

# Secretarial Audit

## - A Practical Approach



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## **Disclaimer**

- The views expressed are personal views of the presenter and should not be considered as views/opinion of the ICSI. Further there may be many more approaches to conduct Secretarial Audit.



A

- General Introduction

B

- Understanding the Audit Report

C

- Audit Process

D

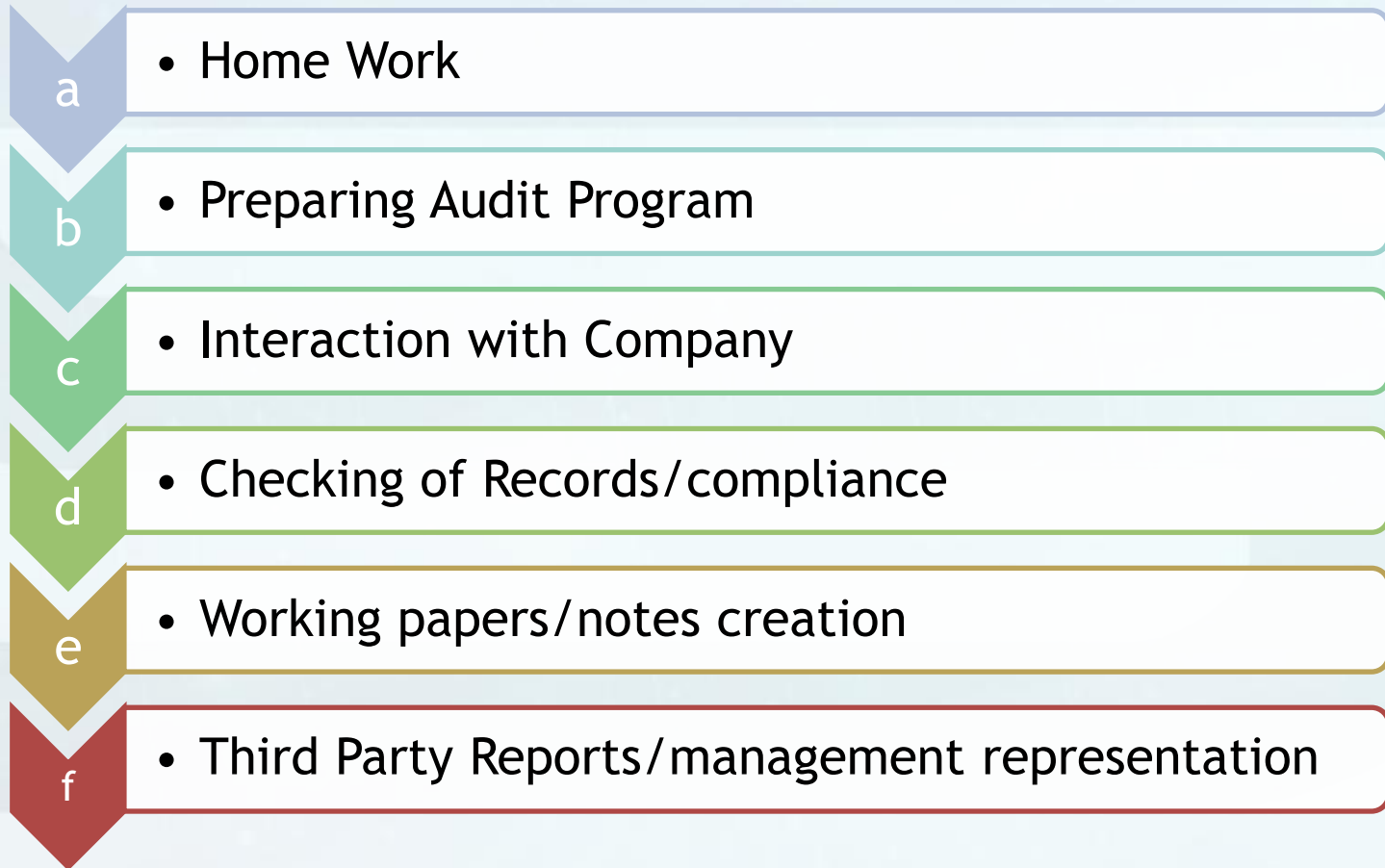
- Audit Report & Sample qualifications

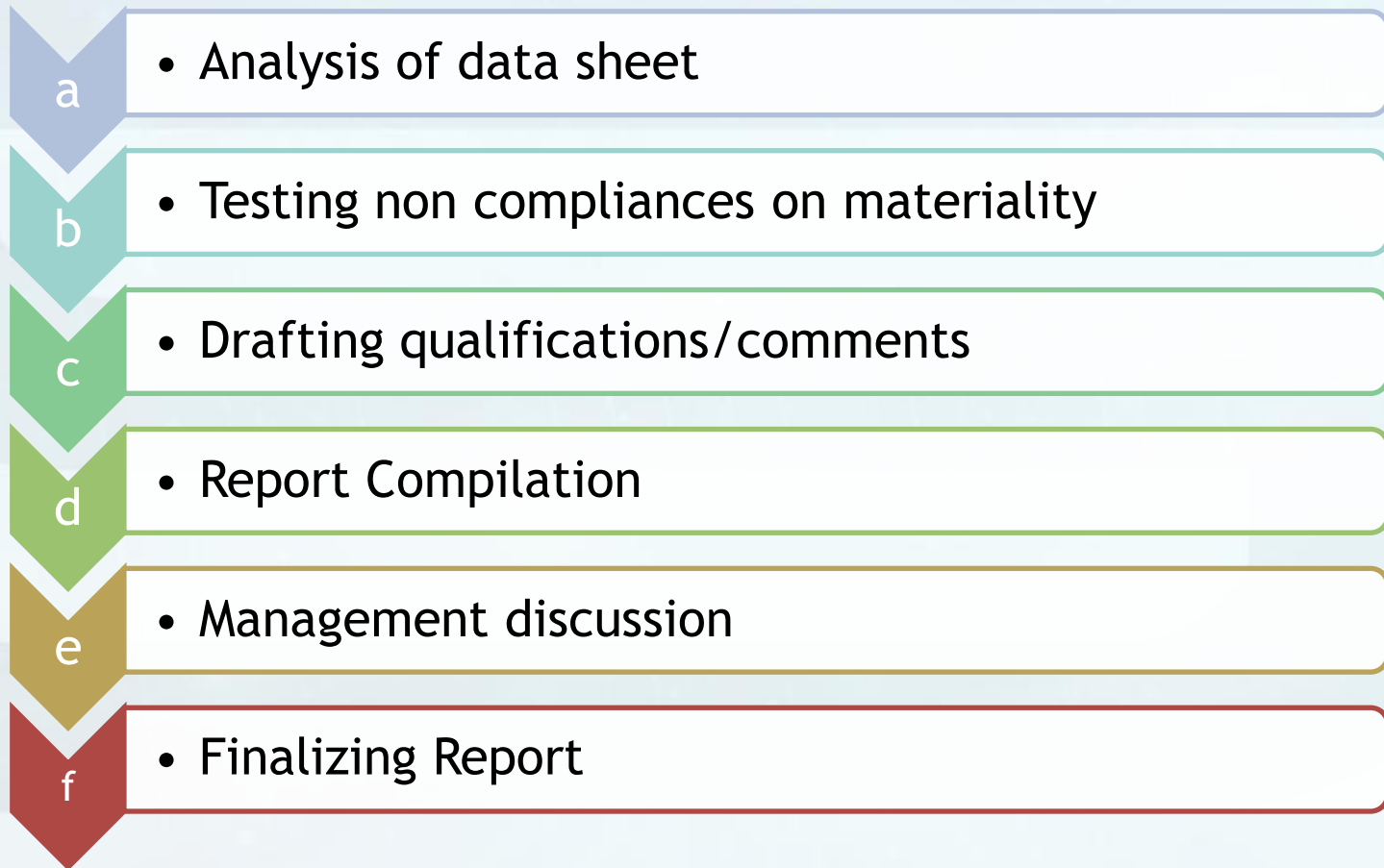
E

- Creating Audit Record file for peer Review

F

- Follow up





## Applicability

### Listed

All Companies whose  
any security is listed  
on stock exchange

### Public

Having Paid up  
share capital  
=> Rs. 50 crores

Having turnover  
=> Rs. 250 crores

### Private

Subsidiary of Public  
Limited having  
prescribed capital/  
turnover

Whose Debentures  
are listed

## Appointment of Secretarial Auditor

Appointment at Board Meeting on  
recommendation of Audit Committee

[S-179(3), 177(4)(i) & R-8(4)]

Filing of MGT - 14

Issue of Appointment Letter

## Tenure of Appointment

No Clarity in the Act as to if appointment has to be for each year or can be made for more than one year also

By practice it is presumed that appointment is for reporting period

And shall come to end on submission of report to the Board



## When to be Appointed

No mention in the Act

Since SAR is annexure to Board Report &  
Scope is so wide

Early is better. So it can be taken up as  
continuous activity and spread over year

## Removal/Resignation

No mention in the Act

Since Board is appointing authority, removal shall also require Board Approval

