.

Apart from the information relating to recommendation of dividend, if any interim dividend has been paid during the year, details of the amount per share and percentage of such interim dividend should also be disclosed in the Board's Report. The amount of tax paid on the distribution of dividend should also be disclosed in the Report. However, with the Union Budget 2020-21 the dividend distribution tax payable by a company, has been removed.

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.

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. As mentioned above, Union Budget 2020-21, provide for removal of dividend distribution tax payable by a company.

If no dividend has been recommended or declared during the year, a statement to that effect alongwith the reasons therefor should be incorporated in the Board's Report as a good corporate practice.

According to GN on SS-4 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, shall be disclosed in Report.

In this context, SEBI vide its notification dated 8th 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.

**The model dividend distribution policy as provided in SS-3 is placed at Annexure X.**

- (I) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report;***

The Directors' Report should, therefore, contain material changes pertaining to post-financial statement events. In this context, materiality has to be carefully weighed.

According to SS-4 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.

According to Paragraph 2 of SS-4, following general information should be included in the Report:

1. an overview of the industry and important changes in the industry during the last year;
2. External environment and economic outlook;
3. Induction of strategic and financial partners during the year; and
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.

GN on SS-4 clarifies that in order to facilitate uniformity in disclosures, the SS-4 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.

- (m) ***the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;***

The Board's Report should include a statement as per rule 8 of the Companies (Accounts) Rules, 2014. It provides that The Board's Report shall be prepared based on the stand alone financial statements of the company and shall report on the highlights of performance of subsidiaries, associates and joint venture companies and their contribution to the overall performance of the company during the period under report. According to the Rule following matters shall be disclosed in the Board report:

**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 equipment;

**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 financial year) -
  - (a) the details of technology imported;
  - (b) the year of import;
  - (c) whether the technology been fully absorbed;
  - (d) if not fully absorbed, areas where absorption has not taken place, and the reasons thereof; and
- (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.

Provided that the requirement of furnishing information and details under this sub-rule shall not apply to a government company engaged in producing defence equipment.

As per SS-4, 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.

- (n) *a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;***

SS-4 with regard to this disclosure provides that the report shall include 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.

Further 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.

- (o) *the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;***

SS-4 provides that 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.

- (p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, 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;***

Section 134 of the Act read with Rule 8(4) of the Companies (Accounts) Rules, 2014 provides that in case of a listed company and every other public company having such paid-up share capital of twenty five crore rupees or more calculated at the end of the preceding financial year shall include in the report by its Board of directors, 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.

The GN on SS-4 provides that 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 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 10th 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

**(q) *such other matters as may be prescribed***

Rule 8(5) of the Companies (Accounts) Rules, 2014, prescribes such further matters to be dealt with in the Board's Report which inter-alia include:

- (i) the financial summary or highlights;

According to GN on SS-4 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.

- (ii) the change in the nature of business, if any;

According to SS-4, 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)(ii) 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.

- (iii) the details of directors or key managerial personnel who were appointed or have resigned during the year;

According to SS-4, 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.

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, SS-4 extends 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.

- (iiia) a statement regarding opinion of the Board with regard to integrity, expertise and experience (including the proficiency) of the independent directors appointed during the year.

*Explanation.-* For the purposes of this clause, the expression "proficiency" means the proficiency of the independent director as ascertained from the online proficiency self-assessment test conducted by the institute notified under sub-section (1) of section 150

- (iv) the names of companies which have become or ceased to be its Subsidiaries, joint ventures or associate companies during the year;

According to SS-4, 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.

- (v) the details relating to deposits, covered under Chapter V of the Act,-

- a. accepted during the year;
- b. remained 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, number of such cases and the total amount involved-
  - i. at the beginning of the year;
  - ii. maximum during the year;
  - 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.
- g. 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 SS-4 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.

- (vi) 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;



SS-4 in this context provides that 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.

- (vii) the details in respect of adequacy of internal financial controls with reference to the financial statements.
- (viii) a disclosure, as to whether maintenance of cost records as specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013, is required by the Company and accordingly such accounts and records are made and maintained,
- (ix) a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 [14 of 2013]

In addition to above, SS-4 provides other disclosures in the Board's Report as under:

- (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;

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

## **2. Disclosures related to Employees**

As per Rule 5 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, every listed company shall disclose in the Board's report-

- (i) the ratio of the remuneration of each director to the median remuneration of the employees of the company for the financial year;
- (ii) the percentage increase in remuneration of each director, Chief Financial Officer, Chief Executive Officer, Company Secretary or Manager, if any, in the financial year;
- (iii) the percentage increase in the median remuneration of employees in the financial year;
- (iv) the number of permanent employees on the rolls of company;
- (v) average percentile increase already made in the salaries of employees other than the managerial personnel in the last financial year and its comparison with the percentile increase in the managerial remuneration and justification thereof and point out if there are any exceptional circumstances for increase in the managerial remuneration;
- (vi) affirmation that the remuneration is as per the remuneration policy of the company.

Further the board's report shall include a statement showing the names of the top ten employees in terms of remuneration drawn.

According to SS-4, 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.

The Board report shall include the name of every employee, who-

- (i) if employed throughout the financial year, was in receipt of remuneration for that year which, in the aggregate, was not less than one crore and two lakh rupees;
- (ii) if employed for a part of the financial year, was in receipt of remuneration for any part of that year, at a rate which, in the aggregate, was not less than eight lakh and fifty thousand rupees per month;
- (iii) if employed throughout the financial year or part thereof, was in receipt of remuneration in that year which, in the aggregate, or as

the case may be, at a rate which, in the aggregate, is in excess of that drawn by the managing director or whole-time director or manager and holds by himself or along with his spouse and dependent children, not less than two percent of the equity shares of the company.

Further such statement shall also indicate the following details:

- (a) designation of such 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 in the company within the meaning of clause (iii) of sub-rule (2) above; and
- (i) whether any such employee is a relative of any director or manager of the company and if so, name of such director or manager.

The particulars of those employees who are posted and working outside India, not being Director or their relatives, drawing more than sixty lakh rupees per financial year or five lakh rupees per month, as the case may be and as the Board may decide, shall not be circulated to the members in the Board's report, but such particulars shall be filed with the Registrar of Companies while filing the financial statement and Board Reports.

Such particulars shall be made available to any shareholder on specific request made by him in writing before the date of AGM wherein financial results for the relevant financial year are proposed to be adopted by shareholders and such particulars shall be made available by the company within three days from the date of receipt of such request from shareholders.

If any request is received after the date of completion of AGM, then such particulars shall be made available to the shareholders within seven days from the date of receipt of such request.

## **2. Disclosure of commission to managing or whole-time director**

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 Board's report.(Sec 197(14) of the Act).

## **3. Re-Appointment of Independent Director**

In terms of section 149(10), an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for reappointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.

The Standard on Report of the Board of Directors (SS-4) requires that in case of appointment of Independent Directors, the justification for choosing the proposed appointees for appointment as Independent Directors should also be disclosed in the Report.

In case of re-appointment after completion of the first term, the rationale for such re-appointment shall 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.

## **4. Change in the composition of the Board**

Any appointment, reappointment or change in the office of a director (including whole-time director, additional director, alternate director or a director filling a casual vacancy) whether by virtue of rotation, resignation, death or otherwise should be indicated in the Board's Report.

Section 168(1) requires to place on record the fact of resignation of a

director in the report of directors laid in the immediately following general meeting of the Company.

## **5. Disqualifications of Directors**

Section 164 of the Act lays down grounds for disqualification of directors. The Section 164(2)(b) mandates that no person who is a director of a company shall be reappointed as a director thereof or be appointed on the Board of any other company for a period of 5 years if the company on which he is a director fails to

- (i) File Financial Statements or Annual Return for 3 consecutive financial years or
- (ii) Repay deposits or redeem debentures as and when due or
- (iii) Pay dividend which has been recommended and declared.

Schedule V, Part II of the Act – which relates to payment of remuneration to Whole-time / Managing Director mentions that such non-payment or failure to redeem when due, would constitute an act of default.

As a good corporate practice, the Board's Report should disclose if any director has incurred any disqualification on account of non-compliance with any of the provisions of the Act. Acts of omission/commission by the company itself, as a result of which the directors may be liable for disqualification, should be disclosed.

## **6. Audit Committee**

In terms of Section 177(1) of the Act read with rule 6 of Companies (Meetings of Board and its Powers) Rules, 2014 and rule 4 of Companies (Appointment and Qualification of Directors) Rules, 2014, following companies shall constitute an Audit Committee.

- (i) every listed company;
- (ii) all public companies with a paid up capital of Rs.10 Crores or more;
- (iii) all public companies having turnover of Rs.100 Crores or more;
- (iv) all public companies, having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding Rs.50 Crores or more.

However, the following classes of unlisted public company shall not constitute an Audit Committee:-

- (a) a joint venture;
- (b) a wholly owned subsidiary; and
- (c) a dormant company as defined under section 455 of the Act.

The Board's report under section 134(3) shall disclose the composition of an Audit committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons there for [Section 177(8)].

SS-4 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.

## **7. Change in Capital Structure of the company**

SS-4 requires the disclosure of 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 right

### **a. 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.

**b. Issue of Equity Shares with differential rights**

Rule 4(4) of the Companies (Share Capital and Debentures) Rules, 2014 provides that the Board of Directors shall, *inter alia*, disclose in the Board's Report for the financial year in which the issue of equity shares with differential rights as to dividend, voting or otherwise was completed, the following details, namely:-

- i. the total number of shares allotted with differential rights;
- ii. the details of the differential rights relating to voting rights and dividends;
- iii. the 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 right shall carry to the total voting right of the aggregate equity share capital;
- iv. the price at which such shares have been issued;
- v. the particulars of promoters, directors or key managerial personnel to whom such shares are issued;
- vi. the change in control, if any, in the company consequent to the issue of equity shares with differential voting rights;
- vii. the diluted Earning Per Share pursuant to the issue of each class of shares, calculated in accordance with the applicable accounting standards;
- viii. the pre and post issue shareholding pattern along with voting rights in the format specified under sub-rule (2) of rule 4.



**c. Sweat Equity**

In terms of Sub-rule (13) of Rule 8 of Companies (Share Capital and Debentures) Rules, 2014, the Board of Directors shall, inter alia, disclose in the Directors' Report for the year in which such shares are issued, the following details of issue of sweat equity shares namely:-

- i. the class of director or employee to whom sweat equity shares were issued;
- ii. the class of shares issued as Sweat Equity Shares;
- iii. the 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 individual names of allottees holding one percent or more of the issued share capital;
- iv. the reasons or justification for the issue;
- v. the principal terms and conditions for issue of sweat equity shares, including pricing formula;
- vi. the total number of shares arising as a result of issue of sweat equity shares;
- vii. the percentage of the sweat equity shares of the total post issued and paid up share capital;
- viii. the consideration (including consideration other than cash) received or benefit accrued to the company from the issue of sweat equity shares;
- ix. the diluted Earnings Per Share (EPS) pursuant to issuance of sweat equity shares.

**d. Disclosure pursuant to Employee Stock Option and Employee Stock Purchase Schemes****a. Under Companies Act, 2013**

Rule 12(9) of Companies (Share Capital and Debentures) Rules, 2014 provides that the Board of directors, shall,

inter alia, disclose in the Directors' Report for the year, the following details of the Employees Stock Option Scheme:

- i. options granted
- ii. options vested;
- iii. options exercised;
- iv. the total number of shares arising as a result of exercise of options;
- v. options lapsed;
- vi. the exercise price
- vii. variation of terms of options;
- viii. money realised by exercise of options;
- ix. total number of options in force;
- x. employee wise details of Options granted to –
  1. key managerial personnel;
  2. any other employee who receives a grant of options in any one year of option amounting to five percent or more of options granted during that year.
  3. identified employees who were granted option, 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.

