



FOCUS



THE INSTITUTE OF
Company Secretaries of India
भारतीय कम्पनी सिचव संथान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory Body under an Act of Parliament

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CS Prakash K Pandya
Chairman
ICSI-WIRC

Greetings!

I hope you all had a very Prosperous Diwali and would have enjoyed with your near and dear. For ICSI the month of October was a happening month and as usual it was a packed month not only for ICSI, but for ICSI-WIRC as well. The Hon'ble Prime Minister of India has graced the Golden Jubilee Celebrations at New Delhi and he spoke on the abundant role and opportunities for Company Secretaries. It is a fact that the profession of Company Secretaries is not only vibrant but also inevitable not only in corporate sectors but also in Public sector undertakings. I am happy to inform you that WIRC along with its Chapters have celebrated the Golden jubilee in a grand style. Out of many celebrations the institute has organized as a part of Golden jubilee, the initiative which attracted me the most is "Shaheed Ki Beti" and the purpose of this initiative is providing financial assistance to the girl child of the martyrs for the higher education. I am sure that the initiative is going to help many girl children and through this ICSI is ensuring Women empowerment from the childhood days of a girl.

If we re-wind the glorious past fifty years we must admit the fact that all these years have brought several milestones to the institute and its stake holders. We have reached a stage where Company Secretaries are considered as one of the Prime professionals of Corporate India. It is also a pride for the institute that its presence is spread across all the states and Union territories of the country.

The WIRC is all geared up for its Annual Regional Conference-2017 scheduled to be held in Goa during the first week of November. Veteran professionals and regulators are going to grace the occasion. I am happy to inform you that Mr.Manohar Parrikar, Chief Minister of Goa and Mr.Suresh Prabhu, Central Minister for Commerce and Industry have kindly consented to grace the occasion. I compliment the efforts of young and dynamic Women Management Committee members of Goa Chapter who is taking efforts to co-ordinate with the offices of Chief Minister and Cabinet Minister. We are also getting several enquiries from members across the country regarding the Annual Regional Conference. I am sure that we all will be meeting during the Annual Regional Conference.

While WIRC is gearing up for the Annual Regional Conference ICSI is getting ready for the 45th National Convention which is going to be held from 22-25 November 2017 at Thiruvanthapuram, the south end part of the country. I am informed that good number of delegates from far and wide of the country are registering for the National Convention. I will appeal all the members of the region to attend both the Annual Regional Conference as well as the National Convention. I must make a mention that coverage for both the events are going to be entirely different and members should not miss the opportunity of attending both the events. The best Regional and Chapter awards are generally distributed during the convention and I wish all the regions as well as the chapters Good luck to grab the award for the excellent work they have done for the profession and the institute during the last one year.

It is time for all the students who are appearing for the December 2017 examinations to accelerate the speed. I hope by this time you would have received the time table for the examinations. There is no alternative for Hard work and Hard work will pay the results. Along with hard work during the coming months also devote time in personal development activities including Yoga and exercise. Relax well every day and keep your mind calm, free from all your worries and face the examinations with all the confidence. It is often said that Never do tomorrow what you can do today, procrastination is the thief of



time. WIRC is organizing Crash Course for both the executive and professional levels and I will appeal students to join the Crash Course and take benefit out of the same. For those who are yet to commence their studies start at once as the secret to getting ahead is getting started. It is pertinent to note that the expert in any field was also once a beginner.

The knowledge centres of ICSI-WIRC spread across the city is also doing a commendable job and organising various programmes for the benefit of members. I will request all the members to regularly attend these sessions which will not only give the needed professional hours but also updates you with the ever-changing regulatory environment prevailing in the country.

Before I conclude let me once again make two earnest appeal, one for your professional development and the other for the welfare of your family. All the members are requested to contribute articles in the WIRC monthly FOCUS. You can always opt for a topic of your choice which should be on contemporary relevance. The Editor will go through the article and if found fit and relevant will publish in the magazine. The second appeal is join the CSBF and it will come as a help to your family at the time of need.

There are various avenues which you can contribute to the profession. Devote few hours every week for the welfare of your alma meter.

See you at Goa on November 03,2017.

Professionally Yours

CS Prakash K Pandya
Chairman
ICSI-WIRC



CS Gaurav N Pingle
Practising Company Secretary
Pune

Analysis of 10 Key Recommendations of Kotak Committee on Corporate Governance

SEBI Committee on Corporate Governance was formed on June 2, 2017 under the Chairmanship of Mr. Uday Kotak ('Kotak Committee') with the aim of improving standards of corporate governance of listed companies in India. Kotak Committee has submitted its Report on October 5, 2017. SEBI has sought comments in prescribed tabular format by November 4, 2017. The terms of reference of the Committee were to make recommendations on the following issues:

- (a) Ensuring independence in spirit of Independent Directors and their active participation in functioning of the company;
- (b) Improving safeguards and disclosures pertaining to Related Party Transactions;
- (c) Issues in accounting and auditing practices by listed companies;
- (d) Improving effectiveness of Board Evaluation practices;
- (e) Addressing issues faced by investors on voting and participation in general meetings;
- (f) Disclosure and transparency related issues, if any;
- (g) Any other matter, as the Committee deems fit pertaining to corporate governance in India.

Kotak Committee has recommended changes in the composition and role of board of directors, Institution of Independent Directors, Board Committees, Monitoring of Group Entities, Promoters/ Controlling shareholders and Related Party Transactions, Discourses and Transparency, Accounting and Audit related issues, investor participation in meetings of listed entities. At various places in the Report, the Committee has emphasized the role of Company Secretary. This article is an analysis of some important Recommendations of the Committee on Corporate Governance.

1. **Minimum No. of Directors on Board:** Kotak Committee observed that the company should have sufficient number of directors on its board of directors to ensure that it is able to carry out its functions effectively. In view of the additional functions and obligations of the board of directors of listed entity, the Committee stated that it is crucial that a sufficient number of directors with diverse backgrounds and skill sets are available on the boards of listed entities to fulfill the functions and obligations. With this background, the Committee recommended minimum 6 directors on the Board of listed entity.
2. **Gender Diversity:** The Committee noted that diversity, including gender diversity, is often seen to have a positive impact on the decision making processes of corporate boards. Post implementation of Cos. Act, 2013 and SEBI Listing Regulations, the Committee, in its Report, stated that women representation on the boards of NIFTY 500 companies, which was at 5% as on March 31, 2012, increased to 13% as on March 31, 2017. With an objective to further improve gender diversity on corporate boards, the Committee has recommended that every listed entity have at least one independent woman director on its board of directors.
3. **Attendance of Directors:** Kotak Committee, in its Report, stated that it is important for all directors to attend a minimum number of meetings in order to enhance their contribution of skill, time and

value towards serving the long-term interests of all stakeholders. Accordingly, the Committee

recommended that if a director does not attend at least half of the total number of board meetings over two Financial Years on a rolling basis, his/her continuance on the board should be ratified by the shareholders at the next annual general meeting. In the recommendation, the criterion of leave of absence is irrelevant, which is the case under the Companies Act, 2013. This will ensure more accountability of the directors towards the board and shareholders.

4. **Approval for Non-executive Directors on Attaining a Certain Age:** Kotak Committee recommended to include a provision in the Regulations requiring Special Resolution for the appointment/continuation of Non-Executive Directors on attaining the age of 75 years. In relation to this, u/s 196 of Companies Act, 2013, approval of shareholders by special resolution is required for appointment or re-appointment of Managing Director, Whole-Time Director or Manager above the age of 70 years;
5. **Minimum Number of Board Meetings:** The Committee stated that 4 meetings of the board of directors tend to focus primarily on financial results and other matters relating to regular compliance. The Committee stated that the board of directors may be required to meet more frequently to focus on other critical aspects of a listed entity such as its management and corporate governance. Accordingly, the Committee has recommended that minimum number of meetings of board of directors be increased to five every year. The Committee recommended that aspects like strategy, succession planning, budgets, risk management, Environment, Sustainability, Governance and Board Evaluation are critical to the medium-term and long-term future of a listed entity and the same should be discussed by the Board of Directors of the listed entity. Though the recommendation is beyond the statutory provisions of the Companies Act, 2013, the same is in the interest of company and its stakeholders.
6. **Separation of the Roles of Non-executive Chairperson & Managing Director/CEO:** In my view, this is one of the most significant recommendations of the Kotak Committee. This recommendation will have a major impact on the working, operations of the listed company along with the powers delegated to the officers of the Company. The Committee stated that the separation of powers of the Chairperson (i.e. the leader of the board) and CEO/MD (i.e. the leader of the management) is seen to provide a better and more balanced governance structure by enabling better and more effective supervision of the management. The Committee recommended that the listed entities with more than 40% public shareholding should separate the roles of Chairperson and MD/CEO w.e.f. April 1, 2020.
7. **Minimum Number of Independent Directors:** This is another significant suggestion by the Kotak Committee on Corporate Governance, whereby every listed entity, irrespective of whether the Chairperson is executive or non-executive, may be required to have at least half its total number of directors as Independent Directors. Kotak Committee recommended that this be applicable to top 500 listed companies by market capitalization by April 1, 2019 and to the rest of listed companies by April 1, 2020. After codification of the recommendation, the board of directors of the listed entity would be required to comply with the provisions and restructure the board composition.
8. **Minimum Compensation to Independent Directors:** Kotak Committee recommended that the minimum total remuneration (where the listed entity has profits or has inadequate profits) and minimum sitting fees for every board meeting/ Audit Committee Meeting/ every other Board Committee Meeting. The Committee linked the remuneration/ sitting fees with the market capitalization of the listed company. Therefore, the listed companies would be required to comply with the provisions (if codified) along with the provisions of the Companies Act, 2013. If there is a specific provision in the Articles of Association of the listed entity, then such provision will also require necessary amendment.

9. **Induction & Training of Independent Directors:** Kotak Committee recommended that formal induction should be mandatory for every newly appointed Independent Directors. The Formal training, whether external/internal, especially w.r.t. governance aspects, should be required for every Independent Directors once every 5 years. The Committee has shifted the onus of such training and induction on the Independent Director. In my view, this a very progressive recommendation, as the Companies Act, 2013 and SEBI's Listing Regulations gives only a passing reference of such induction and training.
10. **Role of Company Secretary:** As discussed above, the Kotak Committee at various places in the Corporate Governance Report has emphasized the role of Company Secretary. Following are the details:
- (i) **Secretarial Audit:** Kotak Committee has recommended that the Secretarial Audit may be made compulsory for all listed entities under the SEBI LODR Regulations in line with the provisions of Companies Act, 2013. The Committee has also recommended that the Secretarial Audit may also be extended to all material unlisted Indian subsidiaries;
 - (ii) **Role of Nomination and Remuneration Committee:** Kotak Committee recommended that a clarification be provided that persons in Senior Management should include all members of management one level below the Chief Executive Officer/Managing Director/Whole Time Director/Manager and shall specifically include Company Secretary and Chief Financial Officer;
 - (iii) **Disclosures Pertaining to Disqualification of Directors:** Kotak Committee noted that the investors are often unaware whether the directors of the company have been debarred from acting as directors of a company. Accordingly, the Committee recommended that disclosures on this basis be made in the annual report as certified by a Practising Company Secretary.

In my view, the Kotak Committee has made some significant recommendations to overhaul the corporate governance standards in India. The codification of these recommendations, will certain bring a paradigm shift in the disclosure and transparency practices in India Inc. The Kotak Committee recommendations, if accepted by SEBI, would also bring in more accountability of the directors towards shareholders. This may also reduce the litigation and disputes in the directors inter-se. The Report has also taken cognizance of the on-going disqualification and vacation of office of directors, and have appropriately included a recommendation w.r.t. the Certificate of Practising Company Secretary in the Annual Report. With respect to the codification of the said recommendations, in my view, wherever there is an apparent conflict in the provisions of Companies Act, 2013 and recommendation, then provisions should be incorporated in SEBI's Listing Regulations after considering its impact/ proposed modification to the Companies Act, 2013. The Ministry of Corporate Affairs or SEBI would be under obligation to provide some clarification for ensuring compliance of both laws.



CS Amita Desai
Practicing Company Secretary
Mumbai

Article On fast Track Merger U/S 233 Of The Ca,2013

NOTIFICATION OF FAST TRACK MERGER : Section 233 has been notified by the Ministry of Corporate Affairs (MCA) on December 7, 2016. MCA had also notified Companies (Compromise, Arrangements and Amalgamations) Rules, 2016 (**hereinafter defined as Rules**) on December 14, 2016 which are effective from December 15, 2016. The provisions of Section 233 of the Companies Act, 2013 (**hereinafter defined as the Act**) provides a simplified procedure for Merger and Amalgamation by relieving the Companies from lengthy and complicated procedure as provided under section 230 to 232 of the Act.

A. **ELIGIBLE COMPANIES:** The Fast Track Merger as provided under section 233 of the Act is for the following types of Companies only :

1. Merger between two or more Small Companies; or
2. Merger between a Holding Company (HOLDCO) and its Wholly-owned Subsidiary Company (WOS);
or
3. Such other prescribed class or classes of Companies (not yet defined).

Note: Other types of companies not covered above need to go under the route of Section 230 to 232 of Act.