Resignation can also be submitted/accepted by Board

## Powers of Secretarial Auditor

To get all assistance and facilities for audit of secretarial and related records [S-204(2)]

Same powers as of Statutory Auditors under Section 143

Right of access at all times of relevant records and ask any officer to provide so

## Duties of Secretarial Auditor

Same duties as of Statutory Auditors under Section 143

Duty to report fraud to Central Government  
[S-143(12)]

Duty to obtain all information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit


## Duty to Report Fraud

If he has sufficient reasons to believe that an offence involving fraud, is being or has been committed against the company by officer/employees

Immediately send Report to Board/Audit Committee seeking reply with 45 days

Auditor to send report with Board replies in F- ADT 4 with in 15 days of receipt of Reply. If Board does not reply, he shall forward report stating such fact

## **Fraud in relation to affairs of a company or any body corporate, includes**



any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner

with intent to deceive, to gain undue advantage from, or to injure the interests of the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss

For Fraud reporting – only frauds committed by officers/employees are covered

## Liability for fraud

| Section | Action   | Who will be penalized  |
|---------|--|--|
| 7(5)    | Fraud in relation to the registration of a company | The person furnishing false or incorrect particulars of any information or suppressing any material information, of which he is aware                                  |
| 7(6)    | Fraud in relation to incorporation of a company    | Promoters, persons named as the first directors of the company and the persons making declaration under clause (b) of subsection (1) of Section 7 shall each be liable |
| 34      | Criminal liability for misstatement in prospectus  | Every person who authorizes the issue of such prospectus   |

## Liability for fraud

| Section | Action   | Who will be penalized  |
|---------|--|--|
| 36      | Fraudulently inducing persons to invest money  | The person so inducing   |
| 38(1)   | Personation (making, abetting, inducing) for acquisition, subscription, of securities  | The person so personating  |
| 46(5)   | Issue of duplicate share certificate with intent to defraud  | Every officer of the company who is in default. Further, such person shall also be liable to fine as specified   |
| 140(5)  | Auditor has acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers | The individual or firm. He/it shall not be eligible to be appointed as an auditor of any company for a period of 5 years from the date of passing of the order |



## Liability for fraud

| Section | Action  | Who will be penalized   |
|---------|---|---|
| 143(15) | If any auditor, cost accountant or company secretary in practice do not comply with the provisions of sub-section 143(12) i.e. reporting of fraud | The individual shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees                         |
| 229     | Furnishing false statement, mutilation, destruction of documents  | Person required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, or officer or other employee as required |