**b. 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

As stated in the GN on SS-4, in case of a listed company, Regulation 14 of SEBI (Share Based Employee Benefits) Regulations, 2014 [SEBI (SBEB) Regulations] require 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 which are to be recorded 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.

**e. Provision of money by company for purchase of its own shares by employees or by trustees for the benefit of employees**

As per sub-rule (4) of Rule 16 of Companies (Share Capital and Debentures) Rules, 2014, 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 in the Board's report for the relevant financial year the following details, namely:-

- (a) the names of the employees who have not exercised the voting rights directly;
- (b) the reasons for not voting directly;
- (c) the name of the person who is exercising such voting rights;
- (d) the 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) the date of the general meeting in which such voting power was exercised;
- (f) the resolutions on which votes have been cast by persons holding such voting power;

- (g) the 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 shall 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.

**g. Issue of debentures, bonds or any non-convertible securities**

As stated in para 3.6 of SS-4, the disclosure under this heading 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 SS-4 lays down the parameters for disclosure in respect of issue of debentures, bond or any other non-convertible securities.

### **Issue of warrants**

As stated in paragraph 3.7 of SS-4, the disclosure under this heading 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.

Again In order to facilitate uniformity SS-4 lays down the parameters for disclosure in respect of issue of warrants.

### **Redemption of shares/debentures**

It is necessary in view of Section 164(2), Section 167(1) and Schedule V Part II of Companies Act, 2013 that where the redemption of debentures or preference shares was due during the year but has not taken place, the Board's Report should explain the reasons therefor.

Further, as a good corporate practice, disclosure regarding the redemption of debentures or preference shares, if any, during the relevant period should be given in the director's report.

Further, if there is any variation in the rights of any one class of shareholders disclosure regarding the same should be given in the Board's Report alongwith the following details:

- i. Type of shareholder
- ii. No. of shares held by each shareholder
- iii. Existing amount per share
- iv. Type of variation
- v. Details of resolution passed etc.

## **8. Investor Education and Protection Fund**

The Board should, as a good corporate practice, inform the shareholders about the amounts, if any, which have been transferred during the year to the Investor Education and Protection Fund established under sub-section (2) of section 125 of the Act and the IEPF (Accounting, Audit, Transfer and Refund) Rules, 2016.

Further, the Board's Report should clearly state the amounts, if any, which were to be transferred to the Investor Education and Protection Fund but have not been so transferred, alongwith the reasons for such failure.

According to SS-4, the disclosure shall include the following:

- (a) details of the transfer/s to the IEPF made during the year as mentioned below:
  1. amount of unclaimed/unpaid dividend and the corresponding shares;
  2. redemption amount of preference shares;
  3. amount of matured deposits, for companies other than banking companies, along with interest accrued thereon;
  4. amount of matured debentures along with interest accrued thereon;
  5. application money received for allotment of any securities and due for refund along with interest accrued;

6. sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation;
- ii. details of the resultant benefits arising out of shares already transferred to the IEPF;
- iii. 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;
- iv. the amount of donation, if any, given by the company to the IEPF;
- v. such other amounts transferred to the IEPF, if any, during the year.

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, SS-4 suggests 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. SS-4 suggests 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.

## 9. Vigil Mechanism

Section 177(9) read with Rule 7 of the Companies (Meeting 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.

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.

The existence of the mechanism may be appropriately communicated within the organization. The details of establishment of Vigil mechanism shall be disclosed by the company on the website, if any, and in the Board's Report. (Section 177(10) of the Act)

According to SS-4, 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.

Further the GN on SS-4 elaborates that the 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.

## **10. Additional disclosures**

As a good corporate practice, the Board's Report should also contain disclosures with regard to:

- (i) name of the candidate nominated by small shareholders in terms of Section 151 of the Act which states that a listed company may upon notice of not less than one thousand small shareholders or one-tenth of the total number of such shareholders, whichever is lower, have a small shareholder's director elected by the them.
- (ii) name of retiring Auditors and/or the Secretarial Auditors and whether or not they are eligible and willing for reappointment;
- (iii) name of Auditors and/or Secretarial Auditors, if any, who resigned during the year;
- (iv) reasons for delay, if any, in holding Annual General Meeting together with references to the approval obtained from the Registrar of Companies for extension of time for holding Annual General Meeting pursuant to the Third Proviso to Section 96(1) of the Act;
- (v) change in auditor and/or Secretarial Auditors during the year along with the reasons if any;- According to SS-4 the Report shall also include: 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.

- (vi) appointment of relatives of directors to an office or place of profit;
- (vii) special resolutions which were passed by the shareholders in the previous meeting(s) but which have not been acted upon and the reasons therefor.

## **2. CREDIT RATING OF SECURITIES**

According to SS-4, as a good governance practice the disclosure on credit rating should also be included in the Board's report.

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.

The Standard further states that as per SEBI (LODR), 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.

### **3. DISCLOSURE PURSUANT TO THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015**

#### **1. Regulation 32 - Statement of deviation(s) or variation(s)**

Companies which have listed their specified securities shall furnish in the directors/Board 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.

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.

#### **2. Management Discussion and Analysis (MDA)**

In case of companies which have listed their specified securities, the Report shall include an MDA, either as a part of the Report or as an annexure to the Report. The MDA 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) provides that the annual report shall contain the Management Discussion and Analysis – either as a part of directors' report or addition thereto.

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

### **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.

#### **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

**5. Functional Website-** Reg 46 (2)(I)(iii), Reg 62(1)(b)- Listed company which has listed its nonconvertible debt securities or non-convertible redeemable preference shares or both shall maintain a functional website containing the directors report.

#### **6. Report on Corporate Governance**

According to SEBI (LODR), 2015 disclosures w.r.t. corporate governance shall be made in the section on the corporate governance of the annual report.

The GN on SS-4 states that 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.

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 Corporate Governance Report as per SEBI (LODR) is given in Appendix IV**

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

The disclosure shall include the following:

- i. 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.

- ii. 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

## 5. ADDITIONAL DISCLOSURES BY PRODUCER COMPANY

In terms of Section 465(1) of Companies Act, 2013 read with section 581ZA of Companies Act, 1956, a Producer Company should additionally disclose the following in its Board Report:.

- the amounts to be paid as limited return on share capital.
- the amounts, if any, proposed to be disbursed as patronage bonus.

## 6. DISCLOSURES PURSUANT TO DIRECTIONS OF RESERVE BANK OF INDIA

Non-Banking Financial Companies (NBFCs) are governed by the directions issued by the Reserve Bank of India (RBI) pursuant to the power vested in it by the RBI Act, 1934. NBFCs have to furnish certain additional information in the Board's Report. Separate provisions in this regard have been made for the three categories of NBFCs namely, non-banking financial companies, miscellaneous nonbanking companies and residuary non- banking companies. These are explained hereunder:

### 1. Non-Banking Financial Companies

According to Reserve Bank of India- Master Direction on Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 2016 (Updated as on February 22, 2019) vide Notification No. RBI/DNBR/2016-17/38 Master Direction DNBR.PD.002/03.10.119/2016-17 provides for the Information to be included in the Board's report

- (1) In every report of the Board of Directors laid before the company in a general meeting there shall be included in the case of a non-banking financial company, **the following particulars or information, namely:-**

- (i) the total number of accounts of public deposit of the company which have not been claimed by the depositors or not paid by the company after the date on which the deposit became due for repayment; and
  - (ii) the total amounts due under such accounts remaining unclaimed or unpaid beyond the dates referred to in clause (i) as aforesaid.
- (2) The said particulars or information shall be furnished with reference to the position as on the last day of the financial year to which the report relates and if the amounts remaining unclaimed or undisbursed as referred to in clause (ii) of the preceding sub-paragraph exceed in the aggregate a sum of rupees five lakhs, there shall also be included in the report a statement on the steps taken or proposed to be taken by the Board of Directors for the repayment of the amounts due to the depositors remaining unclaimed or undisbursed.

## **2. Miscellaneous Non-Banking Companies**

In the case of a miscellaneous non-banking company, the Board's Report should contain the following information:

- (a) the total number of depositors of the company whose deposits have not been claimed by the depositors or paid by the company after the date on which the deposit became due for repayment or renewal, as the case may be, according to the contract with the depositor or the provisions of the RBI directions, whichever may be applicable; and
- (b) the total amounts due to the depositors and remaining unclaimed or unpaid beyond the dates referred to in clause above

This information should be furnished with reference to the position as on the last day of the financial year to which the report relates and if the amounts remaining unclaimed or undisbursed as referred to in clause (b) above exceed in the aggregate a sum of Rs. 500,000, there shall also be included in the report a statement on the steps taken or proposed to be taken by the Board for the repayment of the amounts due to the depositors and remaining unclaimed or undisbursed. [Master Direction - Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 2016].

### 3. Residuary Companies

In the case of residuary companies, the Board's Report should contain the following information:

- (a) compliance with the provisions of the RBI directions;
- (b) the total number of depositors of the company whose deposits have not been claimed by the depositors or paid by the company after the date on which the deposit became due for repayment or renewal, as the case may be, according to the contract with the depositor or the provisions of the RBI directions, whichever may be applicable; and
- (c) the total amounts due to the depositors and remaining unclaimed or unpaid beyond the dates referred to in clause (b) as aforesaid.

This information should be furnished with reference to the position as on the last day of the financial year to which the report relates and if the amounts remaining unclaimed or unpaid as referred to in clause (c) above exceed in the aggregate a sum of Rs. 500,000, there shall also be included in the report a statement on the steps taken or proposed to be taken by the Board for the repayment of the amounts due to the depositors and remaining unclaimed or unpaid. [Master Direction - Residuary Non-Banking Companies (Reserve Bank) Directions, 2016].

## 7. OTHER DISCLOSURES

**The Report should state that the consolidated financial statements are also presented in addition to the individual financial statement of the company.**

### 1. 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.

## **2. Compliance with Secretarial Standards**

As stated in paragraph 19 of SS-4, 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..

## **8. SECRETARIAL AUDIT REPORT**

As per provisions of Section 204(1) of Companies Act, 2013, every listed company or every public company having a paid-up share capital of fifty crore rupees or more; or every public company having a turnover of two hundred fifty crore rupees or more; or every company having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more shall annex with its Board's report, a Secretarial audit report, given by a company secretary in practice.

The format of the Secretarial Audit Report should be in Form No. MR-3 of the Rule 9 of Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014.

Para 17 of SS-4 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

## **9. EXPLANATIONS IN THE BOARD'S REPORT IN RESPONSE TO AUDITORS' QUALIFICATION(S)**

According to Paragraph 18 of SS-4, 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.

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

## **10. INFORMATION ON ACCOUNTS**

The Report may disclose any information which is required by the Act to be given in the accounts. Such information may be given in the Report or in the accounts, or in a statement annexed to the accounts.

Sub-Rule (1) of Rule 8 of the Companies (Accounts) Rules, 2014 provides that the Board's Report should be prepared based on the stand alone financial statements of the company and the report should contain a separate section wherein a report on the performance and financial position of each of the subsidiaries, associates and joint venture companies included in the consolidated financial statement is presented.

Sub-Rule (5) of Rule 8 of the Companies (Accounts) Rules, 2014 provides that the report of the Board should contain the details in respect of

adequacy of internal financial controls with reference to the Financial Statements.