B. **PROCEDURE FOR FAST TRACK MERGER:**

1. **Decsion of the Board:**

- Financial Statements of the Company
- Declaration of Solvency by the Directors
- Noting of list of creditors and value of total liabilities towards creditors
- Noting of list of employees
- Certificate of by a Registered Valuer (section 247 of the Act) on Fair Value of Share
- Scheme of fast track merger covering various details as given below
- Certificate from Statutory Auditor that the accounting treatment for the proposed Scheme is as per the Accounting Standards.

2. **Drafting of Scheme : The Scheme to have following details :**

- Name of Parties/ companies involved, Appointed Date, Effective Date
- Share exchange Ratio, if applicable and other consideration, if any
- Summary of Valuation Report by Registered Valuer
- Details of Capital or Debt restructuring if any
- Details of Promoters, Directors and KMPs
- Rational and benefit of merger as perceived by the Board, Members and Creditors
- Amount due to the unsecured creditors
- Disclosure of effect of merger on various KMPs and other Director, Promoters etc
- Investigation or proceedings pending, if any against the company
- Accounting Treatment as per Accounting Standard 14

- Consolidation of Authorised Share Capital upon merger
 - Treatment of Employees, workers and contracts with various parties
 - Provision of conduct of business by the Transferor Company as a Trustee for and on behalf of the Transferee Company
 - Effect of Tax and its Credit
 - Date of Board Meetings, Meeting of Member and Creditors for approval and its validity
 - Dissolution of Transferor Company
 - Mention Scheme is conditional on approval
 - Provisions of modification and approval of the Scheme
 - Effect of non receipt of approval of the Scheme
 - Documents available for inspection
 - Cost of merger
3. **Notice of Scheme to the Registrar of Companies, Official Liquidator and Person effected if any by the Scheme:** A Notice of the proposed Scheme shall be sent by both the Transferor and Transferee Companies to the Registrar of Companies (RoC) and Official Liquidators (OL) where the the Registered Office of the respective companies are situated or persons affected by the Scheme, inviting their objections or suggestions on the proposed Scheme. The Notice of the proposed scheme shall be in **Form No. CAA.9**. The RoC and OL shall provide their objections and suggestion, if any **within 30 (thirty) days** of the issue of the notice of the proposed Scheme.
 4. **Declaration of Solvency by the Directors :** Directors of both the Transferor and Transferee Companies need to give Declaration of Solvency (DOS) to the RoC of the place where the Registered Office of the Company is situated and the same shall be in the **Form No. CAA 10**. It will also have a statement of Assets and Liabilities recorded at Book Value and also estimated Realizable Value. The Company to file DOS with the following documents : a) Copy of Board Resolution b) Statement of Assets and Liabilities c) Auditor's Report on the Statement of Assets and Liabilities
 5. **Approval of members and creditors :** Both the Transferor and Transferee Company shall hold meetings of its members and Creditors, to consider and approve Scheme after obtaining objections or suggestions, if any, from the Registrar of Companies (RoC) and Official Liquidator (OL) or any other person affected by it.

The proposed Scheme to be approved by the members or class of members holding at least **90%** of the total number of shares and by the Creditors/ class of creditors/ Debenture Holders, holding majority representing 9/10th in value of the Creditors of the respective companies. The Notice for calling the meeting of members and the creditors shall be accompanied by following documents as per Rule no. 6 of the Rules :

- Copy of the proposed Scheme duly amended with changes suggested by RoC and OL;
- Statement disclosing the details of merger as mentioned in sub rule -3 of rule 6 of the Rules, if the same is not disclosed in the Scheme ;
- Declaration of Solvency in **form No. CAA.10** ;
- Investigation or proceedings, if any pending against the Company.
- Details of approvals, sanctions or no-objection, if any, on the Scheme from regulatory or any other authority ;
- Disclosure about the effect of Scheme on Key Managerial Personnel, Directors, Promoters, non-promoter members, Depositors, Creditors, Debenture holders, Deposit Trustee and Debenture Trustee and Employees of the Company.
- Disclosure about effect of Scheme on material **interests*** of Directors, Key Managerial Personnel and Debenture Trustee. (The term "interest" here extends beyond an interest in the shares of the Company and is with reference to the proposed Scheme)
- Details of documents available for obtaining extracts from or for making or obtaining copies of or for inspection by the members at the Registered Office of the Company.
- Latest audited financial statements with Consolidated Financial Statement of the Company.

- Copy of the Scheme of Merger.
- The Certificate issued by the Statutory Auditors of the Company certifying that the accounting treatment proposed in the Scheme is in conformity with the Accounting Standard prescribed under Section 133 of the Companies Act, 2013.
- Memorandum and Articles of Association of the Company.
- Such other information or documents as the Board may deem necessary and relevant for making decision for or against the Scheme.

6. **Filing of the Scheme approved by Members and Creditors:** Within 7 days from the conclusion of the meeting of the members and creditors, the Transferee Company to file a copy of the Scheme so approved along with the report of the result of members/creditors meeting in **Form No. CAA.11** with documents as mentioned under the form to Regional Director(RD) in **Form RD-1**, Registrar of Companies (“ROC”)in **Form GNL-1** along with the fees and to **OL** through hand delivery or by registered post or speed post.
7. **Objection or Suggestion by RoC and OL to the Regional Director:** If ROC or the OL has any objections or suggestions to the Scheme, they shall communicate the same to the RD within 30 (thirty) days of the receipt of the Scheme. In case there is no objections or suggestions are being communicated to RD by RoC or OL, it shall be presumed that ROC and OL has no objections to the Scheme.

RD either on the basis of such objections raised by RoC or OL or otherwise, is of the opinion that the Scheme is not in the public interest or in the interest of the creditors, it may file an application before the National Company Law Tribunal (NCLT) in **Form No. CAA.13** within 60 (Sixty) days of the receipt of the Scheme stating its objections or opinions and request to consider the Scheme under section 232 of the Act.

Note: If the RD neither has any objection to the Scheme nor file any application before the NCLT, then it shall be deemed that it has no objection to the Scheme.

8. **Approval of Scheme by Regional Director:** If ROC or OL has no objections or suggestions to the Scheme and RD is of the opinion that the Scheme is in public interest or in interest of creditors, then RD shall issue confirmation order of such Scheme in **Form No. CAA.12** and a copy of the approved Scheme will be attached in the Order.
9. **Objection of Regional Director to National Company Law Tribunal (NCLT):** On receipt of Application from RD or any person, NCLT is of the opinion that the Scheme should be considered as per the procedure laid down under Section 232 of the Act, it may direct accordingly or it may confirm the Scheme by passing such Order as it deem fit.
10. **Filing of Order of RD or NCLT upon approval:** The confirmation Order of the Scheme issued by RD or NCLT shall be filed within thirty (30) days of the receipt of the order of confirmation in **Form INC-28** with the RoC having jurisdiction over the Transferor and Transferee Company respectively.
11. **Confirmation of Order by RoC in case of different jurisdiction of Companies :** The RoC having jurisdiction of the Transferee Company shall register the Scheme and issue a Confirmation Order to the Companies and such confirmation shall be communicated to the RoC having jurisdiction of the Transferor Company.
12. **Effect of Registration of Scheme :** Registration of the Scheme shall be deemed to have the effect of Dissolution of Transferor Company without the process of Winding up and following shall be effective.
 - All the properties or liabilities of the Transferor Company shall be transferred and become the properties or liabilities of the Transferee Company;
 - The charges, if any, on the property of the Transferor Company shall be applicable and enforceable as if the charges were on the property of the Transferee Company;

- The legal proceedings by or against the Transferor Company pending before any court of law shall be continued by or against the Transferee Company;
- Where the Scheme provides for purchase of shares held by the dissenting shareholders (not for merger of WoS) or settlement of debt due to dissenting creditors, such amount, to the extent it is unpaid, shall become the liability of the transferee company.

13. **Post Merger Authorised Capital :** The Transferee Company shall file an application with the RoC along with the approved Scheme, indicating revised authorized capital post merger (There need to be a mention in the Scheme for consolidation of Authorised Capital). The Transferee Company is not required to pay any fees on the revised authorized capital, to the extent of the fee paid by the Transferor Company before such merger.

The Companies may at their discretion, opt to use the provisions of section 230 to 232 for the approval of the Scheme of merger or amalgamation.

14. **Conclusion:** Notification of section 233 helped in Ease of Doing Business in India, following are some of the benefits :
- It is a time bound process and saves from lengthy process of merger where public interest is not at stake.
 - Regional Director has been given power to overview the process and ensure that the dissenting member or creditors interest is taken care of.
 - This route give flexibility for restructuring between small companies and between holding and its Wholly Owned Subsidiary.

C. LIST OF FORMS TO BE FILED BY THE TRANSFEROR AND TRANSFEE COMPANY:

The provisions of the Fast Track Merger contained under Section 233 read with rule 25 of Companies (Arrangements And Amalgamations) Rules, 2016. Following forms to be filed for Fast Track Merger:

Forms	Attachments	Responsibility
Form No. CAA.9	Proposed Scheme	Transferor and Transferee Company
Form No.CAA.10	Copy of Board Resolution with Statement of assets and liabilities Auditor's Report on the statement of assets and liabilities. * Assets and liabilities should be recorded at Book Value and Estimated Realizable Value	Transferor and Transferee Company
Form No.CAA.11	1. Copy of the Scheme approved by both creditors and members; 2. Notice sent in accordance with section 233(1)(a); 3. List of Creditors and Members 4. Certificate from Statutory Auditor that the accounting treatment proposed in Scheme is in conformity with the Accounting Standards. 5. Minutes of meeting of Members and Creditors along with Notice and Explanatory Statement for calling of such meetings.	Transferee Company
Form No. CAA.12	Copy of the approved Scheme is attached in the Order of RD or NCLT as the case may be.	Regional Director
Form NO. CAA.13	Application by RD to NCLT	Regional Director

D. POSER :

1. Form No. CAA.9 mentions that RoC, OL or any person who has any objections or suggestions should send it to the Regional Director and to the Authorised Representative of the Transferor Company. As the Form No. CAA 9 will be filed by both the Transferor and the Transferee Company, however the objection or suggestion of RoC or OL or any person will be filed only with the Transferor Company and RD, why the same is not to be informed to the Transferee Company.
2. RoC should not insist for any NoC or approval of Creditors at the time of filing of draft Scheme under Form CAA 9, which RoC is requesting upon filing.



CS Mithun Shenoy
Company Secretary
Kitex Childrenswear Limited

NBFC-Ds: Beyond Border line of Compliances

Introduction

India being the divergent Country, focused on economic growth and the Financial Institutions (“FI”) play a dominant role in the economy which spread out its surplus fund to the borrower in unbanked regions. Over the last few decades, Non Banking Financial Companies (“NBFC”) have reckoned as one of the most conspicuous and most recognized ingredient in Indian Financial system that contributes to the national growth. NBFCs showed its existence to inscribe fund requirements of every sectors of society from large Corporates to SMEs.

NBFC popularized in the early 1990’s and is heterogeneous group. With its impeccable performance and robust growth, Bankers’ Bank viz., Reserve Bank of India (“RBI”) felt that the need to control the NBFCs. Accordingly, Reserve Bank of India Act, 1934 (“RBI Act”) was amended in the year 1997 that provides for regulatory framework governing NBFCs.

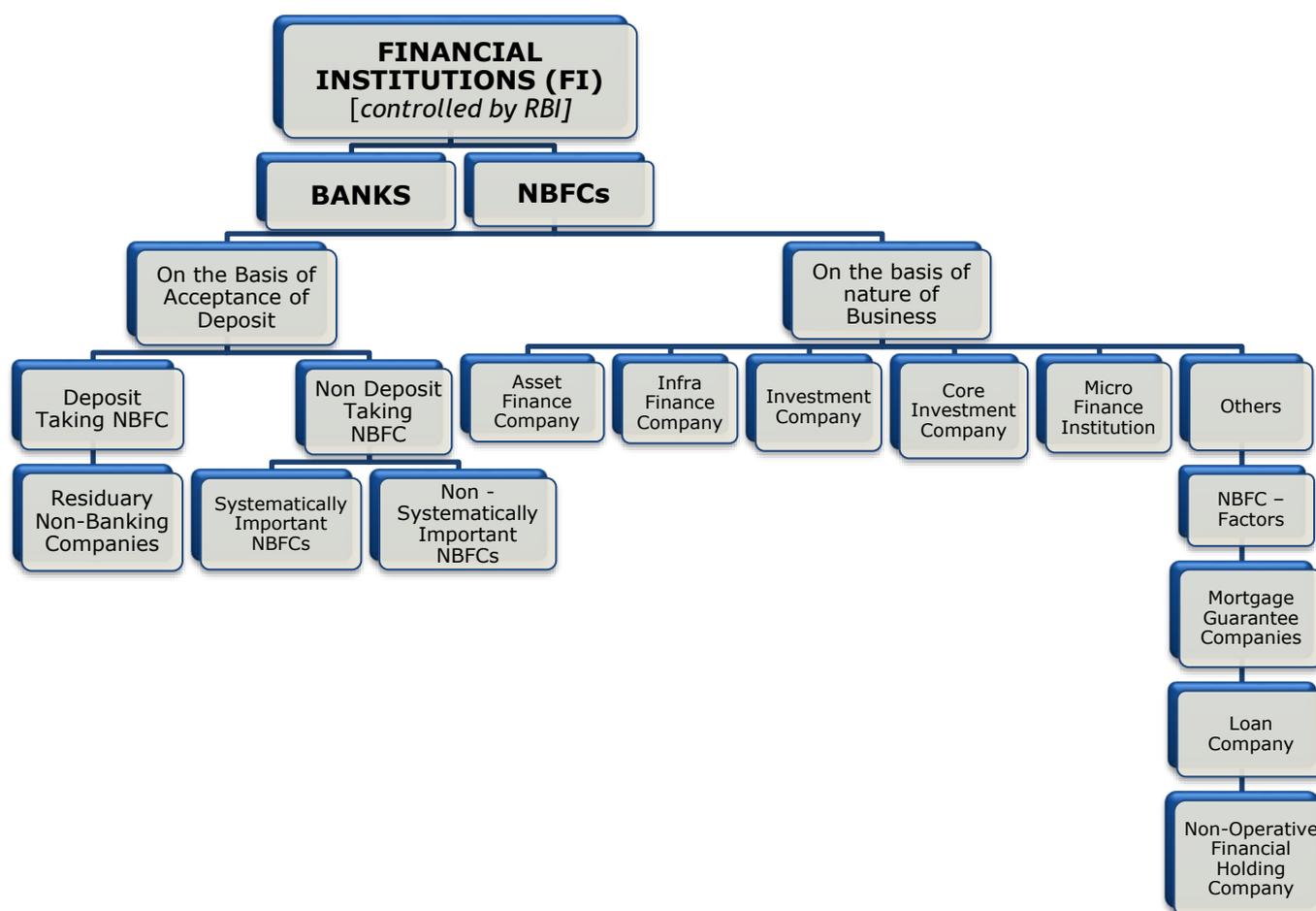
As per Section 45 I (f) of the RBI Act define an NBFC as:

1. An FI is a Company;
2. A Non Banking institution which is a Company with principal business of receiving deposits or lending in any manner;
3. Such other non banking institution or class of such institutions, as the RBI with the previous approval of the Central Government may specify by notification in the official gazette.