## Liability for fraud

| Section | Action   | Who will be penalized   |
|---------|--|---|
| 339(3)  | Fraudulent conduct of business of company with intent to defraud creditors of the company or any other persons or for any fraudulent purpose   | Every person who was knowingly a party to the carrying on of the business in the manner aforesaid |
| 448     | Making a false statement in any return, report, certificate, financial statement, prospectus, statement or other document required by, or for, the purposes of any of the provisions of this Act or the rules made there under | Person making such statement  |

## Risk for Secretarial Auditor

| Section | Action   | Penalty  |
|---------|--|--|
| 143(15) | If Secretarial Auditor fails to report fraud to Central Government   | Fine – 1 lacs to 25 lacs   |
| 448     | Make a false statement in Secretarial Audit Report.<br>(offence – cognizable, bail only after giving opportunity to public prosecutor and court is satisfied that he is not guilty and not likely to commit offence during bail) | Imprisonment - 6 months to 10 years and fine - 1 time to 3 times of fraud involved.<br>Where fraud involves public interest, term of imprisonment shall not be less than three years |

## Risk for Secretarial Auditor

| Section                               | Action   | Penalty                                 |
|---------------------------------------|--|---|
| 245(1)(g)<br>)                        | Class Action Suits   | As may be determined by tribunal        |
| Schedule II (Part –I) of CS Act, 1980 | “discloses information acquired in the course of his professional engagement to any person other than the client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force.” | Removal<br>Fine can go up to Rs.5 Lakhs |

## Second Schedule (Part – I) of CS Act, 1980

A

- Disclosure/sharing of information acquired

B

- Certification without examination

C

- Becoming fortune teller

D

- Expressing opinion in respect of Company in which he has substantial interest

E

- Failure to disclose material facts in report

## Second Schedule (Part – I) of CS Act, 1980

F

- Failure to report material misstatement

G

- Gross negligence

H

- Fails to obtain sufficient information

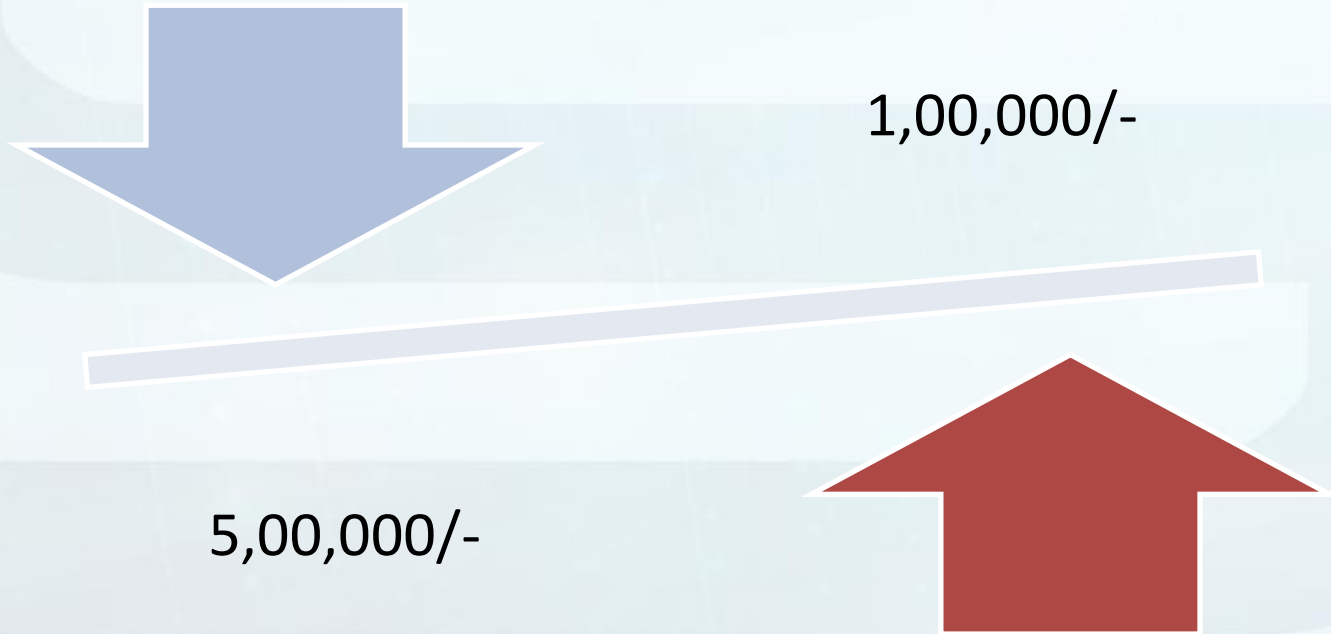
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- Fails to invite attention to any material departure from generally accepted procedure