Section 131 of Companies Act, 2013 provides that revised financial statement or a revised report may be prepared in respect of any of the three preceding financial years and the detailed reasons for revision of such financial statement or report should be disclosed in the Board's report in the relevant financial year in which such revision is being made.

According to SS-4, 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.

Additional disclosures mandated for producer companies, nonbanking financial companies, miscellaneous nonbanking companies, residuary companies and housing finance companies regulators of the respective companies to which it pertains needs to be complied with.

**Additional contents to be disclosed in terms of Companies Act, 2013 are placed at Appendix V**

## **11. APPROVAL OF THE BOARD'S REPORT**

The Board's Report should be considered, approved and signed at a meeting of the Board, convened in accordance with the provisions of the Act and shall not be dealt – by means of a resolution passed by circulation

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 SS-4 provides that the Report shall be considered and approved by means of a resolution passed 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 in respect of above matter.

Ministry of Corporate Affairs vide its notification dated 19th March 2020 has introduced the Companies (Meetings of Board and its Powers) Amendment Rules, 2020, and taken a preventive step to overcome the outbreak of COVID-19, it has been decided to relax the requirement of holding board meetings with physical presence of directors for approval of the restricted matters such

- as approval of the annual financial statements,
- approval of the board's report,
- approval of the prospectus,
- the audit Committee meetings for consideration of financial statement including consolidated financial statement if any, to be approved by the board and approval of matters relating to amalgamation, merger, demerger, acquisition and takeover.

The same is applicable till 30<sup>th</sup> September, 2020.

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

## **12. SIGNING AND DATING OF THE BOARD'S REPORT**

Section 134(6) of the Act provides that the Board's report and any annexures thereto should be signed by its chairperson of the company if he is authorised by the Board and where he is not so authorised, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director.

According to SS-4 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 format for the Annual Report on CSR activities as provided under the 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.

As per the GN on SS-4, 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.

### **13. SIGNING OF REPORT IN CASE OF A COMPANY UNDER INSOLVENCY LAWS (As stated in SS-4 and GN on SS-4)**

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.

#### **14. COLLECTIVE RESPONSIBILITY OF THE BOARD**

The Board's Report should be the collective responsibility of all the directors though the report may have been approved only by a majority of the directors. The dissent, if any, of any director(s) on any item in the Board's Report may be reflected in the minutes of the meeting but not in the report.

The Board should be collectively responsible for any statement in its Report, which is false in any material particular or for any omission of a material fact, knowing it to be material.

#### **15. FILING OF THE BOARD'S REPORT**

Section 137(1) of the Act provides that a copy of financial statements, including consolidated financial statement, if any, along with all documents required to be attached to such financial statements under the Act, duly adopted at the annual general meeting of the company, should be filed with the Registrar of Companies within 30 days of the date of annual general meeting along with the prescribed fees. The Board's Report has to be attached to the financial statements. Further that pursuant to the provisions of section 117/179 of the Companies Act, and the Rules made thereunder the resolution for approving the Board's Report is also required to be filed to the Registrar within 30 days from the approval by the Board.

Third Proviso of Section 137(1) of the Act also provides that a One Person Company should 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. Fourth proviso to Section 137(1) which states



that “a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

As per the GN on SS-4, 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 8th 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.

## **16. RIGHT OF MEMBERS TO RECEIVE COPIES OF FINANCIAL STATEMENT, BOARD'S REPORT, ETC.**

Section 136 of the Act provides that, a copy of the financial statements, including consolidated financial statements, if any, auditor's report and every other document required by law to be annexed or attached to the financial statements, which are to be laid before a company in its general meeting, shall be sent to every member of the company, to every trustee for the debenture- holder of any debentures issued by the company, and to all persons other than such member or trustee, being the person so entitled, not less than twenty-one days before the date of the 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.

Provided that in the case of a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of 21 days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than 21 days before the date of the unless the shareholders ask for full financial statements.

In terms of Regulation 34 of the SEBI (LODR) Regulations, 2015, The listed entity shall submit the annual report to the stock exchange within twenty-one working days of it being approved and adopted in the annual general meeting as per the provisions of the Companies Act, 2013.

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

As provided by SS-4, 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.

## **17. CONSISTENCY**

The Board should ensure consistency of information given in the Board's Report, the Management Discussion & Analysis Report, Report on Corporate Governance and the explanatory statements to Resolutions.

Repetitions in the various sections of the annual report should be avoided so that the information about a particular item is clearly and completely available at one place only. The Board's Report should clearly explain any material deviations from the disclosures made in the previous report and the reasons thereof.

Further, the Board should make a balanced assessment in the report in order to provide an unambiguous and unbiased insight into the affairs of the company.

## **18. LIABILITY FOR MIS-STATEMENT**

The Board shall be collectively responsible for any statement in its Report which is false in any material particular, or for any omission of a material fact, knowing it to be material. Section 448 of the Act provides that if in any return, report, certificate, financial statement, prospectus, statement or other document required by the Act or the rules made thereunder, any person makes a statement,—

- a. which is false in any material particulars, knowing it to be false; or
- b. which omits any material fact, knowing it to be material,

then he shall be punishable liable under Section 447.

Section 447 provides that, without prejudice to any liability including repayment of any debt under the Act or any other law for the time being in force, any person who is found to be guilty of fraud involving an amount of at least ten lakh rupees or one per cent. of the turnover of the company, whichever is lower shall be with imprisonment for a term which shall not be less than six months but which may extend to ten years and should also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to fifty lakh rupees or with both.

**An illustrative list of matters which are required to be included in the Board's Report and the provisions relating to signing and filing of Board's report in various other countries is placed at Appendix VII.**

**A specimen Board's Report is placed at Appendix VIII.**

# ***APPENDIX I***

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## **Declaration by Independent Directors**

To,

The Board of Directors

[Name of the Company] Pune

### **Sub : Declaration under Section 149(6) of the Companies Act, 2013**

With reference to my directorship in the Company/ appointment as an Independent Director of the Company with effect from....., I ..... son/ daughter/ spouse of ..... residing at ..... do hereby declare that,

(a)(i) I am or was not a promoter of the company or its holding, subsidiary or associate company;

(ii) I am not related to promoters or directors in the company, its holding, subsidiary or associate company;

(b) I have or had no pecuniary relationship other than remuneration as such director or having transaction not exceeding ten per cent. of my total income or such amount as may be prescribed with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;

(c) none of my relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;

(d) none of my relatives—

(i) hold any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year;

- (ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;
  - (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; or
  - (iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii).
- (e) I, neither myself nor any of my relatives—
- (i) hold or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;
  - (ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—
    - (A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or
    - (B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent or more of the gross turnover of such firm;
  - (iii) hold together with my relatives two per cent or more of the total voting power of the company; or

(iv) is a Chief Executive or director, by whatever name called, of any nonprofit organization that receives twenty-five per cent or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company;

and I meet the criteria of independence as per the provisions of the Companies Act, 2013.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Place: \_\_\_\_\_ Name of the Director: \_\_\_\_\_

DIN.....

# **APPENDIX II**

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## **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 arms length transactions under third proviso thereto**

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

- (a) Name(s) of the related party and nature of relationship
- (b) Nature of contracts/arrangements/transactions
- (c) Duration of the contracts/arrangements/transactions
- (d) Salient terms of the contracts or arrangements or transactions including the value, if any
- (e) Justification for entering into such contracts or arrangements or transactions
- (f) Date(s) of approval by the Board
- (g) Amount paid as advances, if any
- (h) Date on which the special resolution was passed in general meeting as required under first proviso to section 188

### **2. Details of material contracts or arrangement or transactions at arm's length basis**

- (a) Name(s) of the related party and nature of relationship
- (b) Nature of contracts/arrangements/transactions
- (c) Duration of the contracts/arrangements/transactions



- (d) Salient terms of the contracts or arrangements or transactions including the value, if any
- (e) Date(s) of approval by the Board, if any
- (f) Amount paid as advances, if any

Form shall be signed by the persons who have signed the Board's report.

## **APPENDIX III**

### **Format for the Annual Report on CSR Activities to be included in the Board's Report**

1. 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 projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years.
4. Prescribed CSR Expenditure (two per cent of the amount as in item 3 above).
5. Details of CSR spent during the financial year:
  - a. Total amount to be spent for the financial year;
  - b. Amount unspent , if any;
  - c. Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S. No.	CSR project or activity identified	Sector in which the project is covered	Project or programs (a) Local area or other  (b) Specify the state and district where projects or programs was undertaken	Amount outlay (budget) project or program wise	Amount spent on the project or programs Subheads: 1. Direct expenditure on projects or programs  2. over-heads	Cumulative expenditure upto the reporting period	Amount spent: Direct or through implementing agency
1							
2							
3							
Total							

\*Give details of implementing agency:

6. In case the company has failed to spend the two per cent of the average net profit of the last three financial years or any part thereof, the company shall provide the reasons for not spending the amount in its Board report.

7. 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.

sd/-  (Chief Executive Officer or Managing Director or Director)	sd/-  (Chairman CSR Committee)	sd/-  [Person specified under clause (d) of sub-section (1) of section 380 of the Act] (wherever applicable)
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## ***APPENDIX IV***

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### ***CORPORATE GOVERNANCE REPORT [As per SEBI (LODR) Regulation, 20115]***

i. (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 31st 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) With effect from the financial year ended March 31, 2020, the names of directors who have such skills/expertise/competence
  - (i) confirmation that in the opinion of the board, the independent directors fulfill the conditions specified in these regulations and are independent of the management.
  - (j) 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.
- (3) Audit committee:
- (a) brief description of terms of reference;
  - (b) composition, name of members and chairperson;
  - (c) meetings and attendance during the year.
- (4) Nomination and Remuneration Committee:
- (a) brief description of terms of reference;
  - (b) composition, name of members and chairperson;
  - (c) meeting and attendance during the year;
  - (d) performance evaluation criteria for independent directors.
- (5) Remuneration of Directors:

- (a) all pecuniary relationship or transactions of the non-executive directors vis-à-vis the listed entity shall be disclosed in the annual report;
  - (b) criteria of making payments to non-executive directors. alternatively, this may be disseminated on the listed entity's website and reference drawn thereto in the annual report;
  - (c) disclosures with respect to remuneration: in addition to disclosures required under the Companies Act, 2013, the following disclosures shall be made:
    - (i) all elements of remuneration package of individual directors summarized under major groups, such as salary, benefits, bonuses, stock options, pension etc;
    - (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 15th 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.

## **APPENDIX V**

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**Table of Additional Contents to be Disclosed in Terms of  
Companies Act, 2013**

<i>S. No.</i>	<i>Section</i>	<i>Disclosure</i>
1.	Section 43 read with Rule 4(4) of the Companies (Share Capital and Debentures) Rules, 2014 [Chaper IV]	Disclose the details of equity shares with differential rights, as per the Rule, in the Board's Report for the financial year in which the issue of equity shares with differential rights was completed.
2.	Section 54 read with Rule 8(13) of the Companies (Share Capital and Debentures) Rules, 2014	Disclose the details of sweat equity shares, as per the Rule, in the Board's Report for the year in which the shares are issued.
3.	Section 62(1)(b) read with Rule 12(9) of the Companies (Share Capital and Debentures) Rules, 2014	Disclose details of Employees Stock Option Scheme, as per the Rule.
4.	Proviso to Section 67(3) read with Rule 16(4) of the Companies (Share Capital and Debentures) Rules, 2014	Disclose details of voting rights not exercised directly by the employees in respect of shares to which the scheme for provision of money for purchase of or subscription for shares by employees or by trustees for the benefit of employees, as per the Rule.
5.	Third proviso to Section 131	Disclose detailed reasons for revision of financial statement or report of the Board, in the Board's Report in the relevant financial year in which such revision is being made.