The Term ‘Financial Institution’ is defined under Section 45 I (c) of RBI Act. In short, NBFC means

- company registered under the Companies Act, 2013
- engaged in the business of
 - loans and advances;
 - acquisition of shares/ stocks/ bonds/ debentures/ securities issued by Government or local authority or other marketable securities of a like nature;
 - leasing;
 - hire-purchase;
 - insurance business;
 - Chit or kuries business;
 - Collecting monies by sale of any instruments and awarding prizes to persons from whom monies are collected or to any other person.

But it does not include any institution whose principal business is that of agriculture activity, industrial activity, purchase or sale of any goods (other than securities) or providing any services and sale/ purchase/ construction of immovable property. Various types of NBFCs are summarized hereunder.



In terms of Section 45-IA of the RBI Act, no NBFC can commence its business as NBFC without obtaining a Certificate of Registration from the RBI and without having a Net Owned Funds (NoF) of at least Rs. 2 Crore. However, following categories of NBFCs which are regulated by other regulators are exempted from the requirement of registration.

- Venture Capital Fund/ Merchant Banking Companies/ Stock Broking Companies controlled by SEBI;
- Insurance Company controlled by IRDA;
- Nidhi companies as controlled by Ministry of Corporate Affairs;
- Chit Companies as controlled by State Registrar of Chit Funds;
- Housing Finance Companies regulated by National Housing Bank.

Regulatory Framework governing ‘Deposit Taking NBFC’ (NBFC-Ds)

Sl. No.	Regulatory Framework *	Applicability
1	Reserve Bank of India Act, 1934 (Sec 45I, IA, IB & IC)	all NBFCs
2	Companies Act, 2013 and its rules	NBFCs are exempted from the provisions of Act and Companies (Acceptance of Deposits) Rules, 2014 as amended from time to time.
2	Master Direction - NBFCs Acceptance of Public Deposits (Reserve Bank) Directions, 2016	All NBFCs <i>Except the following:</i> <ul style="list-style-type: none"> • <i>Mutual Benefit Financial Company or a Mutual Benefit Company</i> • <i>an insurance company</i> • <i>stock exchanges</i>

Sl. No.	Regulatory Framework *	Applicability
		<ul style="list-style-type: none"> • <i>stock broking company</i> • <i>NBFC not accepting public deposit</i> • <i>Government Company</i>
3	Master Direction - Exemptions from the provisions of RBI Act, 1934	Categories of NBFCs <i>except the following</i> <ul style="list-style-type: none"> • <i>Housing Finance Institutions</i> • <i>Micro Finance Companies (subject to conditions)</i> • <i>Securitisation and Reconstruction Companies</i> • <i>Nidhi Companies</i> • <i>Stock Exchanges</i> • <i>Chit Companies</i> • <i>Insurance Companies</i> • <i>Stock brokers or sub-brokers</i> • <i>Venture Capital Fund Companies (To name a few exclusions)</i>
4	Master Direction - Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 2016	Every FI which is a company carries on, any of the types of business, in any place in India referred to in Reg 2 (2) to (4) of this Master Directions viz., Conducting any other form of chit or kuris.
5	Master Direction - NBFCs Returns (Reserve Bank) Directions, 2016	all NBFCs including NBFC - Ds
6	Master Direction - NBFCs Auditor's Report (Reserve Bank) Directions, 2016	Auditors of all NBFCs including NBFC - Ds
7	Master Direction - Monitoring of Frauds in NBFCs (Reserve Bank) Directions, 2016	Applicable NBFCs including NBFC - Ds
8	Master Direction - NBFC - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016.	Apply to following 'Applicable NBFCs' <ul style="list-style-type: none"> • <i>Systemically Important Non-Deposit taking NBFCs;</i> • <i>NBFC - Ds;</i> • <i>NBFC-Factor having an asset size of Rs. 500 Crore and above;</i> • <i>Infrastructure Debt Fund - NBFC;</i> • <i>NBFCs - Micro Finance Institutions registered having an asset size of Rs. 500 Crore and above;</i> • <i>Every NBFCs - Infrastructure Finance Company having an asset size of Rs. 500 Crore and above.</i>
8	Raising Money through Private Placement of Non-Convertible Debentures (NCDs) by NBFCs - RBI Guidelines (to the extent applicable)	All NBFCs including NBFC - Ds
10	Master Circular - NBFCs - Corporate Governance (Reserve Bank) Directions, 2015	Apply to following applicable NBFCs <ul style="list-style-type: none"> • <i>every non-deposit accepting NBFC with asset size of Rs. 500 Crore and above (NBFCs-ND-SI)</i> • <i>NBFC - Ds</i>

* considered only Regulatory Framework that are applicable to the NBFC-Ds.

(RBI has started issuing Master Directions on all regulatory matters beginning January 2016. The Master Directions consolidate instructions on rules and regulations framed for each subject matter by the RBI under various Acts. Any change in the rules, regulation or policy is communicated during the year by way of circulars/press releases. The existing set of Master Circulars issued on various subjects will stand withdrawn with the issue of the Master Direction on the subject.)

DEFINITION OF TERMS ‘DEPOSIT’ & ‘PUBLIC DEPOSIT’ UNDER RBI ACT/ NBFC DIRECTIONS

As per section 45 I (bb) of the RBI Act, the term ‘Deposit’ includes any receipt of money by way of deposit or loan or in any other form. However the following are excluded from the definition of deposits:

1. Money received by way of Share Capital;
2. Contribution to capital of partnership firm by partners;
3. Money received from scheduled banks, co-operative banks or any other banking company;
4. Monies received from -
 - State Finance Corporation;
 - Specified financial institutions;
 - Other financial institutions specified by the RBI;
5. Amounts received in ordinary course of business by way of -
 - Security Deposit;
 - Dealer Deposit;
 - Earnest Money;
 - Trade advances;
6. Monies received from entities not being body Corporates and registered under money lending act of the state;
7. Subscription amounts to chit (Chit Funds).

As per Reg 3 (XV) of Master Direction - NBFC - Acceptance of Public Deposits (Reserve Bank) Directions, 2016 defines the term ‘Public Deposit’ as a deposit as defined under section 45-I (bb) of the RBI Act excluding the following:

- a. Monies received from Central/ State government including guarantee provided by the State/ Central Government;
- b. Monies received from Notified financial institutions;
- c. Inter-Company Deposits;
- d. Amounts received towards subscription to securities as per Companies Act 2013;
- e. Amounts received from directors, amounts received by private companies from shareholders provided the amount has not been borrowed by the director/ shareholder;
- f. Amounts received by issue of compulsorily convertible bonds/ debentures;
 - Amount raised by issuance of non-convertible debentures with a maturity of more than one year and having the minimum subscription per investor at Rs. 1 Crore and above;
- g. Amounts brought in by promoters by way of unsecured loans subject to certain conditions;
- h. Amounts received from Mutual Funds;
- i. Amounts collected by way of hybrid debt or subordinate debt with minimum maturity of not less than 60 months;
- j. Amounts received from relative of director of NBFCs;
- k. Amounts received by issuance of commercial papers;
- l. Amounts received by Systemically Important Non-Deposit taking NBFC (NBFC-ND-SI) by issuance of perpetual debt instruments;
- m. Amounts raised by infrastructure finance companies by issuance of infrastructure bonds.

KEY PROVISIONS UNDER VARIOUS NBFC DIRECTIONS

A. MASTER DIRECTION - NBFCs ACCEPTANCE OF PUBLIC DEPOSITS (RESERVE BANK) DIRECTIONS, 2016

Clause	Particulars
Reg 6: Requirement of Maintenance of Liquid Assets	<p>Every NBFC-D shall invest in unencumbered approved securities valued at the price not be less than 15% of public deposit.</p> <p>Failure in compliance will lead to a penal interest @ 3% p.a. above the bank rate and where the shortfall continues in the subsequent quarters, the rate of penal interest shall be 5% p.a. above the bank rate.</p>

Clause	Particulars
Reg 8: Minimum Credit Rating	Must be obtained minimum investment grade from any one of the approved credit rating agencies at least once a year and a copy of the rating is sent to the RBI along with return on prudential norms. In case of any change of rating, it shall within fifteen working days of its being so rated inform to the RBI.
Reg 11: Period of Public Deposit:	NBFC shall accept public deposit with minimum period of 12 months and maximum period shall not be later than 60 months from acceptance/ renewal date.
Reg 14: Ceiling on the rate of interest	NBFCs shall not invite or accept or renew public deposit at a rate of interest exceeding 12.5% p.a.
Reg 22: Advertisement and statement in lieu of advertisement:	NBFCs shall comply with the provisions of the NBFCs and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977
Reg 23: Minimum lock- in period	No NBFCs shall grant any loan against a public deposit or make premature repayment of a public deposit within a period of three months (lock-in period) from the date of its acceptance.
Reg 29: Register of deposit	Every NBFCs shall keep such register at each branch and a consolidated register for all the branches taken together at the registered office of the company and shall be preserved for not less than 8 calendar years
Reg 35: Information to be included in the Board's report	Requisite information like total no of accounts of public deposit which have not claimed by depositors or not paid by the Company etc.... shall be disclosed in Board Report.
Reg 38: Cover for public deposits - creation of floating charge on Liquid Assets	NBFCs accepting/ holding public deposits shall create a floating charge on the statutory liquid assets invested in terms of section 45-IB of the Act, in favour of their depositors through the mechanism of 'Trust Deed'.

B. MASTER DIRECTION - NBFC - RETURNS (RESERVE BANK) DIRECTIONS, 2016

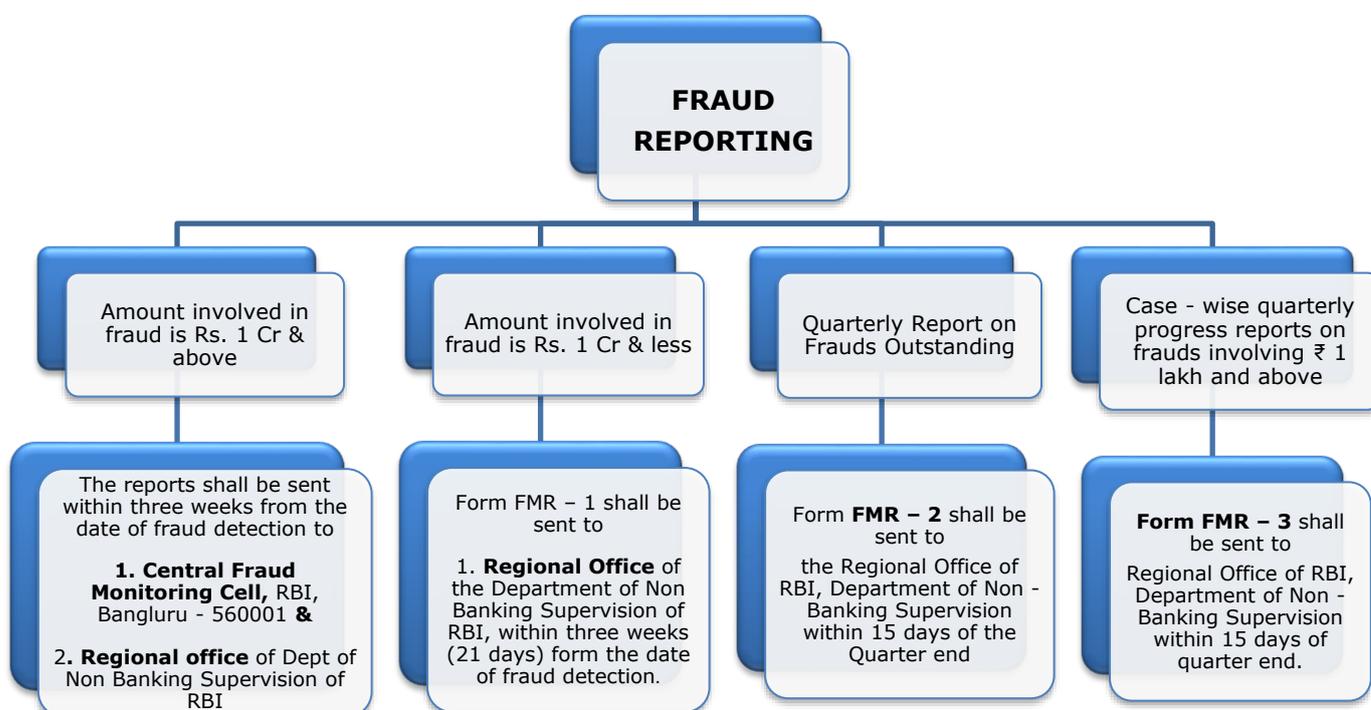
Details of returns to be submitted by NBFCs-D:-

Sl. No.	Name of the Return	Applicability	Periodicity	Purpose	Reporting Time
1	NBS-1 (Quarterly Returns)	NBFCs-D	Quarterly	To capture financial details, viz. components of Assets and Liabilities, Profit and Loss account, Exposure to sensitive sectors	15 days from quarter end.
2	NBS-2 (Quarterly Statement of Capital Funds, Risk Assets etc as required)	NBFCs-D *	Quarterly	To capture compliance with various prudential norms, e.g. Capital Adequacy, Asset Classification, Provisioning, NOF etc.	15 days from quarter end.
3	NBS-3 (Quarterly Return on Statutory Liquid Assets as per Section 45 IB of the Act)	NBFCs-D	Quarterly	To capture details of Statutory Investments in Liquid Assets	15 days from quarter end.