J

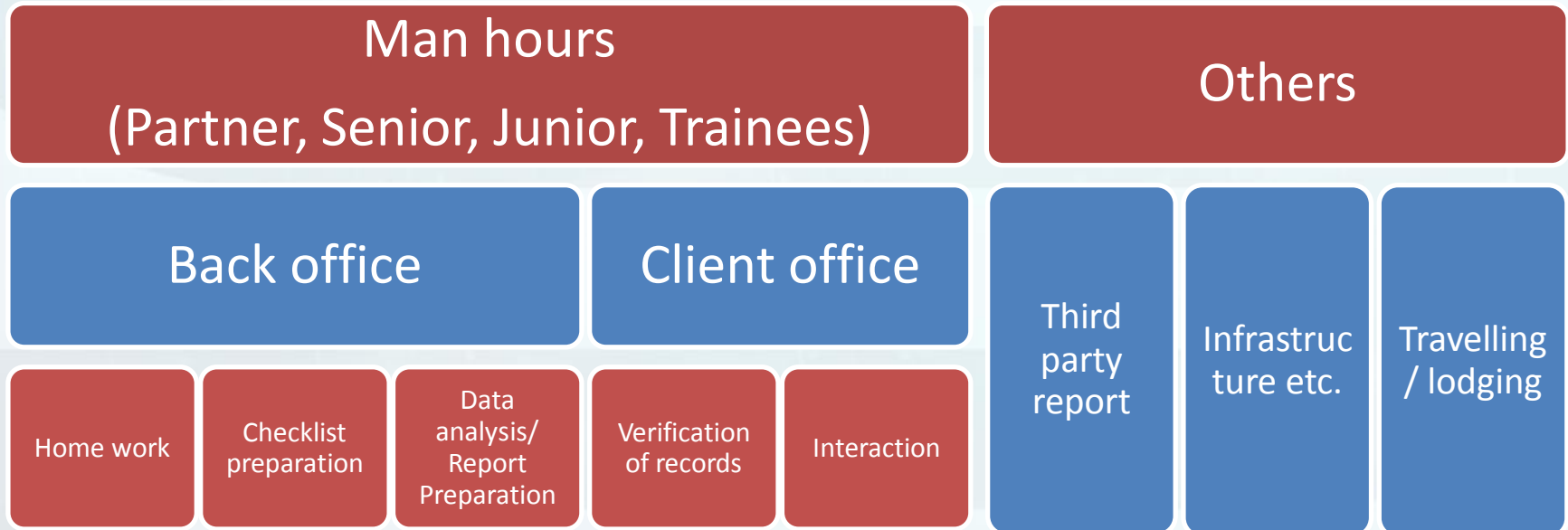
- Fails to keep money advanced by client separately for using the same for intended purpose (Statutory fees etc.)

## Penalty under section 204 (Company, officer or PCS)



## Fees for Secretarial Audit

### Elements of Cost





## Report of Secretarial Auditor

Report to be prepared in Form MR – 3 [R-9(2)]

Annexed to the Board Report [S-134(3)]

Board to explain in full in Board Report any qualification or observation or other remarks [S-204(3)]