<i>S. No.</i>	<i>Section</i>	<i>Disclosure</i>
6.	Section 135(2)	Composition of the Corporate Social Responsibility (CSR) Committee.
7.	Section 135(4)(a) read with Rule 9 of the Companies (Accounts) Rules, 2014 [Chapter IX]	Disclose contents of the CSR Policy in the Board's Report and on the company's website, if any, as per annexure attached to the Companies (Corporate Social Responsibility Policy) Rules, 2014.
8.	Second proviso to Section 135(5)	If the company fails to spend the requisite amount on CSR activities, the Board shall in its report specify the reasons for not spending the amount.
9.	Section 149(10)	An Independent Director shall hold office for a term upto 5 consecutive years but shall be eligible for re-appointment on passing of special resolution and disclosure of such appointment in the Board's Report.
10.	Section 177(8) read with Rule 6 of the Companies (Meetings of the Board and its Powers) Rules, 2014 [Chapter XII]	Disclose the composition of an Audit Committee, where applicable, and where the Board has not accepted any recommendation of the Audit Committee, the same shall be disclosed in the report alongwith the reasons therefor.
11.	Proviso to Section 177(10)	Disclose details of establishment of Vigil Mechanism.
12.	Section 178(3)& Proviso of Section 178(4)	Nomination and Remuneration Committee shall formulate a policy relating to the remuneration for the directors, KMPs and other employees and such policy shall be disclosed in the Board's Report.

<i>S. No.</i>	<i>Section</i>	<i>Disclosure</i>
13.	Section 197(14)	Subject to the provisions of section 197, 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 Board's report.
14.	Section 204(1)	Every listed company and every public company having a paidup share capital of fifty crore rupees or more; OR; every public company having a turnover of two hundred fifty crore rupees or more; OR; every company having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more shall annex with its Board's report, a secretarial audit report, given by a company secretary in practice, in Form MR-3
15.	Section 204(3)	Explain in full any qualification or observation or other remarks made by the company secretary in practice in his Secretarial Audit Report pursuant to section 204(1).

## ***APPENDIX VI***

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### **Specimen Resolution to be Passed at a Meeting of the Board of Directors for Approval of the Board's Report**

“RESOLVED that, pursuant to Section 134 and subject to the Auditors’ Report under Section 143 of the Companies Act, 2013, being without any reservation or qualification or adverse remark, the draft of the Board’s Report for the financial year ended....., 20\_\_, as laid on the table, be and is hereby approved and that the said Report be signed by the Chairman Shri..... (DIN.....) on behalf of the Board and that the Secretary of the company be directed to issue the same to the members of the company together with the printed copies of the audited accounts, and the Auditors’ Report.”

## **APPENDIX VII**

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### **AN ILLUSTRATIVE LIST OF MATTERS WHICH ARE REQUIRED TO BE INCLUDED IN THE BOARD'S REPORT AND THE PROVISIONS RELATING TO SIGNING AND FILING OF BOARD'S REPORT IN VARIOUS OTHER COUNTRIES**

#### **Relevant Extracts**

##### **Australian Corporations Act, 2001**

##### **Section 295 Contents of annual financial report**

###### *Basic contents*

- (1) The financial report for a financial year consists of:
  - (a) the financial statements for the year; and
  - (b) the notes to the financial statements; and
  - (c) the directors' declaration about the statements and notes.

###### *Notes to financial statements*

- (3) The notes to the financial statements are:
  - (a) disclosures required by the regulations; and
  - (b) notes required by the accounting standards; and
  - (c) any other information necessary to give a true and fair view (see section 297).

###### *Directors' declaration*

- (4) The directors' declaration is a declaration by the directors:
  - (c) whether, in the directors' opinion, there are reasonable grounds to believe that the company, registered scheme or disclosing entity will be able to pay its debts as and when they become due and payable; and

- (ca) if the company, registered scheme or disclosing entity has included in the notes to the financial statements, in compliance with the accounting standards, an explicit and unreserved statement of compliance with international financial reporting standards—that this statement has been included in the notes to the financial statements; and
- (d) whether, in the directors' opinion, the financial statement and notes are in accordance with this Act, including:
  - (i) section 296 (compliance with accounting standards); and
  - (ii) section 297 (true and fair view); and
- (e) if the company, disclosing entity or registered scheme is listed—that the directors have been given the declarations required by section 295A.

### **298 Annual Directors' Report**

- (1) The company, registered scheme or disclosing entity must prepare a directors' report for each financial year.
- (1AA) Except in the case of a company limited by guarantee, the report must include:
  - (a) the general information required by sections 299 (all entities) and 299A (additional requirements for listed entities); and
  - (b) the specific information required by sections 300 and 300A; and
  - (c) a copy of the auditor's declaration under section 307C in relation to the audit for the financial year.
- (1AB) In the case of a company limited by guarantee, the report must include:
  - (a) the general information required by section 300B; and
  - (b) a copy of the auditor's declaration under section 307C in relation to the audit or review for the financial year.



## (2) The report must:

- (a) be made in accordance with a resolution of the directors;  
and
- (b) specify the date on which the report is made; and
- (c) be signed by a director.

*Small proprietary companies*

- (3) A small proprietary company does not have to comply with subsection (1) for a financial year if:
  - (a) it is preparing financial statements for that year in response to a shareholder direction under section 293; and
  - (b) the direction specified that a directors' report need not be prepared.

*Small companies limited by guarantee*

- (4) A small company limited by guarantee does not have to comply with subsection (1) for a financial year if:
  - (a) it is preparing the financial statements for that year in response to a member direction under section 294A; and
  - (b) the direction specified that a directors' report need not be prepared.

**Section 299**

- (1) The directors' report for a financial year must:
  - (a) contain a review of operations during the year of the entity reported on and the results of those operations;  
and
  - (b) give details of any significant changes in the entity's state of affairs during the year; and
  - (c) state the entity's principal activities during the year and any significant changes in the nature of those activities during the year; and

- (d) give details of any matter or circumstance that has arisen since the end of the year that has significantly affected, or may significantly affect:
    - (i) the entity's operations in future financial years; or
    - (ii) the results of those operations in future financial years; or
    - (iii) the entity's state of affairs in future financial years; and
  - (e) refer to likely developments in the entity's operations in future financial years and the expected results of those operations; and
  - (f) if the entity's operations are subject to any particular and significant environmental regulation under a law of the Commonwealth or of a State or Territory—give details of the entity's performance in relation to environmental regulation.
- (2) The entity reported on is:
- (a) the company, registered scheme or disclosing entity (if consolidated financial statements are not required); or
  - (b) the consolidated entity (if consolidated financial statements are required). Prejudicial information need not be disclosed.
- (3) The report may omit material that would otherwise be included under paragraph (1)(e) if it is likely to result in unreasonable prejudice to:
- (a) the company, registered scheme or disclosing entity; or
  - (b) if consolidated financial statements are required – the consolidated entity or any entity (including the company, registered scheme or disclosing entity) that is part of the consolidated entity.

If material is omitted, the report must say so.

**299A Annual directors' report—additional general requirements for listed entities**

- (1) The directors' report for a financial year for a company, registered scheme or disclosing entity that is listed must also contain information that members of the listed entity would reasonably require to make an informed assessment of:
  - (a) the operations of the entity reported on; and
  - (b) the financial position of the entity reported on; and
  - (c) the business strategies, and prospects for future financial years, of the entity reported on.

**300 Annual directors' report—specific information**

- (1) The directors' report for a financial year must include details of:
  - (a) dividends or distributions paid to members during the year; and
  - (b) dividends or distributions recommended or declared for payment to members, but not paid, during the year; and
  - (c) the name of each person who has been a director of the company, registered scheme or disclosing entity at any time during or since the end of the year and the period for which they were a director; and
- (ca) the name of each person who:
  - (i) is an officer of the company, registered scheme or disclosing entity at any time during the year; and
  - (ii) was a partner in an audit firm, or a director of an audit company, that is an auditor of the company, disclosing entity or registered scheme for the year; and
  - (iii) was such a partner or director at a time when the audit firm or the audit company undertook an audit of the company, disclosing entity or registered scheme; and

- (d) options that are:
  - (i) granted over unissued shares or unissued interests during or since the end of the year; and
  - (ii) granted to any of the directors or any of the 5 most highly remunerated officers of the company (other than the directors); and
  - (iii) granted to them as part of their remuneration; (see subsections (3), (4) and (5)); and
- (e) unissued shares or interests under option as at the day the report is made (see subsections (3) and (6)); and
- (f) shares or interests issued during or since the end of the year as a result of the exercise of an option over unissued shares or interests (see subsections (3) and (7)); and
- (g) indemnities given and insurance premiums paid during or since the end of the year for a person who is or has been an officer or auditor (see subsections (8) and (9)).

Public companies, listed companies and registered schemes must include additional information under subsections (10), (11), (11AA), (11A), (11B), (12) and (13) of this section and section 300A.

- (2) Details do not have to be included in the directors' report under this section if they are included in the company's financial report for the financial year.
- (2A) If subsection (2) is relied on to not include in the directors' report for a financial year details that would otherwise be required to be included in that report under paragraph (11B)(a) or (11C)(b), that report must specify, in the section headed "Non-audit services", where those details may be found in the company's financial report for that financial year.
- (3) Paragraphs (1)(d), (e) and (f) cover:

- (a) options over unissued shares and interests of the company, registered scheme or disclosing entity; and
- (b) if consolidated financial statements are required– options over unissued shares and interests of any controlled entity that is a company, registered scheme or disclosing entity.

*Options details*

- (5) The details of an option granted are:
  - (a) the company, registered scheme or disclosing entity granting the option; and
  - (b) the name of the person to whom the option is granted; and
  - (c) the number and class of shares or interests over which the option is granted.
- (6) The details of unissued shares or interests under option are:
  - (a) the company, registered scheme or disclosing entity that will issue shares or interests when the options are exercised; and
  - (b) the number and classes of those shares or interests; and
  - (c) the issue price, or the method of determining the issue price, of those shares or interests; and
  - (d) the expiry date of the options; and
  - (e) any rights that option holders have under the options to participate in any share issue or interest issue of the company, registered scheme or disclosing entity or of any other body corporate or registered scheme.

*Shares or interests issued as a result of exercise of option*

- (7) The details of shares or interests issued as a result of the exercise of an option are:
  - (a) the company, registered scheme or disclosing entity issuing the shares or interests; and

- (b) the number of shares or interests issued; and
- (c) if the company, registered scheme or disclosing entity has different classes of shares or interests—the class to which each of those shares or interests belongs; and
- (d) the amount unpaid on each of those shares or interests; and
- (e) the amount paid, or agreed to be considered as paid, on each of those shares or interests.

*Indemnities and insurance premiums for officers or auditors*

- (8) The report for a company must include details of:
  - (a) any indemnity that is given to a current or former officer or auditor against a liability and that is covered by subsection 199A(2) or (3), or any relevant agreement under which an officer or auditor may be given an indemnity of that kind; and
  - (b) any premium that is paid, or agreed to be paid, for insurance against a current or former officer's or auditor's liability for legal costs.

*Note:* Sections 199A and 199B contain general prohibitions against giving certain indemnities and paying certain insurance premiums. This subsection requires transactions that are exceptions to these prohibitions to be reported.