Sl. No.	Name of the Return	Applicability	Periodicity	Purpose	Reporting Time
4	NBS-4 (Annual Return on Repayment of Deposits by the Rejected Companies holding Public Deposits)	NBFCs holding public deposits whose application for Certificate of Registration under Section 45-IA of the RBI Act have been rejected	annual basis	To know the repayment status of public deposits of rejected NBFCs-D	30 days from year end.
5	ALM (NBFC-D) (Asset-Liability Management Return)	NBFCs-D having public deposit of Rs. 20 Crore and above and/or asset size of Rs. 100 Crore and above	Half yearly	To address concerns regarding Asset Liability mismatches and interest rate risk exposures	30 days from half year end.
6	Statutory Auditor Certificate	All NBFCs-D	Annual	To ensure continued regulatory compliance.	1 month from the date of finalisation of Balance Sheet
7	Branch Information Return	All NBFCs-D *	Quarterly	To capture the reach and geographical spread of NBFCs.	15 days from quarter end.
8	Return on FDI & Certificate on compliance with FDI norms	All NBFCs-D *	Half yearly	To capture compliance with the stipulated minimum capitalization norms under FEMA.	30 days from half year end.
9	Return on Overseas Investments & annual certificate from statutory auditors	All NBFCs-D *	Quarterly	To capture details on overseas investment by NBFCs.	Within 15 days from quarter end.
10	Reporting to Central Repository of Information on Large Credits (CRILC)	All NBFCs-D *	Quarterly	The data includes credit information on all the borrowers having aggregate fund-based and non-fund based exposure of Rs. 5 Crore and above with them and the SMA status of the borrower.	21 days from quarter end.
11	Reporting of Special Mention Account status (SMA-2 return)	All NBFCs-D *	Weekly	To facilitate early Recognition of Financial Distress, Prompt Steps for Resolution and Fair Recovery for Lenders.	On Every Friday

*Apart from other type of NBFCs

C. MASTER DIRECTION - MONITORING OF FRAUDS IN NBFCs (RESERVE BANK) DIRECTIONS, 2016

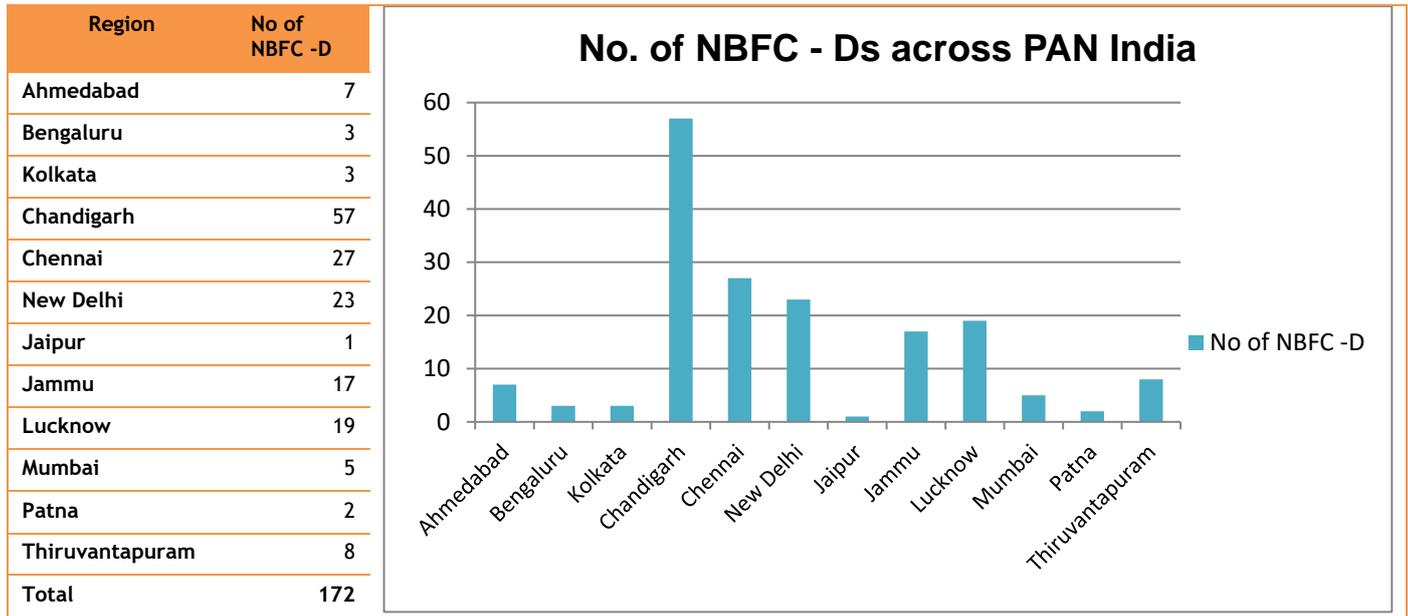


D. MASTER DIRECTION - NBFC - SYSTEMICALLY IMPORTANT NON-DEPOSIT TAKING COMPANY AND DEPOSIT TAKING COMPANY (RESERVE BANK) DIRECTIONS, 2016

Clause	Particulars
Reg 6. Capital Requirements	Every applicable NBFCs shall maintain a minimum capital ratio consisting of Tier I and Tier II capital which shall not be less than 15 % of its aggregate risk weighted assets on-balance sheet and of risk adjusted value of off-balance sheet items.
Reg 13. Provisioning requirements <i>(applicable to every NBFC except NBFC-MFIs)</i>	<p>(i) Loss Assets: The entire asset shall be written off. If the assets are permitted to remain in the books for any reason, 100% of the outstanding shall be provided for;</p> <p>(ii) Doubtful Assets:</p> <p>(a) 100% provision shall be made;</p> <p>(b) in addition to item (a) above, depending upon the period for which the asset has remained doubtful, provision to the extent of 20% to 50% of the secured portion shall be provided</p> <p>(iii) Sub-standard assets: A general provision of 10 percent of total outstanding shall be made.</p>

CONCLUSION

Indian NBFCs have shown magnificent growth history in past few years and is expected to touch nearly 18% by FY 2018-19. As on October 31, 2017, there were 172 Deposit accepting NBFCs (refer graph below) registered with RBI.



As the banking system tinkered with NPAs (viz., IDBI Bank (with gross NPA ratio of 24.11 % of gross advances), Indian Overseas Bank - 23.6% and Indian Bank has the lowest GNPA ratio of 7.21%: CARE Rating Agencies said based on June 2017 quarter ended statistics), NBFCs succeeded (due to better product lines, effective cost, extensive reach, effective risk management system, to restraint Bad loan etc) with their presence in various segments.

COMPANY SECRETARIES BENEVOLENT FUND



Saathi Haath Badhana साथी हाथ बढ़ाना

The Company Secretaries Benevolent Fund (CSBF) provides safety net to Company Secretaries who are members of the Fund and their family members in distress.

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- Registered under the Societies Registration Act, 1860
- Recognised under Section 12A of the Income Tax Act, 1961
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Contact

For further information/clarification, please write at email id csbf@icsi.edu or contact Mr. Saurabh Bansal, Executive on telephone no.011-45341088.

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'ICSI Quest-eAssist'
An Online platform for ICSI's members

As a knowledge building initiative, ICSI has launched 'ICSI Quest-eAssist', which is an online platform for members of ICSI where they can seek responses on the queries and difficulties pertaining to the Companies Act, 2013 and Rules and Notifications thereunder as well as issues related to e-filing.

This initiative would eventually be extended to other laws like Securities laws, Insolvency and Bankruptcy and GST etc.

The queries may be raised at

<http://www.icsi.in/QAS/MemberLogin.aspx>

Any suggestion in this regard may be forwarded to dheeraj.gupta@icsi.edu

EXPOSURE DRAFTS OF ICSI AUDITING STANDARDS FOR PUBLIC COMMENTS (Last date for submission of comments: 30th September, 2017)

The Institute of Company Secretaries of India (ICSI), recognising the need to provide support to its members to develop the auditing acumen, techniques and tools and for inculcation of best auditing practices among its members constituted Auditing Standards Board (ASB) with the objective of formulating Auditing Standards of the ICSI.

Accordingly, the Board has brought out Exposure Drafts of the following Auditing Standards:

- CSAS-1 : Auditing Standard on the Audit Engagement
- CSAS-2 : Auditing Standard on Audit Process and Documentation
- CSAS-3 : Auditing Standard on Forming of Opinion
- CSAS-4: Auditing Standard on Secretarial Audit

The text of the exposure drafts of the above mentioned proposed Auditing Standards is hereby placed for the public comments.

The comments should be given in the following format:

Para No.	Name of the Standard	Text of the Standard	Suggested Text of the Standard	Rationale for suggestion

The comments on the exposure drafts may be sent in the above format at asb@icsi.edu on or before 30th September, 2017. In case you require Auditing Standards in MS Word format for giving suggestions in track mode, kindly request for the same by e-mail at the above mentioned e-mail id.

CS Vineet K. Chaudhary
Council Member & Chairman
Auditing Standards Board

CS (Dr.) Shyam Agrawal
President, The ICSI

Issue Date: 07 September, 2017

CSAS-1 Auditing Standard on Audit Engagement

Contents

Scope

Effective Date

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6. Changes in Engagement terms

CSAS-1

Auditing Standard on Audit Engagement

Scope

This Auditing Standard ('the Standard') is applicable to Auditor undertaking any audit engagement under the Companies Act, 2013 or SEBI Act, 1992 or any other law for the time being in force. The Standard deals with Auditor's roles and responsibilities in agreeing to the terms of audit engagement and entering into an understanding/agreement with the Management for the purpose of audit.

Effective Date

The Standard is effective for audit engagements accepted by the Auditor on or after.....

Objective

The objective of this Standard is to prescribe for an Auditor, principles to accept or continue with an Audit Engagement by agreeing to the terms of engagement

with the Management or any changes therein and matters related thereto.

Definitions

For the purpose of this Standard, the following terms have the meaning attributed below:

i. Auditor

Auditor means a Member of the Institute of Company Secretaries of India undertaking the Audit.

ii. Auditee

An Auditee includes a person subject to audit under any law for the time being in force.

iii. Management

Management includes the Board of Directors, those charged with governance and compliances, KMPs or any other person authorised by the Auditee.

iv. Predecessor or Previous Auditor

The term means an Auditor who has reported on the most recent audit assignment or was engaged to perform, but did not complete an audit assignment and has resigned, declined to stand for reappointment, or otherwise his services as such Auditor have been terminated.

Requirements

1. Audit Engagement Process

An Auditor shall undertake the following steps with respect to his engagement as an Auditor:

1.1 Overview

An Auditor may be appointed either as a result of one to one communication between the Auditor and the Auditee or through a tendering process. The provision of this Standard shall apply mutatis mutandis to offer for services of technical and financial bids to the extent applicable.

The following steps shall be taken care of by the Auditor:

1.1.1 Conducting a pre-engagement meeting with the Auditee, in case the Auditor is to be appointed by the Auditee on one to one basis or participating in a pre-bid meeting with the Auditee in case of tendering, to discuss about the terms of engagement, prior year audit results, appropriateness of reporting framework, understanding Auditee's business and environment including internal control system, design & operation, audit process, periodicity of audit, determining nature and conflict of interest.

1.1.2 Selection or screening of prospective Auditee based on following risk / assessment:

- a. Client acceptance and engagement risk, e.g., highly leveraged client, habitually litigant client, in the media for wrong reason, pledging of shares by the promoter group, PE involvement.
- b. Performance Risk – capacity and resources
- c. Engagement Contract Risk
- d. Reputation Risk
- e. Commercials

1.1.3 Communication of the willingness to take up the audit assignment after considering the aforesaid underlying process, periodicity and nature of audit including commercials, if any.