## Comparative Analysis with other Audits

| Sr. No. | Particulars          | Secretarial   | Statutory  | Cost  |
|---------|----------------------|---|--|---|
| 1.      | Governing Provisions | S – 204 & Companies (App and Rem of Managerial Personnel) Rules, 2014                                   | S – 139 & The Companies (Audit and Auditors) Rules, 2014 | S – 148 & the Companies (Cost records an Audit) Rules, 2014   |
| 2.      | Applicability        | Listed companies<br>Public company<br><b>Capital =&gt; Rs 50 cr</b><br><b>Turnover =&gt; Rs. 250 cr</b> | All Companies  | Regulated<br>Overall Turnover<br>=> 50 cr<br>Ind => 25 cr<br>Unregulated<br>Overall Turnover<br>=> 100 cr<br>Ind => 35 cr |

## Comparative Analysis with other Audits

| Sr. No. | Particulars          | Secretarial                                  | Statutory   | Cost   |
|---------|----------------------|--|---|--|
| 3.      | Appointing Authority | Board<br>(early appointment advisable)       | 1 <sup>st</sup> – Board (with in 30 days)<br>Next at AGM<br>CAG | Board<br>(90 days of begin of FY)                  |
| 4.      | Remuneration         | Audit Committee & Board                      | Audit Committee, Board & Shareholders<br>CAG                    | Audit Committee & Board<br>Ratification by members |
| 5.      | Tenure               | No mention<br>Practice of yearly appointment | 5 years   | Yearly   |

## Comparative Analysis with other Audits

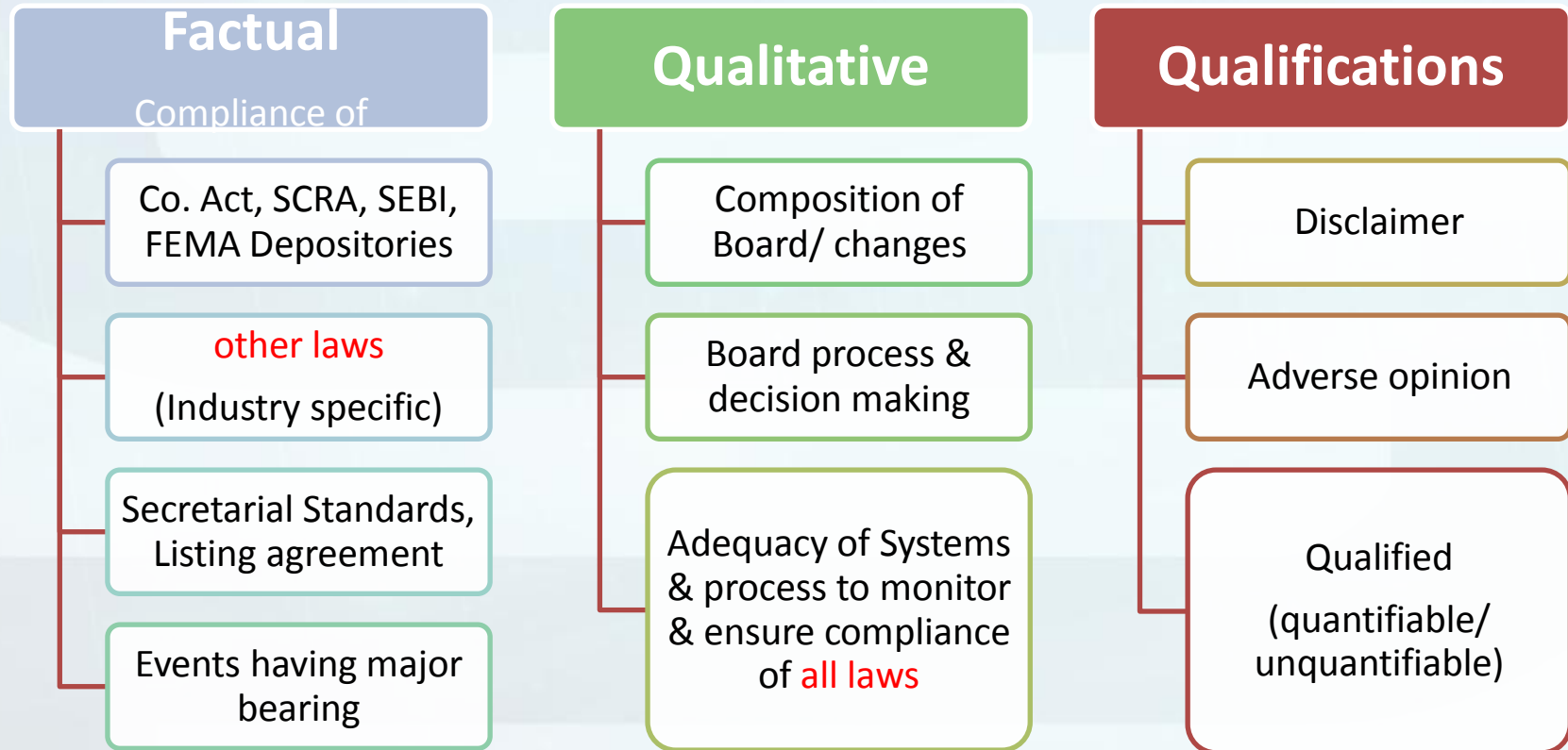
| Sr. No. | Particulars       | Secretarial             | Statutory                                   | Cost                |
|---------|-------------------|-------------------------|---|---------------------|
| 6.      | Form              | MGT – 14<br>(30 days)   | ADT- 1<br>(15 days)                         | CRA -2<br>(30 days) |
| 7.      | Maximum Audits    | 5<br>(Proposed by ICSI) | 20  | Not fixed so far    |
| 8.      | Report            | MR -3                   | -   | CRA -3              |
| 9.      | Disqualifications | -                       | S- 141                                      | -                   |
| 10.     | Restrictions      | -                       | Can not provide certain services<br>(S-144) | -                   |