- (9) The details required under subsection (8) are:
  - (a) for an officer—their name or the class of officer to which they belong or belonged; and
  - (b) for an auditor—their name; and
  - (c) the nature of the liability; and
  - (d) or an indemnity given—the amount the company paid and any other action the company took to indemnify the officer or auditor; and
  - (e) for an agreement to indemnify—the amount that the relevant

agreement requires the company to pay and any other action the relevant agreement requires the company to take to indemnify the officer or auditor; and

- (f) for an insurance premium—the amount of the premium. The report need not give details of the nature of the liability covered by, or the amount of the premium payable under, a contract of insurance to the extent that disclosure of those details is prohibited by the insurance contract.

*Special rules for public companies*

- (10) The report for a public company that is not a wholly-owned subsidiary of another company must also include details of:
  - (a) each director's qualifications, experience and special responsibilities; and
  - (b) the number of meetings of the board of directors held during the year and each director's attendance at those meetings; and
  - (c) the number of meetings of each board committee held during the year and each director's attendance at those meetings; and
  - (d) the qualifications and experience of each person who is a company secretary of the company as at the end of the year.

*Special rules for listed companies and schemes*

- (11) The report for a listed company must also include the following details for each director:
  - (a) their relevant interests in shares of the company or a related body corporate;
  - (b) their relevant interests in debentures of, or interests in a registered scheme made available by, the company or a related body corporate;
  - (c) their rights or options over shares in, debentures of or interests in a registered scheme made available by, the company or a related body corporate;

- (d) contracts:
  - (i) to which the director is a party or under which the director is entitled to a benefit; and
  - (ii) that confer a right to call for or deliver shares in, or debentures of or interests in a registered scheme made available by the company or a related body corporate;
- (e) all directorships of other listed companies held by the director at any time in the 3 years immediately before the end of the financial year and the period for which each directorship has been held.

*Note:* Directors must also disclose interests of these kinds to a relevant market operator under section 205G as they are acquired.

- (11AA) If an individual plays a significant role in the audit of a listed company or listed registered scheme for the financial year in reliance on an approval granted under section 324DAA, the report for the company or scheme must also include details of, and reasons for, the approval.
- (11A) If a registered company auditor plays a significant role in the audit of a listed company for the financial year in reliance on a declaration made under section 342A, the report for the company must also include details of the declaration.

*Listed companies—non-audit services and auditor independence*

- (11B) The report for a listed company must also include the following in relation to each auditor:
  - (a) details of the amounts paid or payable to the auditor for non-audit services provided, during the year, by the auditor (or by another person or firm on the auditor's behalf);
  - (b) a statement whether the directors are satisfied that the provision of non-audit services, during the year, by the auditor (or by another person or firm on the auditor's behalf) is compatible with the general standard of independence for auditors imposed by this Act;



- (c) a statement of the directors' reasons for being satisfied that the provision of those non-audit services, during the year, by the auditor (or by another person or firm on the auditor's behalf) did not compromise the auditor independence requirements of this Act.

These details and statements must be included in the directors' report under the heading "Non-audit services". If consolidated financial statements are required, the details and statements must relate to amounts paid or payable to the auditor by, and non-audit services provided to, any entity (including the company, registered scheme or disclosing entity) that is part of the consolidated entity.

- (11C) For the purposes of paragraph (11B)(a), the details of amounts paid or payable to an auditor for non-audit services provided, during the year, by the auditor (or by another person or firm on the auditor's behalf) are:

- (a) the name of the auditor; and

- (b) the dollar amount that:

- (i) the listed company; or

- (ii) if consolidated financial statements are required—

any entity that is part of the consolidated entity; paid, or is liable to pay, for each of those non-audit services.

- (11D) The statements under paragraphs (11B)(b) and (c) must be made in accordance with:

- (a) advice provided by the listed company's audit committee if the company has an audit committee; or

- (b) a resolution of the directors of the listed company if paragraph (a) does not apply.

- (11E) For the purposes of subsection (11D), a statement is taken to be made in accordance with advice provided by the company's audit committee only if:

- (a) the statement is consistent with that advice and does not

contain any material omission of material included in that advice; and

- (b) the advice is endorsed by a resolution passed by the members of the audit committee; and
- (c) the advice is written advice signed by a member of the audit committee on behalf of the audit committee and given to the directors.

*Special rules for listed registered schemes*

- (12) The report for a registered scheme whose interests are quoted on a prescribed financial market must also include the following details for each director of the company that is the responsible entity for the scheme:

- (a) their relevant interests in interests in the scheme;
- (b) their rights or options over interests in the scheme;
- (c) contracts to which the director is a party or under which the director is entitled to a benefit and that confer a right to call for or deliver interests in the scheme.

*Special rules for registered schemes*

- (13) The report for a registered scheme must also include details of:
- (a) the fees paid to the responsible entity and its associates out of scheme property during the financial year; and
  - (b) the number of interests in the scheme held by the responsible entity or its associates as at the end of the financial year; and
  - (c) interests in the scheme issued during the financial year; and
  - (d) withdrawals from the scheme during the financial year; and
  - (e) the value of the scheme's assets as at the end of the financial year, and the basis for the valuation; and
  - (f) the number of interests in the scheme as at the end of the financial year.

*Proceedings on behalf of a company*

- (14) The report for a company must also include the following details of any application for leave under section 237 made in respect of the company:
- (a) the applicant's name; and
  - (b) a statement whether leave was granted.
- (15) The report for a company must also include the following details of any proceedings that a person has brought or intervened in on behalf of the company with leave under section 237:
- (a) the person's name;
  - (b) the names of the parties to the proceedings;
  - (c) sufficient information to enable members to understand the nature and status of the proceedings (including the cause of action and any orders made by the court).

**300A Annual directors' report—specific information to be provided by listed companies**

- (1) The directors' report for a financial year for a company must also include (in a separate and clearly identified section of the report):
- (a) discussion of board policy for determining, or in relation to, the nature and amount (or value, as appropriate) of remuneration of the key management personnel for:
    - (i) the company, if consolidated financial statements are not required; or
    - (ii) the consolidated entity, if consolidated financial statements are required; and
  - (b) discussion of the relationship between such policy and the company's performance; and
  - (ba) if an element of the remuneration of a member of the key management personnel for the company, or if

consolidated financial statements are required, for the consolidated entity is dependent on the satisfaction of a performance condition:

- (i) a detailed summary of the performance condition; and
- (ii) an explanation of why the performance condition was chosen; and
- (iii) a summary of the methods used in assessing whether the performance condition is satisfied and an explanation of why those methods were chosen; and
- (iv) if the performance condition involves a comparison with factors external to the company:
  - (A) a summary of the factors to be used in making the comparison; and
  - (B) if any of the factors relates to the performance of another company, of 2 or more other companies or of an index in which the securities of a company or companies are included—the identity of that company, of each of those companies or of the index; and
- (c) the prescribed details in relation to the remuneration of:
  - (i) if consolidated financial statements are required—each member of the key management personnel for the consolidated entity; or
  - (ii) if consolidated financial statements are not required—each member of the key management personnel for the company; and
- (d) if an element of the remuneration of a person referred to in paragraph (c) consists of securities of a body and that element is not dependent on the satisfaction of

a performance condition—an explanation of why that element of the remuneration is not dependent on the satisfaction of a performance condition; and

- (e) for each person referred to in paragraph (c):
  - (i) an explanation of the relative proportions of those elements of the person's remuneration that are related to performance and those elements of the person's remuneration that are not; and
  - (ii) the value (worked out as at the time they are granted and in accordance with any applicable accounting standards) of options that are granted to the person during the year as part of their remuneration; and
  - (iii) the value (worked out as at the time they are exercised) of options that were granted to the person as part of their remuneration and that are exercised by the person during the year; and
  - (iv) if options granted to the person as part of their remuneration lapse during the financial year—the number of those options, and the financial year in which those options were granted; and
  - (vii) if the person is employed by the company under a contract—the duration of the contract, the periods of notice required to terminate the contract and the termination payments provided for under the contract; and
- (f) such other matters related to the policy or policies referred to in paragraph (a) as are prescribed by the regulations; and
- (g) if:
  - (i) at the company's most recent AGM, comments were made on the remuneration report that was considered at that AGM; and

- (ii) when a resolution that the remuneration report for the last financial year be adopted was put to the vote at the company's most recent AGM, at least 25% of the votes cast were against adoption of that report; an explanation of the board's proposed action in response or, if the board does not propose any action, the board's reasons for inaction; and
- (h) if a remuneration consultant made a remuneration recommendation in relation to any of the key management personnel for the company or, if consolidated financial statements are required, for the consolidated entity, for the financial year:
  - (i) the name of the consultant; and
  - (ii) a statement that the consultant made such a recommendation; and
  - (iii) if the consultant provided any other kind of advice to the company or entity for the financial year—a statement that the consultant provided that other kind or those other kinds of advice; and
  - (iv) the amount and nature of the consideration payable for the remuneration recommendation; and
  - (v) the amount and nature of the consideration payable for any other kind of advice referred to in subparagraph (iii); and
  - (vi) information about the arrangements the company made to ensure that the making of the remuneration recommendation would be free from undue influence by the member or members of the key management personnel to whom the recommendation relates; and
  - (vii) a statement about whether the board is satisfied that the remuneration recommendation was made free from undue influence by the member or

members of the key management personnel to whom the recommendation relates; and

- (viii) if the board is satisfied that the remuneration recommendation was made free from undue influence by the member or members of the key management personnel to whom the recommendation relates—the board's reasons for being satisfied of this.

(1AA) Without limiting paragraph (1)(b), the discussion under that paragraph of the company's performance must specifically deal with:

- (a) the company's earnings; and
- (b) the consequences of the company 's performance on shareholder wealth;

in the financial year to which the report relates and in the previous 4 financial years.

(1AB) In determining, for the purposes of subsection (1AA), the consequences of the company 's performance on shareholder wealth in a financial year, have regard to:

- (a) dividends paid by the company to its shareholders during that year; and
- (b) changes in the price at which shares in the company are traded between the beginning and the end of that year; and
- (c) any return of capital by the company to its shareholders during that year that involves:
  - (i) the cancellation of shares in the company; and
  - (ii) a payment to the holders of those shares that exceeds the price at which shares in that class are being traded at the time when the shares are cancelled; and

(d) any other relevant matter.

(1A) The material referred to in subsection (1) must be included in the directors' report under the heading "Remuneration report".

(1C) Without limiting paragraph (1)(c), the regulations may:

(a) provide that the value of an element of remuneration is to be determined, for the purposes of this section, in a particular way or by reference to a particular standard; and

(b) provide that details to be given of an element of remuneration must relate to the remuneration provided in:

(i) the financial year to which the directors' report relates; and

(ii) the earlier financial years specified in the regulations.

(2) This section applies to any listed disclosing entity that is a company.

(3) This section applies despite anything in the company's constitution.

(4) For the purposes of this section, if:

(a) consolidated financial statements are required; and

(b) a person is a group executive who is a group executive of 2 or more entities within the consolidated entity;

the person's remuneration is taken to include all of the person's remuneration from those entities (regardless of the capacity in which the person received the remuneration).

### **300B Annual directors' report—companies limited by guarantee**

(1) The directors' report for a financial year for a company limited by guarantee must:



- (a) contain a description of the short and long term objectives of the entity reported on; and
  - (b) set out the entity's strategy for achieving those objectives; and
  - (c) state the entity's principal activities during the year; and
  - (d) state how those activities assisted in achieving the entity's objectives; and
  - (e) state how the entity measures its performance, including any key performance indicators used by the entity.
- (2) The entity reported on is:
- (a) the company (if consolidated financial statements are not required); or
  - (b) the consolidated entity (if consolidated financial statements are required).
- (3) The directors' report for a financial year for a company limited by guarantee must also include details of:
- (a) the name of each person who has been a director of the company at any time during or since the end of the year and the period for which the person was a director; and
  - (b) each director's qualifications, experience and special responsibilities; and
  - (c) the number of meetings of the board of directors held during the year and each director's attendance at those meetings; and
  - (d) for each class of membership in the company—the amount which a member of that class is liable to contribute if the company is wound up; and
  - (e) the total amount that members of the company are liable to contribute if the company is wound up.