1.1.4 Signing the engagement letter with the Management.

1.2. Appointing Authority

1.2.1 The appointment of Auditor shall be made in a manner prescribed in the applicable Act, Rules, Regulations and Guidelines or in case where no such manner has been prescribed, it shall be made under the authority of the Auditee.

Rule 8 of the Companies (Meetings of Board and its Powers) Rules, 2014 provides that the appointment of Auditor for undertaking Secretarial Audit shall be done by means of resolution passed at a duly convened Board meeting. Similarly, Company Secretaries in Practice are authorised to conduct the internal Audit of credit rating agencies (CRAs) on half yearly basis and are also authorised to conduct internal audit of stock brokers/ trading members/ clearing members on half yearly basis. Company Secretaries in Practice are authorised to conduct internal audit of Portfolio managers under SEBI (Portfolio Managers) Regulations, 1993.

National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have authorised Practising Company Secretary to undertake internal audit of the operations of Depository Participants. Both Depositories have also authorised Practising Company Secretary to carry out concurrent audit of Depository Participants which covers audit of the process of demat account opening, control and verification of Delivery Instruction Slips (DIS)

1.2.2 The Auditor shall ensure that the Auditee files the resolution appointing the Auditor with the prescribed authority, if law requires for the same.

1.2.3 The Auditor shall obtain engagement letter and a copy of the resolution, if any, of the appointing authority and keep the same in his audit file for record and reference.

1.3. Audit Engagement Letter

1.3.1 The Auditor shall obtain an audit engagement letter before the commencement of the audit clearly specifying the terms of engagement. Wherever the objective and scope of the audit and responsibilities of Management and of the Auditor have been sufficiently established by law, the engagement letter may give a reference of the provisions of the relevant law and also a statement that the Management acknowledges and understands its responsibilities for preparation and maintenance of records and for devising proper systems to ensure compliance with the provisions of applicable laws, Rules Regulations and Standards.

1.3.2 The terms and conditions of the engagement letter may be reviewed to meet the requirements of the Auditor, Auditee or subsequent changes in applicable law. The Auditor in such case shall obtain a supplementary/ revised engagement letter.

1.4. Communication to Predecessor or Previous Auditor

The Auditor shall accept the assignment only after communicating with the Predecessor or Previous Auditor, if any, in writing atleast seven days in advance.

1.5. Acceptance of the Engagement

The Auditor shall give his formal written acceptance for audit engagement.

1.6. Audit Engagement Terms

The principal terms of the audit engagement shall be documented in writing in the audit engagement letter or in other suitable form in writing and shall include the following:

- a. The objective and scope of the audit
- b. The responsibilities of the Auditor
- c. The responsibilities of Auditee and its Management
- d. A statement that because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk exists that some material non-compliance may

not be detected, even though the audit is properly planned and performed in accordance with Standards.

- e. Reference to the expected form and content of any reports to be issued by the Auditor and a statement that circumstance may arise in which a report may differ from its expected form and content.
- f. Written representations to be provided by the Management to the Auditor.
- g. The responsibility of the Management to make available to the Auditor adequate records, reports and other information in timely manner to allow the Auditor to complete the audit in accordance with the proposed time schedule.
- h. Period within which (with Milestones) audit report shall be submitted by the Auditor.
- i. Commercial terms regarding audit fees and reimbursements for expenses in connection of the audit.

1.7. Audit fees and expenses

1.7.1 Audit Engagement Letter shall clearly specify commercial terms regarding audit fees and reimbursements in connection with the audit.

1.7.2 Audit Fees and expenses may depend on several factors including:

1. Size of the organization
2. Location of Business and its branches
3. Type of company (Listed/Unlisted)
4. Nature of business
5. Internal Controls mechanism
6. Scope of audit engagement
7. Frequency of audit, whether monthly, quarterly, yearly or concurrent audit
8. Estimated man hours required to complete the assignment

1.7.3 Audit fees shall not be contingent or dependent on a particular finding or outcome. However, any fees prescribed by any court or judicial or quasi-judicial body or any other competent authority shall not be considered as success or contingent fees.

1.7.4 Auditor is not permitted to charge or accept a fee for professional work which is calculated on a percentage basis except where that course is authorized by statute or has been approved by a member body as generally accepted practice for certain work.

1.7.5 Auditor shall not pay a commission to obtain a client nor should he accept a commission for referral of a client to a third party.

2. Limits on Audit Engagements

An Auditor shall not accept audit engagement beyond the limits of number of audits, if any, as may be specified under applicable laws or by ICSI.

3. Independence and Disclosure on Conflict of Interest by an Auditor

An Auditor shall be independent in his role as Auditor and there shall not be any actual or even perception of conflict of interest. Any potential perception of conflict of interest must be disclosed by the Auditor before accepting the audit assignment or as soon as he becomes aware of the same, as the case may be.

Conflict of Interest may arise in the following situations:

- a) Ownership: where an Auditor holds more than 2% in the paid-up share capital or ownership capital of the Auditee, there may be a perception of conflict of interest. In such cases, the Auditor shall make disclosure before accepting the audit assignment or as soon as he becomes aware of the same, as the case may be. There may also be a situation where the

Auditor holds more than 10% in the paid-up share capital or ownership capital of the Auditee, which may seriously impair the independence of the Auditor. In such cases, the Auditor shall not accept the Audit Engagement.

- b) Financial Interest: where an Auditor is indebted to the Auditee for an amount, as may be prescribed by ICSI, the Auditor shall disclose the same before accepting the audit assignment or as soon as he becomes aware of the same, as the case may be. There may also be a situation where the indebtedness may seriously impair the independence of the Auditor. In such cases, the Auditor shall not accept the Audit Engagement.
- c) Relationships: where a Relative (as defined under the Companies Act, 2013) of the Auditor is the Owner, Director or KMP of the Auditee, the independence of the Auditor may be perceived to be seriously impaired. In such cases, the Auditor shall not accept the Audit Engagement.
- d) Past Employment Relationship: where an Auditor was in employment of the Auditee during the immediately past 3 (three) years, there may be a perception of impairment of Auditor's independence. An Auditor shall not accept any Audit assignment unless 3 (three) years have lapsed from the date of acceptance of Audit Assignment.

4. Confidentiality

- i. The Auditor shall not disclose to outsiders, the information acquired as a result of audit engagement without proper and specific authority or unless there is a legal or professional right or duty to disclose;
- ii. The Auditor shall refrain from using information acquired as a result of audit engagement to their personal advantage or the advantage of third parties.
- iii. The Auditor shall maintain confidentiality even in a social environment. The Auditor should be alert to the possibility of inadvertent disclosure, particularly in circumstances involving long association with a business associate or a relative.
- iv. The Auditor shall also maintain confidentiality of information disclosed by a prospective Auditee.
- v. The Auditor shall also consider the need to maintain confidentiality of information within the firm or employing organization.
- vi. The Auditor shall take all reasonable steps to ensure that employees, staff and other team members under the Auditor's control and persons, from whom advice and assistance is obtained, shall adhere to the Auditor's duty of confidentiality.

5. Limitations of Audit

5.1 The fact that because of the inherent limitations of an audit, together with the inherent limitations of internal control, there is an unavoidable risk that some material misstatements or material non-compliances may not be detected, even though the audit is properly planned and performed in accordance with the Standards.

5.2 Internal control, no matter how effective, can provide an Auditee with only reasonable assurance about achieving the entity's reporting objectives or compliance objectives due to the inherent limitations of internal control. Such Internal control systems and processes are responsibility of the Management. Accordingly an engagement letter shall include a statement that because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk exists that some material non-compliance may not be detected, even though the audit is properly planned and performed in accordance with Standards.

5.3. An independent audit conducted in accordance with the standards does not act as a substitute for the maintenance of internal control mechanism in the organisation which is the primary responsibility of the Management.

6. Changes in Engagement terms

- 6.1** An Auditor who, before the completion of the engagement, is requested by the Management to change the engagement to one which provides a lower level of assurance, shall consider the appropriateness of doing so. Besides, the reason or rationale behind the request for revisions must be thoroughly scrutinised.
- 6.2** Any request from the Auditee to the Auditor to change the terms of engagement may result from a change in circumstances affecting the need for the service originally requested or a restriction on the terms of the engagement, whether imposed by Management or caused by circumstances. The Auditor shall consider carefully the reason given for the request, particularly the implications of a restriction on the scope of the engagement.
- 6.3** A change in circumstances that affects the Auditee's requirements

or a misunderstanding concerning the nature of service originally requested shall ordinarily be considered a reasonable basis for requesting a change in the engagement. In contrast a change shall not be considered reasonable if it appeared that the change relates to information that is incorrect, incomplete or otherwise unsatisfactory.

- 6.4** Before agreeing to change an audit engagement to a related service, the Auditor who was engaged to perform an audit in accordance with the Standard shall consider, in addition to the above matters, any legal or contractual implications of the change.

If the Auditor concludes that there is reasonable justification to change the engagement and if the audit work performed complies with the Standards applicable to the changed engagement, the report issued would be as per the revised terms of engagement.

CSAS-2

Auditing Standard on Audit Process and Documentation

Contents

Scope

Effective Date

Objective

Definitions

- i. Auditor
- ii. Auditee
- iii. Auditee Units
- iv. Management

Requirements

1. Audit Planning
2. Risk Profiling
3. Information about Auditee
4. Audit Checklists
5. Verification, scrutiny of documents & records, collection & evaluation of Audit Evidence
6. Analysis of Audit Evidence
7. Documentation
8. Materiality
9. Confirmation
10. Record Keeping

CSAS-2

Auditing Standard on Audit Process and Documentation

Scope

This Auditing Standard ('the Standard') is applicable to the Auditor undertaking any audit assignment under the Companies Act, 2013 or SEBI Act, 1992 or any other law for the time being in force. The Standard deals with responsibilities, duties and powers of the Auditor with respect to Audit Process to be followed by him in performing the audit function and maintaining proper documentation with respect to the audit.

Effective Date

This Standard is effective for audit engagements accepted by the Auditor on or after.....

Objective

- The objective of this Standard is to prescribe principles for an Auditor:
- (i) to perform the audit function as per the specified audit process;
 - (ii) to prepare the documentation that provides:
 - (a) a sufficient and appropriate record to form the basis for the Auditor's report; and
 - (b) evidence that the audit was planned and performed in accordance with Standards and applicable legal and regulatory requirements.

Definitions

For the purpose of this Standard, the following terms have the meaning attributed below:

- i. **Auditor**
Auditor means a Member of the Institute of Company Secretaries of India undertaking the Audit.
- ii. **Auditee**
An Auditee includes a person subject to audit under any law for the time being in force.
- iii. **Auditee Unit**
An Audit Unit includes a unit, which has one or more of the following attributes:
 - substantial devolution of administrative and financial powers;
 - functional autonomy; and
 - operational significance with reference to achievement of objectives of the Auditee.
- iv. **Management**
Management includes the Board of Directors, those charged with governance and compliances, KMPs or any other person authorised by the Auditee.

Requirements

1. Audit Planning

- 1.1.** The Auditor shall make the audit plan to conduct the audit as per

audit engagement terms.

- 1.2. Audit planning includes establishing and developing the overall audit process, which includes but not limited to:
 - Identification of broad audit areas;
 - Allocation of audit resources for the audits to be undertaken
 - Risk profiling;
 - Preparation of audit Schedule;
 - Selection of Auditee units for audit ;
 - Determination of specific subject matter/Audit areas requiring special attention, where considered necessary.
- 1.3. Audit shall be planned in a manner which ensures that a qualitative audit is carried out in an efficient and effective way and in a timely manner. Adequate planning will ensure that appropriate attention is accorded to crucial areas of audit and that potential problems are identified in a timely manner. The Auditor shall plan the audit with an attitude of professional scepticism and exercise professional judgment.
- 1.4. The audit plan shall be adhered to the extent possible; however, it may be modified in circumstances like unexpected events, changes in conditions, or as a result of the audit evidence obtained during the course of audit.

2. Risk Profiling

- 2.1 Risk profiling of the Auditee and their Audit Units shall be done considering their structures, roles they are expected to perform and compliance requirements. The Auditor shall apply the risk assessment methodology by evaluating high risk areas/activities of Auditee relating to:
 - Internal control environment, systems and processes of the Auditee for adherence to the constitutional documents, applicable laws, Rules, Regulations and standards, Compliance level of applicable laws, Rules, Regulations and standards, etc.; and
 - Transparency, prudence and probity.
- 2.2 The risk assessment methodology shall include a review of the following:
 - Major policy initiatives of Government impacting the Auditee;
 - Reports of Legislative Committees impacting the Auditee;
 - Changes in any laws impacting the Auditee;
 - Changes in economic environment impacting the Auditee;
 - Finance & Appropriation Accounts;
 - Geographical location;
 - Past audit coverage;
 - Past Audit findings/ Inspection Reports /Internal Audit Reports;
 - Court orders, litigation history and prosecutions, if any;
 - Audit Committee suggestions/recommendations, if any;
 - Number of notices received and replies to questions given to the statutory authorities;
 - Media reports and visibility of topics;
 - Trend of expenditure and /or receipts with Industry benchmark;
 - Volume and value of Related party transaction;
 - Contingent liability and its likely impact on Auditee.

3. Information about Auditee

Auditor shall obtain sufficient information which is necessary for conduct of audit and expression of opinion.

4. Audit Checklists

The Auditor shall use thorough, systematic and comprehensive

checklist for performance of Audit ensure that no compliance point is missed from verification while conducting audit.

5. Verification, scrutiny of documents & records, collection & evaluation of Audit Evidence

- 5.1 The Auditor shall verify compliance with applicable laws, Rules and Regulations and highlight deviations, if any. Further, the Auditor shall obtain competent, relevant and reasonable evidence to support his judgment as well as conclusions regarding the organisation, programme, activity or function under audit.
- 5.2 The evidence collection and evaluation is a simultaneous, systematic and an iterative process and involves:
 - collection of evidence by performing appropriate audit procedures;
 - Evaluating the evidence obtained as to its sufficiency (quantity) and appropriateness (quality);
 - Re-assessing risk and gathering further evidence, if necessary.
- 5.3 The evidence gathering and evaluation process shall continue until the Auditor is satisfied that sufficient and appropriate evidence exists to provide a basis for formation of the audit conclusions.
- 5.4 Audit evidence may be gathered using a variety of techniques such as the following:
 - Sampling
 - Document scrutiny
 - Physical inspection/site visits
 - Observation
 - Questionnaires
 - Confirmation
 - Analytical procedures

6. Analysis of Audit Evidence

- 6.1 After evaluating the evidence and considering its materiality, the Auditor shall decide how best to conclude in the light of the evidence collected and which would be the supporting key documents to arrive at audit conclusions.
- 6.2 While evaluating evidence Auditor shall find that audit evidence is conflicting i.e. while some evidence supports the subject matter information other evidences seem to contradict it. In such situations the Auditor shall weigh the extent and credibility of conflicting evidence in order to reach a conclusion or collect more evidence to resolve the conflict.

7. Documentation

- 7.1 Documentation of audit evidence supports audit conclusions and confirms that the audit was carried out in accordance with relevant standards.
- 7.2 Auditor shall adequately document the audit evidence in working papers, including the basis and extent of planning, work performed and the findings of audit. Working papers shall contain sufficient information to enable the Auditor, having no previous connection with the audit, to ascertain from those evidence that supports the Auditor's significant findings and conclusions.
- 7.3 Adequate documentation is important for several reasons which inter alia includes:
 - confirm and support the Auditor's opinion and report;

- increase the efficiency and effectiveness of audit;
 - evidence that the audit was planned and performed in accordance with Standards and applicable legal and regulatory requirements;
 - serve as a source of information for preparing reports or answering any; enquiries from the Auditee or from any other party;
 - serve as evidence of the Auditor's compliance with Auditing Standards;
 - facilitate planning and supervision;
 - records for peer review; and
 - provide evidence of work done for future reference
- 7.4** Audit Documentation shall take place throughout the entire audit process. The confidentiality of documentation shall be maintained and shall be retained for a period sufficient to meet the professional, legal and statutory requirement, if any.
- 7.5** Audit Documentation shall comprise of audit file and working papers
- 7.6** Audit file shall be maintained in one or more folders or other storage media in physical or electronic form, therefore contains documents that summarize the specific audit engagement. Audit file shall be properly indexed, referenced with and supplemented by the set of working papers.
- 7.7** Working papers for each audit comprise of all documents collected during the audit process. It shall include the documents relating to the nature, timing and extent of audit procedures that were performed by individual members of the audit team, details of contracts/ agreements that were examined, etc., evidences that were gathered, evaluation of evidences, consideration of written responses from concerned officers /agents of the Auditee supporting key documents and the process of arriving at the results of audit procedures – audit findings and conclusions. The working papers could be in one or more folders, but shall be properly indexed, referenced and retrievable.
- 7.8** Working papers serve as a link between the field work and the audit report and shall, therefore, be complete and appropriately detailed to provide a clear trail of audit.
- 7.9** Some of the broad characteristics of working papers are set out below:
- **Completeness and accuracy:** Provide support to audit conclusions.
 - **Clarity and conciseness:** Facilitates understanding the entire audit process without need for any supplementary examination.
 - **Legibility and neatness:** Applies particularly to photocopies.
 - **Relevance:** Working papers shall be restricted to matters, which are important, pertinent and useful for the intended purpose.
 - **Ease of reference:** Working papers shall be organised in volumes in a manner that facilitates easy reference. An omnibus, easy to follow, index may be created for all the volumes with a proper narration to broadly explain their contents. Each of the volumes may further be internally indexed.
 - **Ease of review:** Working papers should contain cross references to discussion papers, audit observations, etc. (including note issued to management and their response for discussion) and the audit report as the case may be to enable Auditor to link the working papers to audit findings and conclusions.
 - **Complete audit trail of analysis:** Working papers should provide a complete trail of the audit procedures performed, evidence that were gathered and evaluated, audit findings

and conclusions that were drawn. This should contain evidence for positive findings as well.

- Documentation of significant audit findings.

8. Materiality

- 8.1** Auditor may consider materiality throughout the audit process. However, if Audit engagement requires/demands thorough verification of each event/aspect, the Auditor shall make appropriate verification of non-material events/aspects also.
- 8.2** Determining materiality is a matter of professional judgment and depends on the Auditor's interpretation of the users' needs. A matter can be judged material if knowledge of it would be likely to influence the decisions of the intended users. This judgment may relate to an individual item or to a group of items taken together.
- 8.3** Materiality consists of both quantitative and qualitative factors.
- 8.4** Issues that may be considered material even if the monetary value is not significant would include the following:
- Fraud;
 - Intentional unlawful acts or non-compliance;
 - Incorrect or incomplete information to governing body and KMPs, the Auditor or to the regulators, banks FI, lenders concealment);
 - Intentional disregard to the executive, authoritative bodies or Auditor; and
 - Events and transactions made event or transaction.
 - Reporting of Whistle blower events
 - Major noncompliance on affecting the going concern existence of the Auditee.
- 8.5** The basis for the materiality shall be recorded in writing in the audit file.

9. Confirmation

Auditor shall obtain a reply independently from third party with regard to those information which is related to third parties.

Illustrations:

- a) Certificate from the bankers on Dividend account balances;
- b) Letter from the internal Auditor and/or statutory Auditor on any identification of fraud or any despite knowledge of the lack of legal basis to carry out the particular weaknesses in the systems and processes during their audit.
- c) Letter from the banker on the date of transfer of Unpaid Dividend Account.
- d) Letter from the Independent directors on the familiarization programme attended by them.
- e) Certificate from the Chairman of Independent Directors on conduct of the meeting of the independent directors, if the minutes are not available/provided for verification.
- f) Report on status of compliances from Stock Exchange or other regulators.

10. Record Keeping

- 10.1** Audit documentation shall be assembled for retention within a reasonable period of time after the Auditor's report is released. Such reasonable period of time shall not exceed forty five days.
- 10.2** Auditor shall record all information in writing. In case any information is provided orally, the same shall be documented by the Auditor immediately.
- 10.3** Auditor shall establish policies and procedures for retention of engagement documentation for a period sufficient to meet the needs of the firm or as required by law or regulation.

CSAS-3

Auditing Standard on Forming of Opinion

Contents

Scope

Effective Date

Objective

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- i. Auditor
- ii. Audit Evidence
- iii. Records
- iv. Materiality
- v. Misstatement
- vi. Third Party
- vii. Third Party Information

Requirements

1. Process for forming of Opinion
2. Precedence and Practices
3. Forming an opinion on report of third party
4. Form of Opinion and Qualification
5. Opinion Paragraph
6. Communication with Those Charged with Governance
7. Auditor's Responsibility
8. Format of Report

CSAS-3

Auditing Standard on Forming of Opinion

Scope

This Auditing Standard ('the Standard') is applicable to Auditor while carrying out Audit under the Companies Act, 2013 or SEBI Act, 1992 or any other law for the time being in force. This Standard deals with basis and manner for forming Auditor's opinion on subject matter of the audit.

Effective Date

This Standard is effective for audit conducted by Auditor on or after.....

Objective

The objective of the standard is to lay down the basis and manner, enabling the Auditor to:

- a) form an opinion, based on evaluation of the conclusions drawn from the audit evidence obtained; and
- b) clearly express such opinion through a written report.

Definitions

- i. **Auditor**
Auditor means a Member of the Institute of Company Secretaries of India undertaking the Audit.
- ii. **Audit Evidence**
Audit evidence is evidence obtained during the audit and recorded in the audit file and working papers either in physical or electronic form.
- iii. **Records**

For the purpose of this Standard the term records include:

- (i) Minutes, returns, forms, indexes, and Statutory Registers
- (ii) Books and papers including books of accounts, deeds, vouchers;
- (iii) Agreements, Memorandum of understanding; and
- (iv) Other documents maintained by the Auditee either in physical or electronic form.

iv. Materiality

Materiality is the threshold above which missing or incorrect information is considered to have an impact on the decision making of Auditor. Information is material if its omission or misstatement could influence the opinion of Auditor. Materiality can also be construed in terms of net impact.

v. Misstatement

Misstatement means any information which is false, incorrect, incomplete or misleading.

vi. Third Party

Any person who does not have a direct connection with the given assignment but whose inputs might influence the opinion and includes an expert.

vii. Third Party Information

The third party information means the information that either belongs to or is obtained from the third party.

Requirements

1. Process for forming of Opinion

1.1 Forming of opinion based on the audit observations is an important part of any audit as through this process the outcome of audit are presented in the form of Audit Report to the intended users. Audit inter alia involves reporting compliance of or deviations from the applicable laws.

1.2 Auditor shall consider materiality while forming his opinion and adhere to the principles of completeness, objectivity, timeliness and contradictory process while reporting:

- (i) The principle of completeness requires the Auditor to consider all relevant audit evidence before issuing a report;
- (ii) The principle of objectivity requires the Auditor to apply professional judgment and skepticism in order to ensure that all reports are factually correct and that findings or conclusions are presented in a relevant and appropriate manner;
- (iii) The principle of timeliness implies preparing the report in due time; and
- (iv) The principle of a contradictory process implies checking the accuracy of facts and incorporating responses from concerned persons.

2. Precedence and Practices

Auditor shall adhere to generally accepted precedence and practices in relation to opinion formation as may be available from historical perspective of any kind of audit.

3. Forming an opinion on report of third party

Sometimes due to circumstances like geographical constraints or want

of expertise an Auditor may be required to rely on the third party reports and third party reports may sometime also be arranged by the Auditee. The auditor shall adhere to the following while forming opinion on third party reports:

- (i) The Auditor shall clearly indicate the fact of use of third party report and shall also record the circumstances necessitating the use of third party report;
- (ii) The Auditor shall indicate the fact if third party report is arranged by Auditee;
- (iii) The Auditor shall consider the important findings/observation of third party;
- (iv) The Auditor shall, if necessary and possible, carry out a supplemental test to check veracity of the third-party report.

4. Form of Opinion and Qualification

4.1 Unmodified Opinion

The Auditor shall express an unmodified opinion when the Auditor concludes that-

- (i) there is due compliance with the applicable law in terms of timelines and process; and
- (ii) the records as a whole are free from material misstatement and maintained in accordance with applicable laws.

4.2 Modified Opinion

The Auditor shall modify the opinion, if the Auditor:

- (i) concludes, based on the audit evidence obtained, that there is material non-compliance with the applicable laws in terms of timelines and process; or
- (ii) concludes, based on the audit evidence obtained, that the records as a whole are not free from material misstatement; or are not maintained in accordance with applicable laws; or
- (iii) is unable to obtain sufficient appropriate audit evidence to conclude there is due compliance with the applicable laws in terms of timelines and process
- (iv) is unable to obtain sufficient and appropriate audit evidence to conclude that the records as a whole are free from material misstatement; or are maintained in accordance with applicable laws.

4.3 Management-imposed Limitation

4.3.1 If, after accepting the engagement, the Auditor becomes aware that Management has imposed a limitation on the scope of the audit which, in the opinion of the Auditor, is likely to result in the need to express a qualified opinion or to disclaim an opinion, the Auditor shall request the Management to remove the limitation.

4.3.2 If Management refuses to remove the limitation, the Auditor shall communicate the matter to those charged with governance and compliances, unless all of those charged with governance are involved in managing the entity, and determine whether it is possible to perform alternative procedures to obtain sufficient appropriate audit evidence.

4.3.3 If the Auditor is unable to obtain sufficient appropriate audit evidence, the auditor shall determine the implications as follows:

- (a) If the Auditor concludes that the possible effects of unavailable audit evidence could be non-material, the Auditor shall qualify the opinion; or
- (b) If the Auditor concludes that the possible effects of unavailable audit evidence could be material the Auditor shall:
 - (i) Withdraw from the audit, where practicable and possible under applicable law or regulation; or
 - (ii) If withdrawal from the audit before issuing the audit report is

not practicable or possible, disclaim an opinion.

4.3.4 If the Auditor withdraws as contemplated above, before withdrawing, the Auditor shall communicate to those charged with governance any matters regarding non-compliance identified during the audit that would have given rise to a modification of the opinion.

5. Opinion Paragraph

5.1 When the Auditor modifies the audit opinion, the Auditor shall use the heading "Adverse Opinion," "Qualified Opinion," or "Disclaimer of Opinion," as appropriate, for the opinion paragraph.