**303 Contents of half-year financial report***Basic contents*

- (1) The financial report for a half-year consists of:
  - (a) the financial statements for the half-year; and
  - (b) the notes to the financial statements; and
  - (c) the directors' declaration about the statements and notes.

*Directors' declaration*

- (4) The directors' declaration is a declaration by the directors:
  - (c) whether, in the directors' opinion, there are reasonable grounds to believe that the disclosing entity will be able to pay its debts as and when they become due and payable; and
  - (d) whether, in the directors' opinion, the financial statement and notes are in accordance with this Act, including:
    - (i) section 304 (compliance with accounting standards); and
    - (ii) section 305 (true and fair view).
- (5) The declaration must:
  - (a) be made in accordance with a resolution of the directors; and
  - (b) specify the day on which the declaration is made; and
  - (c) be signed by a director.

**306 Half-year directors' report**

- (1) The directors of the disclosing entity must prepare a directors' report for each half-year that consists of:
  - (a) a review of the entity's operations during the half-year and the results of those operations; and
  - (b) the name of each person who has been a director of

the disclosing entity at any time during or since the end of the half-year and the period for which they were a director.

If consolidated financial statements are required, the review under paragraph (a) must cover the consolidated entity.

- (1A) The directors' report must include a copy of the auditor's declaration under section 307C in relation to the audit or review for the half-year.
- (2) If the financial report for a half-year includes additional information under paragraph 303(3)(c) (information included to give true and fair view of financial position and performance), the directors' report for the half-year must also:
  - (a) set out the directors' reasons for forming the opinion that the inclusion of that additional information was necessary to give the true and fair view required by section 305; and
  - (b) specify where that information can be found in the financial report.
- (3) The report must:
  - (a) be made in accordance with a resolution of the directors; and
  - (b) specify the date on which the report is made; and
  - (c) be signed by a director.

## **UNITED KINGDOM**

### **Companies Act 2006**

#### **CHAPTER 5**

##### **DIRECTORS' REPORT**

###### **415 Duty to prepare directors' report**

- (1) The directors of a company must prepare a directors' report for each financial year of the company.

- (2) For a financial year in which—
  - (a) the company is a parent company, and
  - (b) the directors of the company prepare group accounts, the directors' report must be a consolidated report (a "group directors' report") relating to the undertakings included in the consolidation.
- (3) A group directors' report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.
- (4) In the case of failure to comply with the requirement to prepare a directors' report, an offence is committed by every person who—
  - (a) was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and
  - (b) failed to take all reasonable steps for securing compliance with that requirement.
- (5) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### **416 Contents of directors' report: general**

- (1) The directors' report for a financial year must state—
  - (a) the names of the persons who, at any time during the financial year, were directors of the company, and
  - (b) the principal activities of the company in the course of the year.
- (2) In relation to a group directors' report subsection (1)(b) has effect as if the reference to the company was to the undertakings included in the consolidation.
- (3) Except in the case of a company subject to the small companies

regime, the report must state the amount (if any) that the directors recommend should be paid by way of dividend.

- (4) The Secretary of State may make provision by regulations as to other matters that must be disclosed in a directors' report. Without prejudice to the generality of this power, the regulations may make any such provision as was formerly made by Schedule 7 to the Companies Act 1985.

#### **417 Contents of directors' report: business review**

- (1) Unless the company is subject to the small companies' regime, the directors' report must contain a business review.
- (2) The purpose of the business review is to inform members of the company and help them assess how the directors have performed their duty under section 172 (duty to promote the success of the company).
- (3) The business review must contain—
  - (a) a fair review of the company's business, and
  - (b) a description of the principal risks and uncertainties facing the company.
- (4) The review required is a balanced and comprehensive analysis of—
  - (a) the development and performance of the company's business during the financial year, and
  - (b) the position of the company's business at the end of that year, consistent with the size and complexity of the business.
- (5) In the case of a quoted company the business review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—
  - (a) the main trends and factors likely to affect the future development, performance and position of the company's business; and
  - (b) information about—

- (i) environmental matters (including the impact of the company's business on the environment),
  - (ii) the company's employees, and
  - (iii) social and community issues, including information about any policies of the company in relation to those matters and the effectiveness of those policies; and
- (c) subject to subsection (11), information about persons with whom the company has contractual or other arrangements which are essential to the business of the company.

If the review does not contain information of each kind mentioned in paragraphs (b)(i), (ii) and (iii) and (c), it must state which of those kinds of information it does not contain.

- (6) The review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—
- (a) analysis using financial key performance indicators, and
  - (b) where appropriate, analysis using other key performance indicators, including information relating to environmental matters and employee matters.

"Key performance indicators" means factors by reference to which the development, performance or position of the company's business can be measured effectively.

- (7) Where a company qualifies as medium-sized in relation to a financial year (see sections 465 to 467), the directors' report for the year need not comply with the requirements of subsection (6) so far as they relate to non-financial information.
- (8) The review must, where appropriate, include references to, and additional explanations of, amounts included in the company's annual accounts.
- (9) In relation to a group directors' report this section has effect as if the references to the company were references to the undertakings included in the consolidation.

- (10) Nothing in this section requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the directors, be seriously prejudicial to the interests of the company.
- (11) Nothing in subsection (5)(c) requires the disclosure of information about a person if the disclosure would, in the opinion of the directors, be seriously prejudicial to that person and contrary to the public interest.

**418 Contents of directors' report: statement as to disclosure to auditors**

- (1) This section applies to a company unless—
  - (a) it is exempt for the financial year in question from the requirements of Part 16 as to audit of accounts, and
  - (b) the directors take advantage of that exemption.
- (2) The directors' report must contain a statement to the effect that, in the case of each of the persons who are directors at the time the report is approved—
  - (a) so far as the director is aware, there is no relevant audit information of which the company's auditor is unaware, and
  - (b) he has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditor is aware of that information.
- (3) "Relevant audit information" means information needed by the company's auditor in connection with preparing his report.
- (4) A director is regarded as having taken all the steps that he ought to have taken as a director in order to do the things mentioned in subsection (2)(b) if he has—
  - (a) made such enquiries of his fellow directors and of the company's auditors for that purpose, and
  - (b) taken such other steps (if any) for that purpose, as are

required by his duty as a director of the company to exercise reasonable care, skill and diligence.

- (5) Where a directors' report containing the statement required by this section is approved but the statement is false, every director of the company who—
  - (a) knew that the statement was false, or was reckless as to whether it was false, and
  - (b) failed to take reasonable steps to prevent the report from being approved, commits an offence.
- (6) A person guilty of an offence under subsection (5) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).

#### **419 Approval and signing of directors' report**

- (1) The directors' report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.
- (2) If the report is prepared in accordance with the small companies regime, it must contain a statement to that effect in a prominent position above the signature.
- (3) If a directors' report is approved that does not comply with the requirements of this Act, every director of the company who—
  - (a) knew that it did not comply, or was reckless as to whether it complied, and



- (b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved, commits an offence.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

## ***APPENDIX VIII***

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To,

### **Specimen Board's Report**

#### **DIRECTORS' REPORT FOR THE FINANCIAL YEAR 2019-2020**

The Members,

Your directors have pleasure in presenting their \_\_\_\_ Annual Report on the business and operations of the company together with the Audited Statement of Accounts for the year ended 31st March, 2020.

#### **Financial Highlights (Standalone and Consolidated)**

During the year under review, performance of your company as under:

*(Rupees in Lakhs)*

<i>Particulars</i>	<i>Year ended 31st March 2019</i>	<i>Year ended 31st March 2020</i>
Turnover		
Profit/(Loss) before taxation		
<i>Less : Tax Expense</i>		
<b>Profit/(Loss) after tax</b>		
<i>Add : Balance B/F from the previous year</i>		
Balance Profit / (Loss) C/F to the next year		

The consolidated performance of the group as per consolidated financial statements is as under:

*(Rupees in Lakhs)*

<i>Particulars</i>	<i>Year ended 31st March 2019</i>	<i>Year ended 31st March 2020</i>
Turnover		
Profit/(Loss) before taxation		
Less : Tax Expense		
<b>Profit/(Loss) after tax</b>		
Add : Balance B/F from the previous year		
Balance Profit / (Loss) C/F to the next year		

### **State of Company's Affairs and Future Outlook**

Under this heading, a brief description of the nature of business of the company specifying growth in terms of volume of the key products/services of the company which covers the bulk of the operating profit.

It may also specify details of the operational highlights indicating the overall growth of the company and state any diversification if any made during the year. Company's plan to venture in other segments may also be added.

### **Change in nature of business, if any**

The Board may provide details relating to change in the business carried on by the company or its subsidiaries. This shall also contain details pertaining to classes of business in which the company has an interest.

### **Dividend**

During the F.Y. 2019-20, the Company had declared an interim dividend of Rs per equity shares of face value Rs..... absorbing a sum of Rs..... Your Directors are pleased to recommend a final dividend of Rs..... per equity shares of face value Rs..... which is provided for

in the accounts absorbing a sum of Rs..... if approved by the members in the ensuing Annual General Meeting.

*or*

However with the view to conserve the resources of company the directors are not recommending any dividend.

### **Amounts Transferred to Reserves**

The Board of the company has decided/proposed to carry Rs\_\_ to its reserves.

### **Changes in Share Capital, if any**

During the Financial Year 2019-20, the share capital of the Company has been increased from \_\_\_\_ to \_\_\_\_, pursuant to allotment of \_\_\_\_ equity shares of Rs \_\_\_\_ each under Private Placement/Preferential allotment/ Rights issue /Employee Stock Option Scheme of the Company.

### **Disclosure regarding Issue of Equity Shares with Differential Rights**

Details to be given as stated in Rule 4(4) of Companies (Share Capital and Debenture Rules, 2014) for the Financial Year in which such issue was completed.

### **Disclosure regarding issue of Employee Stock Options**

Details to be given as stated in Rule 12(9) of Companies (Share Capital and Debenture Rules, 2014).

### **Disclosure regarding issue of Sweat Equity Shares**

In case sweat equity shares have been issued during the Financial Year, details as specified in Rule 8(13) of Companies (Share Capital and Debenture Rules, 2014) are to be given.

### **Extract of Annual Return**

The weblink of the Annual Report for the Financial Year 2019-20.

### **Number of Board Meetings**

During the Financial Year 2019-20, [\*\*] meetings of the Board of Directors of the company were held. *[Preferable to state the dates of meetings]*

**Particulars of Loan, Guarantees and Investments under Section 186**

Complete details of LGSI covered under Sec 186 of CA, 2013. A suggestive format is provided below to provide the required details:

**Details of Loans**

<i>Sl. No.</i>	<i>Date of making loan</i>	<i>Details of Borrower</i>	<i>Amount</i>	<i>Purpose for which the loan is to be utilized by the recipient</i>	<i>Time period for which it is given</i>	<i>Date of BR</i>	<i>Date of SR (if reqd.)</i>	<i>Rate of Interest</i>	<i>Security</i>

**Details of Investments**

<i>Sl. No.</i>	<i>Date of investment</i>	<i>Details of Investee</i>	<i>Amount</i>	<i>Purpose for which the proceeds from investment is pro- posed to be utilized by the recipient</i>	<i>Date of BR</i>	<i>Date of SR (if reqd.)</i>	<i>Expected rate of return</i>

**Details of Guarantee / Security Provided**

<i>Sl. No.</i>	<i>Date of providing security/ guarantee</i>	<i>Details of recipient</i>	<i>Amount</i>	<i>Purpose for which the proceeds from investment is pro- posed to be utilized by the recipient</i>	<i>Date of BR</i>	<i>Date of SR (if reqd.)</i>	<i>Expected rate of return</i>

**Particulars of Contracts or Arrangements with Related Parties**

The particulars of contracts or arrangements with related parties referred to in Section 188(1) of the Companies Act 2013 for the Financial Year 2019-20 in the prescribed format, AOC 2 has been enclosed with the report.