5.2 When the Auditor expresses an adverse opinion, the Auditor shall state in the opinion paragraph that, in the Auditor's opinion, because of the significance of the matter(s) described in the "Basis for Adverse Opinion" paragraph and then continue with the opinion and describe reasons in the "Basis for Adverse Opinion" paragraph.

5.3 When the Auditor expresses a qualified opinion, the Auditor shall state in the opinion paragraph that, in the Auditor's opinion, except for the effects of the matter(s) described in the "Basis for Qualified Opinion" paragraph and then continue with the opinion and describe reason in the "Basis for Qualified Opinion" paragraph.

5.4 When the Auditor disclaims an opinion the Auditor shall state in the opinion paragraph the opinion is disclaimed because of the matter described in the "Basis for Disclaimer of Opinion" paragraph and describe reasons in the "Basis for Disclaimer of Opinion" paragraph.

6. Communication with Those Charged with Governance

When the Auditor expects to modify the opinion in the Auditor's report, the Auditor shall communicate with those charged with governance the circumstances that led to the expected modification and the proposed wording of the modification. Those charged with the governance, where appropriate, shall be given opportunity to supply further information, explanation and material in respect of the matter(s) giving rise to expected modification.

7. Auditor's Responsibility

The Auditor's report shall include a section with the heading "Auditor's Responsibility". Auditor's Report shall state that the responsibility of the Auditor is to express the opinion on the compliance with the applicable and maintenance of records based on audit. Auditor's Report shall also state that the audit was conducted in accordance with applicable Standards. The Auditor's Report shall also explain that those Standards require that the Auditor comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about level of compliance with applicable laws and maintenance of records.

8. Format of Report

8.1 The report shall be addressed to the appointing authority unless otherwise specified in Audit engagement letter or provided in the applicable law. The report shall be detailed enough to serve its intended purpose, but, it shall avoid unnecessary details. Where specific formats (like MR-3 for Secretarial Audit Report) are prescribed, those formats shall be followed for reporting. If any information cannot be captured within the paragraphs of the report, it shall be given in form of annexure(s).

8.2 Signature block shall mention the name of the audit firm, the personal name of the Auditor or both, as appropriate for the particular jurisdiction along with certificate of practice number and the membership number, specifying whether associate or fellow member. The Auditor should clearly mention date and place of signing the report, in case report is signed by two different persons at on different dates or different places; same should be mentioned in the report.

CSAS-4

Auditing Standard on Secretarial Audit

Contents

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Effective Date

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- i. Auditor
- ii. Audit Procedure
- iii. Board process
- iv. Systems and process
- v. Trigger test

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- 1.1 Identification of basic details
- 1.2 Trigger test for validation of applicable laws
- 1.3 Segregation of Industry specific and other applicable

2. Verification of compliance of Laws

- 2.1 Creation of master checklist
- 2.2 Identification of Events/Corporate Actions
- 2.3 Verification of Compliance
- 2.4 Summarizing Non Compliances

3. Board composition

- 3.1 Minimum and maximum limit on number of Directors on the board
- 3.2 Optimum Combination of Board
- 3.3 Eligibility requirements of directors
- 3.4 Board Committees

4. Board processes

5. Systems and Processes

- 5.1 Assessment of Compliance organogram
- 5.2 Assessment of Compliance tracker
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- 5.4 Maintenance of Records
- 5.5 Concurrent Audit of Samples
- 5.6 Compliance reporting
- 5.7 Overall Assessment

6. Detection of Fraud

7. Reporting of Fraud

8. Identification & Reporting of the events/actions having major bearing on Company's affairs

CSAS-4

Auditing Standard on Secretarial Audit

Scope

This Auditing Standard ('the standard') is applicable to Auditor undertaking Secretarial Audit under section 204 of the Companies Act, 2013. The Standard deals with responsibilities of the auditor while carrying out Secretarial Audit of a Company. The Standard is in addition to other Auditing Standards, as may be applicable with regard to Secretarial Audit.

Effective Date

This Standard is applicable for Secretarial Audit undertaken by the Auditor on or after.

Objective

The objective of this Standard is to prescribe principles for evaluation of:

- a) statutory compliances; and
- b) corporate conduct in relation to statutory Compliances for conducting Secretarial Audit and expression of an opinion thereon by the auditor.

Definitions

i. Auditor

Auditor means a Member of the Institute of Company Secretaries of India undertaking the Audit.

ii. Audit Procedure

An audit procedure represents the broad framework of the manner of handling the audit, including techniques used for forming an opinion.

iii. Board process

The board process means process followed for decision making by the Board and its committees.

iv. Systems and process

Systems and process signify broad framework including activities for compliance of law.

v. Trigger test

Trigger test means the parameters by which applicability of particular enactment, rule, regulation, guideline, provision, etc. is ascertained.

Requirements

1. Identification of applicable laws

The Auditor shall take note of various laws applicable to the Company as identified by the Board of Directors of the Company

in addition to the laws specifically mentioned in the form of the Secretarial audit report.

1.1 Identification of basic details

The Auditor shall identify the basic details as indicated below to apply trigger test for the applicability of the laws:

- Key financial parameters such as Turnover, Paid-up share capital, Net worth, Borrowings, etc.
- Geographic location of registered office, units/divisions/plants/branches, etc.
- Status of company such as listed/unlisted
- Type/Class of company such as Private, Public, Holding, Subsidiary, Foreign, Nidhi, Producer, Section 8, etc.
- Registration with various authorities such as SEZ, Sectoral Regulators, etc.
- Segment such as Manufacturing/Trading/Service/e-commerce and Industry classification thereof;
- Agreements governing rights, obligations of shareholders such as Joint venture, shareholders' agreements
- Number, class and category of employees/workers such as women, contractual employees, etc.

1.2 Trigger test for validation of applicable laws

The auditor shall validate the laws applicable to the Company by applying trigger test on details collected at Para 1.1 above.

1.3 Segregation of Industry specific and other applicable laws

Segregation of laws applicable on the Company into the Industry specific and other category is essential. The auditor shall make the segregation of the same based on the understanding of the Company and after application of trigger test as provided in 1.1 and 1.2 above. The auditor shall ensure the verification of the various laws is done as per the table below:

Category	Principles	Verification Requirement
Industry Specific Laws	All laws, rules, regulations made for regulation of specific Industry; and	Comprehensive verification of Compliances
Other applicable laws	All laws applicable on Company other than Industry Specific	Assessment of systems and process only

2. Verification of corporate conduct & compliance of Laws

2.1 Creation of master checklist

The auditor shall create master checklists for laws (laws specifically mentioned in the format of the secretarial audit report and Industry Specific laws) by making segregation in event based and calendar based compliances.

2.2 Identification of Events/Corporate Actions

The auditor shall identify events/Corporate actions that took place during the audit period. The identification can be made by reviewing the website of the regulators, statutory records including books and papers, interaction with the Company and in any other appropriate manner.

2.3 Verification of Compliance

The auditor shall verify all event based and calendar based compliances with master checklists, making mention of source documents relied for verification.

2.4 Summarizing Non Compliances

Based on above verifications, the auditor shall create summary of non-compliances, if any, for seeking clarifications from management or for reporting in the Audit report.

3. Board composition

3.1 Minimum and maximum limit on number of Directors on the board

The auditor shall verify the overall composition of the Board including the minimum and maximum strength of the Board as per provisions of the Companies Act, 2013, SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, Articles of Association and provisions of other Acts/rules/regulations as may be applicable to the Company.

3.2 Optimum Combination of Board

The auditor shall verify the combination of Executive, Non-executive, Independent, Non-independent, retiring, non-retiring, woman, nominee in the Board as per provisions of the Companies Act, 2013, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Articles of Association, agreement with Lenders/Investors and provisions of other Acts/rules/regulations as may be applicable to the company.

3.3 Eligibility requirements of directors

The auditor shall verify the eligibility criteria including qualifications of Directors in accordance with the provisions/principles laid down in the Companies Act, 2013, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Articles of Association and provisions of other Acts/rules/regulations as may be applicable on the Company.

3.4 Board Committees

The auditor shall verify the constitution and composition of mandatory Board Committees.

4. Board processes

4.1 The auditor shall ensure the verification to the effect that whether Board decisions have been taken in compliance to applicable Secretarial Standards, Act, Rules, Articles of Association, SEBI Listing Regulations and other applicable laws.

4.2 In case of conflict between various provisions the stricter compliance to be verified.

5. Systems and Processes

5.1 Assessment of Compliance organogram

The Auditor needs to check as to whether there is clear demarcation

of responsibility for ensuring various compliances to be done by the Company. In the absence of such clear demarcation, the ultimate responsibility lies with the Board of Directors of the Company. The auditor shall perform an assessment of Compliance organogram to understand compliance responsibility centers, control points, matrix, flow of information/non-compliances escalation.

5.2 Assessment of Compliance tracker

The auditor shall perform an assessment of Compliance tracker (manual or software driven) to understand its extent, coverage and severity mapping. The Auditor may also make assessment of Compliance manual/standard operation Procedures (SOP's), if any, available with the Company.

5.3 Identification of Non Compliances & Instances of Show cause notices received, Penalty/fine levied

The auditor shall identify the non-compliances and instances of Show Cause notices received, reply submitted by the company including the likely impact on the Company based on provisions in accounts and disclosures in contingent liabilities, Penalty/fine levied to make assessment of compliance mechanism towards compliances and risk assessment.

5.4 Maintenance of Records

The auditor shall perform an assessment of adequacy and effectiveness of the maintenance of records.

5.5 Concurrent Audit of Samples

The auditor shall identify sample size and timing for respective compliance for performing concurrent audit to assess the adequacy of systems and processes.

5.6 Compliance reporting

The auditor shall review the Compliance reports submitted to the management /Board at regular interval to assess compliance level as well as systems and process.

5.7 Overall Assessment

An Overall assessment of systems and process, based on above verifications and also making an assessment of adequacy thereof, considering size, no of units/branches, severity of compliance shall be performed by the auditor.

6. Detection of Fraud

6.1 A fraud may impact the organization adversely in monetary or other terms. The Auditor shall report the fraud, if the same has been observed by him during the course of audit.

6.2 The Auditor shall check whether the company has any anti-corruption and/or anti-bribery policy, ethics policy which may be in place at the Company.

6.3 The Auditor may communicate directly with the internal auditors

and statutory auditors to verify whether they have suspected/ identified any fraud during the course of their audit.

6.4 During the course of the audit, if the auditor suspects any commission of fraud, he shall endeavour to collect further evidence for the same. The suspicion may arise on perusal of internal control systems, perusal of any complaints under whistle blower mechanism, reports of the other auditors, etc.

6.5 The auditor shall ensure to collect sufficient evidence which substantiates his suspicion of the commission of the fraud against the Company by the employees and officers of the company. The auditor shall ensure that he has sufficient reason to believe that there is commission of fraud and should have justifiable grounds for the same.

7. Reporting of Fraud

7.1 The Auditor shall report the fraud to Audit Committee/Central Government as per process laid down in the Companies Act, 2013 and include the same in Secretarial Audit Report.

7.2 The Auditor shall verify if Audit Committee has given any comments on such suspected fraud and directors have included details of suspected fraud in their report in terms of the provisions of the Companies Act, 2013.

7.3 The Auditor shall verify if the fraud detected by other Auditor has been reported to Audit Committee/Central Government. If yes then include the same in Secretarial Audit Report.

7.4 If fraud has been detected by management, which is not required to be reported by Auditor to the Audit Committee/Central Government in terms of the provisions of section 143(12) of the Companies Act, 2013, it shall be included in the Secretarial Audit Report.

8. Identification & Reporting of the events/actions having major bearing on Company's affairs

It shall be the duty of the Auditor to identify and report all events/actions having major bearing on the Company's affairs in pursuance of the applicable laws, rules, regulations, guidelines, standards, etc. An event/action may be considered as having major bearing on Company's affairs includes the following situations:

8.1 Events/actions affecting going concern status of the Company

8.2 Events/actions altering the charter documents of the Company

8.3 Capital structure of the company

8.4 Change in the affairs and management of the company

8.5 Change in the licensing or permission for the business operation of the company

8.6 Capacity expansion and utilization of the company.

MEMBERS RESTORED FROM 1/08/2017 TO 31/08/2017

SL. No	A/F	MEMB No.	MEM. NAME	PLACE
1	A	6513	HEMANT SHRINIVAS PAI	WIRC
2	A	14589	NITAL C GANDHI	WIRC

CERTIFICATE OF PRACTICE CANCELLED DURING THE MONTH OF AUGUST, 2017

SL. No	NAME	MEMB No.	COP No.	REGN
1	MR. HIRENKUMAR POPATBHAI VALA	ACS 42685	16572	WIRC
2	MS. POOJA KAMAL LAHOTY	ACS 27358	16465	WIRC
3	MR. RAJENDRA MANKER	ACS 40536	15462	WIRC
4	MS. SWATI SANDEEP NIVALKAR	ACS 43815	16601	WIRC
5	MR. LAXMAN TIKAMDAR VASANDANI	ACS 24051	17179	WIRC
6	MR. HARISH GUPTA	ACS 4111	17225	WIRC
7	MR. LELE CHINMAY MOHAN	ACS 45864	18455	WIRC
8	MS. KHUSBOO VIVEK JALAN	ACS 408523	17781	WIRC
9	MS. SHWETA AGRAWAL	ACS 23368	16347	WIRC
10	MR. SAUNAK VIJAY KUMAR DAVE	ACS 26755	9748	WIRC
11	MS. NISHITA NARESH JAIN	ACS 40532	15294	WIRC
12	MS. DHARA PRATIK SHAH	ACS 29177	12475	WIRC
13	MS. NIDHI DEVANGKUMAR PARIKH	ACS 41421	18171	WIRC
14	MR. SADANAND NANA KADAM	ACS 29316	10606	WIRC
15	MS. VARSHA KISHAN CHOTANI	ACS 45961	16816	WIRC
16	MS. PRIYANKA MAHAVIR AGRAWAL	ACS 51154	19152	WIRC
17	MR. SOHAM HARSHADBHAI PARMAR	ACS 29890	12229	WIRC
18	MS. VINEETA ARVINDKUMAR SHAH	ACS 33683	17118	WIRC
19	MR. ABHISHEK JAIN	ACS 37738	16635	WIRC
20	MR.SURUCHI SATHIA	ACS 24126	10410	WIRC
21	MR.DUBE ANUJA OMPRAKASH	ACS 44198	16947	WIRC
22	MR. AMIT SURESH JOSHI	ACS 30590	14447	WIRC



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory Body under an Act of Parliament

WESTERN
INDIA
REGIONAL
COUNCIL

Hosted by : Goa Chapter of WIRC of ICSI



Annual Regional Conference 2017 At GOA

**WIRC OF ICSI Announces its
Annual Regional Conference For 2017**

Theme - Company Secretaries - Unveiling Opportunities

November 2017, 3rd to 5th Friday to Sunday

VENUE

Hotel Park Regis, Saqwadi, Arpora, Bardez, Goa - 403516

Tel: +91 0832 674 0674



PCH - 10
PDP - 16

WIRC OF ICSI ANNOUNCES ANNUAL REGIONAL CONFERENCE 2017

at Goa, the most exotic location of the Country

(Hosted by Goa Chapter of WIRC of ICSI)

Theme - Company Secretaries - Unveiling Opportunities

Inauguration at hands of:

Shri Manohar Parikkar, Hon'ble Chief Minister of Goa and

Shri Suresh Prabhu, Hon'ble Union Minister for Ministry of Industries and Commerce, Govt. of India

In the august presence of

CS(Dr.) Shyam Agrawal, President, The ICSI and

CS Makarand Lele, Vice President, The ICSI

Highlights of the Conference

Nitty Gritty of NCLT - Expert Level

IBC - Company Perspective

SEBI LODR - Company Perspective

Secretarial Audit

Distinguished Speakers include:

CS K. Sethuraman

**Group Company Secretary & Chief Compliance Officer
Reliance Industries Limited.**

CS (Dr.) K S Ravichandran

**Practising Company Secretary &
Member Secretarial Standard Board, ICSI**

CS Vineet Chaudhary

Council Member, ICSI

and other eminent speakers will address the participants.

PLEASE PLAN YOUR JOURNEY AND BOOK YOUR TICKETS

CS Prakash K Pandya

Chairman
WIRC of ICSI

CS Shilpa Kedar Dixit

Vice- Chairperson
WIRC of ICSI

CS Praveen Soni

Secretary
WIRC of ICSI

CS Chetan Patel

Program Director
Chairman, Professional
Development Committee
(Outside Mumbai) WIRC of ICSI

CS Hitesh Kothari

Co-Program Director
Chairman,
Professional Development Committee
(Mumbai) WIRC of ICSI

CS Ashish Karodia

Program Co-ordinator
Treasurer
WIRC of ICSI

CS Amit Kumar Jain

Program Co-ordinator
Regional Council Member
WIRC of ICSI

CS Shilpa Dhulapkar

Chairperson
Goa Chapter

CS Shweta Kharangate

Secretary
Goa Chapter

CS Manisha Naik

Chairperson
Professional Development Committee
Goa Chapter

For Enrollment / Information Contact

Mr. Pramod Keot

Executive Assistant

WIRC of ICSI,

56 & 57 (Fifth Floor), Jolly Maker Chamber No. 2

Nariman Point, Mumbai - 400 021

Tel: 022 61307924 Email: pdc.icsiwirc@gmail.com

Ms. Neha Gawas

Programme Assistant

Goa Chapter of WIRC of ICSI

6th floor, Indraprasth Building opp., Govinda

Building, Menezes Braganza Road, Panaji,

Goa - 403001

Tel: 0832-2435033 Email: goa@icsi.edu

Delegate Registration Fees (Inclusive of GST)

Delegates	Non-Residential (Rs.)	☆ Residential Triple Occupancy (Nov 3 rd & 4 th) (Rs.)	☆ Residential Double Occupancy (Nov 3 rd & 4 th) (Rs.)
Members & Students	7,000/-	10,500/-	12,500/-
Non-Member	8,000/-	11,500/-	13,500/-
Spouse	N.A.	N.A.	12,000/-

Considering the demand received from members for residential participation an arrangement is made at the hotel Resort Rio at the same commercials. It is less than 2 kms. from conference venue and pick and drop arrangements are also made to the venue and back.

(Delegate Fees Non –Residential will cover the cost of back ground materials, lunch on Nov 04 & 05, 2017, dinner on Nov 03 & Nov 04, 2017 and AMT & PMT during the conference)

(Delegate Fees Residential will cover the cost of back ground material, breakfast on Nov 04 & 05, 2017, lunch on Nov 04 & 05, 2017, dinner on Nov 03 & Nov 04, 2017 and AMT & PMT during the conference)

Those members who are bringing sponsorship (in aggregate from 1 or more sponsor) of Rs.25,000/- will be entitled for one Non- residential participation free.

Those members who are bringing sponsorship (in aggregate from 1 or more sponsor) of Rs.50,000/- will be entitled for one Residential (Triple Sharing) participation free.

How to Pay

Online Registration facility is available

For Offline Enrollment / Information Contact

Mr. Pramod Keot

Executive Assistant
WIRC of ICSI,
56 & 57 (Fifth Floor), Jolly Maker Chamber No. 2
Nariman Point, Mumbai - 400 021
Tel: 022 61307924 Email: pdc.icsiwirc@gmail.com

Ms. Neha Gawas

Programme Assistant
Goa Chapter of WIRC of ICSI
6th floor, Indraprasth Building opp, Govinda
Building, Menezes Braganza Road, Panaji,
Goa - 403001
Tel: 0832-2435033 Email: goa@icsi.edu

Back-Grounder cum Souvenir

It is proposed to bring out a Souvenir-cum-Backgrounder containing theme articles and other papers. The Backgrounder-cum-Souvenir would be circulated to professionals, corporates and other delegates attending the conference. Advertisement released in the Backgrounder-cum-Souvenir would receive wide publicity for Products, Services and Corporate Announcements. Members / Organizations are requested to release advertisements.

Advertisement in Conference

WIRC of ICSI welcomes Companies and organizations to display their Banners at the venue of the Conference, which will provide publicity for their products / services. The tariff for display of banners is as under :-

Banners / Standees Inside Hall	
Near Stage	Per Banner of (B) 3 * (L) 6 ft size - INR 20000
Inside hall any where	Per Banner of (B) 3 * (L) 6 ft size - INR 10000

WIRC of ICSI welcomes Companies and organizations to provide sponsorship for the Conference. The details are given below :-

Types of Sponsor	Benefits to Sponsor
Principal Sponsor INR 500,000	1. Display of Logo on / alongside of main Backdrop of the Conference
	2. Printing of Logo on the e-Brochure to be circulated to all the members of the Institute.
	3. One Stall at the Conference Venue for display of your services
	4. Entitlement to include insertions in the kit
	5. Acknowledgement in the Inauguration and Valedictory Session of the Conference
	6. One full page Back side Cover in Conference Souvenir
	7. Four Complimentary passes for Conference (on residential basis – twin sharing)
Co-Sponsor INR 250,000	1. Display of Logo on / alongside of main Backdrop of the Conference
	2. Entitlement to include insertions in the kit
	3. Acknowledgement in the Inauguration and Valedictory Session of the Conference
	4. One Special page advertisement in Conference Souvenir
	5. Two Complimentary pass for Conference (on residential basis – twin sharing)
Lunch Sponsor INR 2,50,000 per Day	Same as Co-Sponsor and display of banner at Lunch Venue
Dinner Sponsor INR 2,50,000 per Night	Same as Co-Sponsor and display of banner at dinner Venue
High Tea Sponsor INR 75,000 per session	1. Display of Banner at High Tea Venue
Stall at the Conference Venue INR 35,000/-	1. Maximum size 6' x 6'

- **Organizations providing Advertisement / sponsorships of INR 50,000 and more will be displayed on the conference backdrop.**

The Advertisement material & /or other details for banners etc. along with cheque/demand draft may be sent to **WIRC of ICSI** or **Goa Chapter of WIRC of ICSI**

SPONSORSHIP FORM
ANNUAL REGIONAL CONFERENCE 2017
at Goa, the most exotic location of the Country
 (Hosted by Goa Chapter of WIRC of ICSI)

To,
 Regional Director
 ICSI-WIRC
 5th Floor, 56 & 57,
 Jolly Maker Chambers, No. 2,
 Nariman Point Mumbai – 400021

To
 Goa Chapter of WIRC of ICSI
 6th floor, Indraprasth Building, Opp. Govinda
 Building, Menezes Braganza Road,
 Panaji, Goa - 403001

Dear Sir,

We are pleased to sponsor the following event at the **Three Days Annual Regional Conference Organised by ICSI-WIRC** on 03rd, 04th and 05th November, 2017 at Hotel Park Regis, Saqwadi, Arpora, Goa - 403516.

1.	Principal Sponsor	--	*
2.	Co-Sponsor	--	*
3.	Sponsorship for Lunch	(Specify Date – 04th / 05th)	*
4.	Sponsorship for Dinner	(Specify Date – 03rd / 04th)	*
5.	Sponsorship for High Tea	(Specify Date – 3 rd PM / 4 th AM / 4 th PM / 5 th AM)	*
6.	Banner	(Specify Particulars)	*
7.	Stall	--	*
8.	Any other support (e.g., Distribution of Publicity Material, Product samples, Literature, Pen/Pad, Kit etc.)		*

* (v) Tick whichever is applicable

Details of Payment:

AMOUNT Rs. _____

Mode of Payment

DD No.

Cheque No.

Drawn on Bank.

(Draft / Cheque to be drawn in favour of "WIRC of ICSI" OR "Goa Chapter of WIRC of ICSI")

The advertisement matter / art work / bromide / CD is / are enclosed / being sent separately.

Name of the Organization:

Address:

Tel. No: (Off.): _____

E-mail: _____

Yours faithfully,

Date:

Place:

REGISTRATION FORM
ANNUAL REGIONAL CONFERENCE 2017
at Goa, the most exotic location of the Country
 (Hosted by Goa Chapter of WIRC of ICSI)

Dear Sir,

Please register the following person as delegate for attending Three Days Annual Regional Conference organised by ICSI-WIRC on 03rd, 04th and 05th November, 2017 at Hotel Park Regis, Saqwadi, Arpora, Goa - 403516.

Name of the Delegate : Mr./Ms. _____

Designation: _____

Name of the Organization _____

Address: _____

Membership No: FCS _____ ACS _____

Student Register No. _____

Contact Details: _____

Tel. Nos.: (Off.): _____ (Res.): _____ (Fax): _____

E-mail: _____

Cell: _____

FOR RESIDENTIAL DELEGATES :

Arrival Details	
Date and Time of Arrival	
By Train / Road / Air	
Train No. / Flight No.	

Amount of Rs. _____ is enclosed towards / Non residential / 2 Night residential accommodation

on Double / Triple sharing basis.

Your faithfully,

(Sponsoring Authority/Delegate)

Date :

Place :



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Mr. Amit Vishal – (Senior Manager) - 022-24994360 / amitv@nsdl.co.in

Mr. Sagar Gudhate – (Manager) - 022-24994642 / sagarg@nsdl.co.in

Mr. Rajiv Ranjan – (Assistant Manager) - 022-24994738 / rajivr@nsdl.co.in

Ms. Pallavi Mhatre – (Assistant Manager) - 022-24994545 / pallavid@nsdl.co.in

Ms. Kritika C. Rai – (Assistant Manager) - 022-24994553 / kritikar@nsdl.co.in

For any further information regarding e-Voting, you may contact us at:

Mr. Nitin Ambure

Vice President

National Securities Depository Limited

Trade World, A Wing, 4th Floor, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai-400013

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तमसो मा ज्योतिर्गमय- Lead us from darkness to light

Focus magazine gives you an opportunity to educate and enlighten your fellow professionals by inviting articles from members across India on topic of their interest, but related to the profession. It should not exceed more than 1500 words. Those who are interested in contributing articles may contact the undersigned or Chairman, ICSI-WIRC at csamitkjain@gmail.com or chairman.wirc@icsi.edu Credit Hours will be granted as per the ICSI guidelines. Also Best three articles will be identified at the end of the year and the authors will be duly recognized. Come and join ICSI-WIRC in leading the colleagues to light from darkness of knowledge.

CS Prakash Pandya
Chairman - ICSI - WIRC



THE INSTITUTE OF
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IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

WESTERN
INDIA
REGIONAL
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Small Drops of Water,
Makes the Mighty Ocean.

An Appeal from ICSI-WIRC towards the Voluntary
Contribution to CSBF & be a part of noble cause.

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With you always for the Profession:

CS Prakash K. Pandya

Chairman, ICSI-WIRC

chairman.wirc@icsi.edu