**Explanation to Auditor's Remarks**

Explanation or comment by the Board on every qualification, reservation, adverse remark or disclaimer made by the statutory auditor in his report and/or by the secretarial auditor in the Secretarial Audit Report.

**Material Changes Affecting the Financial Position of the Company**

Details regarding any material changes/events, if any, occurring after balance sheet date till the date of the report to be stated.

**Conservation of Energy, Technology, Absorption, Foreign Exchange Earnings and Outgo**

The details of Energy, Technology, Absorption, Foreign Exchange Earnings and Outgo are as under:

a) *Conservation of Energy:*

- Steps taken for conservation
- Steps taken for utilizing alternate sources of energy
- Capital investment on energy conservation equipments

b) *Technology Absorption:*

- Efforts made for technology absorption
- Benefits derived
- Expenditure on Research & Development, if any
- Details of technology imported, if any
- Year of import
- Whether imported technology fully absorbed
- Areas where absorption of imported technology has not taken place, if any

c) *Foreign Exchange Earnings/Outgo:*

- Earnings
- Outgo

**Details of Subsidiary, Joint Venture or Associates**

The names of each of the companies which have become or ceased to be its subsidiaries, joint ventures or associate companies during the year along with the details of their performance and financial position, to be mentioned separately.

**Risk Management Policy**

A statement indicating the development and implementation of the risk management policy of the company, identifying the elements of risks, if any, which in the opinion of the board, may threaten the existence of the company.

Moreover, in case the Company has constituted a risk management committee, then the constitution and the terms of reference of the same to be disclosed.

**Details of Directors and Key Managerial Personnel**

Details of Directors and KMP appointed or resigned during the year.

Details of directors retiring by rotation in the ensuing Annual General Meeting.

**Details of significant & material orders passed by the regulators or courts or tribunal**

Details of the order passed by the authorities which impacts the going concern status and company's operations in future.

SS-4 in this context provides that 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.

**Voluntary Revision of Financial Statements or Board's Report**

Detailed reasons for voluntary revision of Financial Statements or Board's Report in respect of any of the 3 preceding financial years' to be disclosed.

**Statement in Respect of Adequacy of Internal Financial Control with Reference to the Financial Statements**

ICAI guidance note on adequacy on internal financial controls with reference to financial statements can be referred for this purpose.

## **Deposits**

The following details of deposits, covered under Chapter V of the Act:

- I. Deposits Accepted during the year;
- II. Remained unpaid or unclaimed as at the end of the year;
- III. Whether there has been any default in repayment of deposits or payment of interest thereon during the year and if so, number of such cases and the total amount involved-
  - a. At the beginning of the year;
  - b. Maximum during the year;
  - c. At the end of the year;
- IV. The details of deposits which are not in compliance with the requirements of Chapter

## **Receipt of any commission by MD/WTB from a Company or for receipt of commission/remuneration from it Holding or subsidiary**

Disclosure about receipt of any commission by MD/WTB from a Company and/or receipt of commission/remuneration from it Holding or Subsidiary to be provided.

## **Declaration by Independent Director**

Declaration to affirm the points given u/s 149(6) of CA, 2013 [*applicable to Listed and Select Public Cos*]

## **Re-appointment of Independent Auditor**

Details about re-appointment of ID after expiry of one term of 5 years

## **Secretarial Audit Report**

Secretarial Audit Report in prescribed format MR 3 given by a PCS to be annexed to the Board Report. [*Applicable to every listed company and select public companies*]

Secretarial Compliance Report according to Regulation 24A of the SEBI (LODR) is annexed to Board Report



**Corporate Social Responsibility (CSR) Policy**

Composition of CSR committee, the details about the policy developed and implemented by the company to be provided as per the prescribed format under Companies (Corporate Social Responsibility Policy) Rules, 2014.

**Audit Committee**

Details about composition of the Audit Committee along with its terms of reference to be provided in brief. Details about non acceptance of recommendations, if any, of the Audit Committee by the BoD along with reasons therefor *[Applicable to every listed company and select public companies]*

**Statement Indicating the Manner in which Formal Annual Evaluation has been made by the Board of its own Performance, its Directors, and that of its Committees**

To be complied by every listed company and every other public company having paid up capital of Rs 25 crores or more calculated at the end of the preceding Financial Year.

**Nomination & Remuneration Committee Policy**

Details pertaining to constitution of the Committee and its terms of reference in brief to be provided

The key points of the Policy formulated by NRC on director's appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters as specified u/s 178(3) of the CA, 2013 to be disclosed. *[Applicable only to Listed Companies and select public companies]*

**SEBI (LODR) Compliance**

- The Company shall disclose the criteria for performance evaluation as laid down by NRC, in the Board Report
- Further, Weblink of familiarization programme undertaken for IDs

**Disclosure on Establishment of a Vigil Mechanism**

Details about establishment of vigil mechanism for directors and employees to report their genuine concerns or grievance to be provided *[Applicable to every listed company and select public companies]*

**Corporate Governance**

The company shall obtain a certificate from Practising Company Secretary/ Auditor regarding compliance with Listing Regulations and annex the certificate with the Board's Report. This certificate shall also be sent to the Stock Exchanges, where the shares of the Company are listed, along with the annual report filed by the company. (Applicable to equity listed companies)

Declaration by CEO/CFO that the Board Members and Senior Management Personnel have complied with the Code of Conduct.

**Managerial Remuneration**

Statistical Disclosures pursuant to Rule 5 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, are to be made in the Board's Report. (Applicable to listed companies)

**Disclosures under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**

The number of cases filed, if any, during the Financial Year and their disposal under the Act

**Fraud Reporting**

Details regarding fraud which have been reported to the Audit Committee/ Board but not to CG have to be disclosed.

**Statutory Auditors**

Details about Statutory Auditors of the company, any change made during the year, whether existing auditor(s) is/are eligible for re-appointment, etc.

**Cost Auditors**

Prudent to disclose details about appointment of Cost Auditor

**Management Discussion and Analysis**

Management Discussion and Analysis *[Applicable to listed companies]*:

- I. The Management Discussion and Analysis should include discussion on the following matters within the limits set by the company's competitive position:

- a. Industry structure and developments.
  - b. Opportunities and threats.
  - c. Segment-wise or 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 front, including number of people employed.
- II. Senior management shall make disclosures to the board relating to all material financial and commercial transactions, where they have personal interest, that may have a potential conflict with the interest of the company at large (for e.g. dealing in company shares, commercial dealings with bodies, which have shareholding of management and their relatives etc.)

*Explanation: For this purpose, the term "senior management" shall mean personnel of the company who are members of its core management team excluding the Board of Directors). This would also include all members of management one level below the executive directors including all functional heads.*

- III. The Code of Conduct for the Board of Directors and the senior management shall be disclosed on the website of the company.

### **Directors Responsibility Statement**

In accordance with the provisions of Section 134(5) of the Companies Act 2013, your directors confirm that:

- a) in the preparation of the annual accounts for the financial year ended 31st March, 2020, 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 as at 31st March, 2020 and of the profit /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 Companies Act, 2013 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 were adequate and operating effectively. *[List of laws applicable to the company may be mentioned here]*
- f) *[additional point in case of Listed Entities]* - the directors had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

### **Acknowledgment**

The Directors express their sincere appreciation to the valued shareholders, bankers and clients for their support

Place

**For and on behalf of the Board of Directors**

Date

# APPENDIX IX

## Checklist on Board's Report under the Companies Act, 2013

S. No.	Particulars/Disclosure	Format, if any	Provisions	Applicability					Observations & Remarks
				Small	Private	Public	Select Public	Listed	
1.	Extract of Annual Return	MGT 9	Sec 134 (3) (a) r/w rule 12 of Cos (Mgmt.& Admn.) Rules, 2014	√	√	√	√	√	Extract of annual return relating to FY to which the Board's Report relates shall be attached.
2.	Number of meetings of the Board, including dates of Board and Committees meetings held indicating the number of Meetings attended by each Director - SS1.	-	Sec 134 (3) (b); S e c r e t a r i a l Standards	√	√	√	√	√	Clarification by ICSI – SS 1 to apply to BM in respect of which Notices are issued on or after 1st July, 2015.
3.	Directors' Responsibility Statement - Accounting Standards - Accounting Policies	6 points	Sec 134 (3)( C) & (5)	√	√	√	√	√	2 new points added – (i) adequate systems to comply with all applicable Laws; & (ii) adequate internal Financial

3a	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;	-	Sec 134(3)(ca)	✓	✓	✓	✓	✓	As per Sec. 143 frauds are to be reported either to Board or Central Government for certain frauds. Procedure to be followed are given in the Rules.
4	Declaration by Independent Directors	-	Sec 134(3)(d) r/w Sec 149(6)	x	x	x	x	✓ PUSC ≥ 10 Cr TO ≥ 100 Cr OL/deposits/ debentures > 50Cr	-
5	Disclosure on Re-appointment of Independent Director	-	Section 149(10)	x	x	x	x	✓ PUSC ≥ 10Cr TO ≥ 100 Cr OL/deposits/ debentures > 50Cr	ID is eligible for re-appointment beyond a term of 5 yrs. by passing an SR and if re-appointed, the company must disclose such re-appointment of ID in Board Report.
5	Company's policy on Director's, KMPs & other employees appointment & remuneration including criteria for determining Qualification, Attributes, Independence, etc.	-	Sec 134(3) (e); Sec 178(1) & (3)	x	x	x	x	✓ PUSC ≥ 10 Cr TO ≥ 100 Cr OL/deposits/ debentures > 50Cr	For this purpose, limits to be reckoned as existing on the date of Last Audited Financial Statements.
6	Explanation or comments by the BoD on every qualification, reservation or adverse remark or disclaimer made by the Auditors in Audit report	-	Sec 134(3)(f)(i)	✓	✓	✓	✓	✓	-

7	Secretarial Audit Report	MR3	Sec 204 (1)	x	x	x	x	✓	✓	✓	To be annexed with Board's Report
8.	Explanation or - comments by the BoD on every qualification, reservation or adverse remark or disclaimer made by the PCS in Secretarial Audit report	-	Sec 134 (3)(f) (ii)	X	X	X	X	✓	✓	✓	
9.	Particulars of Loans, - guarantees or investments u/s 186		Sec 134 (3) (g)	✓	✓	✓	✓	✓	✓	✓	
10.	Related Party Contracts or arrangements	AOC 2	Sec 134 (3) (h) r/w Rule 8(2) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	✓	✓	Particulars of contract along with justification for entering into such contract
11.	State of the company's - affairs		Sec 134 (3) (i)	✓	✓	✓	✓	✓	✓	✓	-
12.	Amounts proposed to - be carried to reserves, if any		Sec 134 (3) (j)	✓	✓	✓	✓	✓	✓	✓	

13.	Amount recommended as dividend, if any,	-	Sec 134 (3) (k)	V	✓	✓	✓	✓	✓	-	Details of material changes occurring between date of Financial Statements & Board Report
14.	Material Changes & Commitments affecting financial position of the Company, occurring after Balance Sheet Date		Sec 134 (4) (l)	V	✓	✓	✓	✓	✓	✓	Unlike erstwhile section 217, very detailed disclosures are prescribed.
15.	Energy Conservation, Technology absorption, FOREX earnings & outgo, in prescribed manner		Sec 134 (3) (m) r/w Rule 8(3) of Cos (Accounts) Rules, 2014	V	✓	✓	✓	✓	✓	✓	
16.	Statement indicating development & implementation of Risk Management Policy		Sec 134 (3) (n)	V	✓	✓	✓	✓	✓	✓	
17.	Details about CSR Committee, Policy, its implementation and initiatives taken during the year	Format prescribed in CSR Rules	Sec 134 (o); 135 (2) r/w Rule 8 of Cos (CSR) Rules, 2014	V	✓	✓	✓	✓	✓	✓	To be included if following limits are triggered - NW > 500Cr TO > 1000 Cr NP > 5 Cr
18.	Manner in which Formal Annual Evaluation of performance of Board, its Committees and individual directors has been carried out		Sec 134 (p) r/w Rule 8 (4) of Cos (Accounts) Rules, 2014	X	X	X	X	✓	✓	✓	PUSC limits to be reckoned as at the end of the preceding FY



19.	Financial Highlights & Change in the nature of business	-	Sec 134 (3)(q) r/w Rule 8(5)(i) & (ii) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	✓	-
20.	Details of Directors/ KMP appointed/ resigned during the year	-	Sec 134 (3)(q) r/w Rule 8(5)(iii) of Cos (Accounts) Rules, 2014 & Sec 168 (1)	✓	✓	✓	✓	✓	✓	-
21.	Name of the companies which have become/ ceased to be subsidiaries, JVs or Associate companies during the year	-	Sec 134 (3)(q) r/w Rule 8(5)(iv) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	✓	-
22.	Prescribed details of deposits covered under Chapter V of the Act	-	Sec 134 (3)(q) r/w Rule 8(5)(v) & (vi) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	✓	-
23.	Details of significant and material orders passed by the regulators, courts, tribunals impacting the going concern status and company's operations in future	-	Sec 134 (3)(q) r/w Rule 8 (5) (vii) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	✓	-

24.	Details in respect of adequacy of internal financial controls with reference to Financial Statements	-	Sec 134(3)(q) r/w Rule 8(5)(viii) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	✓
25.	Separate section containing a report on performance and financial position of each of subsidiaries, associates & JVs included in the Consolidated FS of the Co	-	Rule 8(1) of Cos (Accounts) Rules, 2014	✓	✓	✓	✓	✓	
26.	Disclosure on establishment of Vigil Mechanism	-	Sec 177(9) r/w Rule 7 of Cos (Meetings of the BoD) Rules, 2014	✓	✓	✓	✓	✓	Applicable to Cos which have accepted deposits from the public or borrowed money from banks & FIs in excess of Rs 50 Cr
27.	Disclosure about receipt of any commission by MD/ WTD from a Company and also receiving commission / remuneration from it Holding or subsidiary	-	Section 197(14)	X	X	✓	X	X	-
28.	Ratio of remuneration of each director to the median employee's remuneration and other prescribed details	-	Section 197(12) r/w Rule 5 of Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014	X	X	X	X	✓	The Act seeks disclosure on statistical calculations.

29.	The composition of the Audit Committee Further, if the Board has not accepted any recommendation of the Audit Committee, the same shall also be disclosed along with reasons therefor.	-	Sec 177 (8) r/w Rule 6 of Cos (Meetings of the BoD) Rules, 2014	x	x	x	√	√	For this purpose, limits to be reckoned as existing on the date of last audited Financial Statements shall be taken into account
30.	Issue of Equity Shares with Differential Rights, Sweat Equity, ESOS, etc.	-	Sec 43, 54 r/w Rule 4 (4); 8(13) & 12 (9) of Cos (Share Cap & Debenture) Rules, 2014 Sec 62 (1)(b)	√	√	√	√	√	This disclosure would be event based
31.	Disclosure in respect of voting rights not exercised directly by the employees in respect of shares to which the scheme relates	-	Sec 67(3) r/w Rule 16 of Cos (Share Cap & Debenture) Rules, 2014	√	√	√	√	√	—
32.	Corporate Governance disclosure requirements	-	SEBI (LODR) Regulations, 2015	x	x	x	√	√	—
33.	Disclosures under Sexual Harassment of Women at Workplace (Prevention, prohibition & Redressal) Act, 2013		Sexual Harassment of Women at Workplace (Prevention, prohibition & Redressal) Act, 2013	√	√	√	√	√	—

34.	Voluntary revision of financial statements or Board's report	-	Sec 131 (1)	✓	✓	✓	✓	✓	Detailed reasons for revision of such financial statements or Board's report to be disclosed in the Board's Report in the relevant F.Y. in which such revision is being made.
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# ***APPENDIX X***

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## **Model Dividend Distribution Policy**

(In accordance with Guidance Note on Dividend issued by ICSI)

The Board of Directors ("Board") of \_\_\_\_\_ (name of the Company) at its meeting held on \_\_\_\_\_ has approved and adopted the Dividend Distribution Policy ("Policy") as required in terms of Regulation 43A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("Listing Regulations").

### **Effective Date**

The Policy shall become effective from the date of its adoption by the Board i.e. \_\_\_\_\_ (DD/MM/YYYY).

### **Need and Objective of the Policy**

The Securities and Exchange Board of India ("SEBI"), vide its Notification dated 8th July 2016, amended the Listing Regulations by inserting Regulation 43A in order to make it mandatory for the top five hundred listed companies (based on their market capitalization calculated as on the 31st day of March every year) to have the above Policy in place.

Considering the above and recognising the need to lay down a broad framework for deciding the matters pertaining to distribution of Dividend and / or retaining the profits of the Company, the Board of the Company has laid down and adopted this policy.

The Policy reflects the intent of the Company to reward its shareholders by sharing a portion of its profits after retaining sufficient funds for the growth of the Company. The Policy sets out the circumstances and different factors for consideration by the Board at the time of taking such decisions.

The Policy shall not apply to determination and declaration of Dividend on preference shares as the same will be as per the terms of issue approved by the shareholders.

**I. GENERAL POLICY ON DIVIDEND**

The Board shall determine the Dividend pay-out in a particular year after taking into consideration the operating and financial performance of the Company, the advice of executive management and other relevant factors.

**II. CONSIDERATIONS RELEVANT FOR DECISION ON DIVIDEND**

The Board shall consider the following, while taking decisions of a Dividend pay-out during a particular year

**Statutory requirements**

The Company shall observe the relevant statutory requirements including transfer of a certain portion of the profits to any specific reserve(s), as may be applicable to the Company at the time of taking a decision with regard to declaration / recommendation of Dividend or retention of profits.

**Inadequacy of profits**

If during any financial year the profits of the Company are inadequate, the Board may decide not to declare Dividends for that financial year.

**Contractual obligations**

The decision regarding dividend pay-out shall take into consideration the restrictions and covenants contained in the agreements as may be entered into by the Company with financial institutions / other lenders of the Company from time to time.

**Prudential requirements**

The following strategic matters shall also be considered-

- to ascertain the needs for capital conservation and appreciation;
- to build sufficient reserves of retained earnings;
- to augment long term financial strength; and
- to build a pool of internally generated funds to provide long-term resources as well as resource raising potential for the Company.

**Proposals for major capital expenditures, etc.**

The Board should also take into consideration the need for replacement of capital assets, expansion and modernization or augmentation of capital

stock, including any major capital expenditure proposals and the provision of depreciation on such new assets.

### **Expectations of Stakeholders**

The Board, while considering the decision of Dividend pay-out or retention of a certain amount or the entire profits of the Company for the year, shall, as far as possible, consider the expectations of the major stakeholders as also the small shareholders of the Company who generally expect a regular Dividend payout.

### **III. OTHER PARAMETERS**

In addition to above parameters, the decision of Dividend payout or retention of profits shall also be based on the following

#### **Operating cash flow of the Company**

If the Company cannot generate adequate operating cash flow, it may need to rely on outside funding to meet its financial obligations and sometimes to run the day-to-day operations. The Board should consider the same before taking its decision whether to declare Dividend or retain its profits.

#### **Taxation and other regulatory concerns**

- Dividend distribution tax as may be applicable at the time of declaration of Dividend.
- Any restrictions on payment of Dividends by virtue of any regulation as may be applicable to the Company at the time of declaration of Dividend.

#### **Macroeconomic conditions**

Considering the state of the Country's economy, the policy decisions that may be formulated by the Government and other similar conditions prevailing in the international market which may have a bearing on or affect the business of the Company, the management may consider retaining a larger part of the profits to have sufficient reserves to meet unforeseen circumstances.

### **IV. PARAMETERS FOR VARIOUS CLASSES OF SHARES**

- The factors and parameters for declaration of Dividend to different class of shares of the Company shall be the same as stated above.

- The payment of Dividend shall be based on the respective rights attached to each class of shares as per their terms of issue.
- Dividends shall be paid out of the Company's distributable profits and / or free reserves and shall be allocated among the shareholders on a pro-rata basis according to the type and class of shares held.
- Dividend when declared shall be first paid / apportioned to the preference shareholders of the Company as per the terms and conditions of their issue.

#### **V. MANNER OF DIVIDEND PAYOUT**

The declaration and payment of Dividends will be as per the laws and regulations applicable to the company.

#### **VI. DISCLOSURE ON DEVIATION**

Declaration of Dividend on the basis of parameters other than those stated in this Policy or resulting in amendment of any element stated in this Policy will be regarded as deviation. Any such deviation, when deemed to be necessary in the interest of the Company, in extraordinary circumstances, shall be disclosed in the Company's Board's Report along with the rationale thereof.

#### **VII. AMENDMENT**

The Board of Directors may review the policy to give effect to any statutory amendments or otherwise. The amended Policy shall be placed on the website of the company immediately after its approval from the Board.



# GLOSSARY

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**“Act”** means the Company’s Act, 2013 (Act 18 of 2013) or any previous enactment thereon or statutory modification thereto or engagement thereof and includes any rules and regulations framed therein.

**“Board”** means Board of Directors means the collective body of the Directors of the Company.

**“Committee”** means Committee of Directors constituted by the Board.

**“Company”** means a company incorporated under this Act or under any previous company law.

**“Financial Year”** means the period ending as on the 31st day of March, every year, and whether it has been incorporated on or after the 1st day of the January, the period ending on the 31st day of March of the following year. In respect thereof the financial statements of the company or body corporate is made up.

**“Financial Statement”** means and includes Balance Sheet, Statement of Profit and Loss Account, Cash Flow Statements and notes and other statements, which are explanatory material the term integral part of the financial statement.

**“Going Concern”** means is on account assumption according to which an enterprise is viewed as continuing in operation for the foreseeable future; it is also assumed that the enterprise has neither the intention nor the necessity of liquidation or of materially curtailing the scale of its operation.

**“Listed Company”** means a company which has any of its securities listed on any recognised stock exchange.

**“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 lower value to highest value and picking the middle one; if there is an even number of observations, the median shall be average of the middle values.

***“Member”*** means any person who agrees, either by subscribing of the Memorandum of Association of the Company or by applying in writing, to become member of the Company and whose name is entrusted either in the Register of Members of the Company or in the records of the depository as a beneficial owner in respect of the shares of the Company held by him.

## Motto

सत्यं वद। धर्मं चर।

इष्टवैरं तैः तृप्यते. ब्रह्मैव तेन गन्तव्यं.

## Vision

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

## Mission

"To develop high calibre professionals facilitating good corporate governance"



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Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

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