## What is Audit

Auditing is a **systematic** and **independent examination** of data, statements, **records**, operations and performance (financial or otherwise) of an enterprise **for a stated purpose**.

The Auditor **perceives and recognizes** the propositions before him for examination, **collects evidence, evaluates** the same and on this basis, **formulates his judgment** which is communicated through his audit report.

## Secretarial Audit Report



## Secretarial Audit Report

### Para 1

- **Declaration:**
- **What has been done:** The auditor has conducted secretarial audit of applicable statutory provisions and adherence to the good corporate practices.
- **How it has been done:** The auditor has conducted secretarial audit in such a manner that provided reasonable basis for making evaluation of Corporate conduct, statutory compliances and expression of opinion thereon.

## Secretarial Audit Report

### Para 2

- **Opinion**
- **Basis on which opinion given**: Verification of records, information provided by Auditee.
- **Opinion regarding**: Compliance of listed statutory provisions and existence of proper Board process and compliance mechanism.



## Secretarial Audit Report

### Para 3

- Details of verification
- **5 specified laws**: Listing of the Act, rules (out of 5) applicable on the Company in respect of which records had been verified.
- **Other laws**: Listing of other laws applicable on respective Industry in respect of which records had been verified.

## Secretarial Audit Report

### Para 4

- Details of verification
- **Secretarial Standards**: Mention of Secretarial Standards applicable on the Company, which had been verified.
- **Listing agreement**: Mention listing agreement with stock exchange, applicable on the Company, which has been verified.

## Secretarial Audit Report

Para 5

- Non compliances / observations / audit Qualification / reservation / adverse remarks

## Secretarial Audit Report

### Para 6

- **Further opinion:**
- **Board constitution/changes:** Board is duly constituted with proper balance of requisite category of directors and changes were made in compliance of law.
- **Board process:** BM notice, agenda, agenda notes were sent at least 7 days in advance and system exist for seeking further information/clarification before meeting.
- **Decision making:** Decisions are taken through majority and dissent is duly recorded.

## Secretarial Audit Report

### Para 7

- **Further opinion:**
- **Compliance Management System:** Adequacy of systems and process, considering the size and operations of the Company, to monitor and ensure compliance of applicable laws. (includes all laws not only Industry specific, but also labour etc.)

## Secretarial Audit Report

Para 8

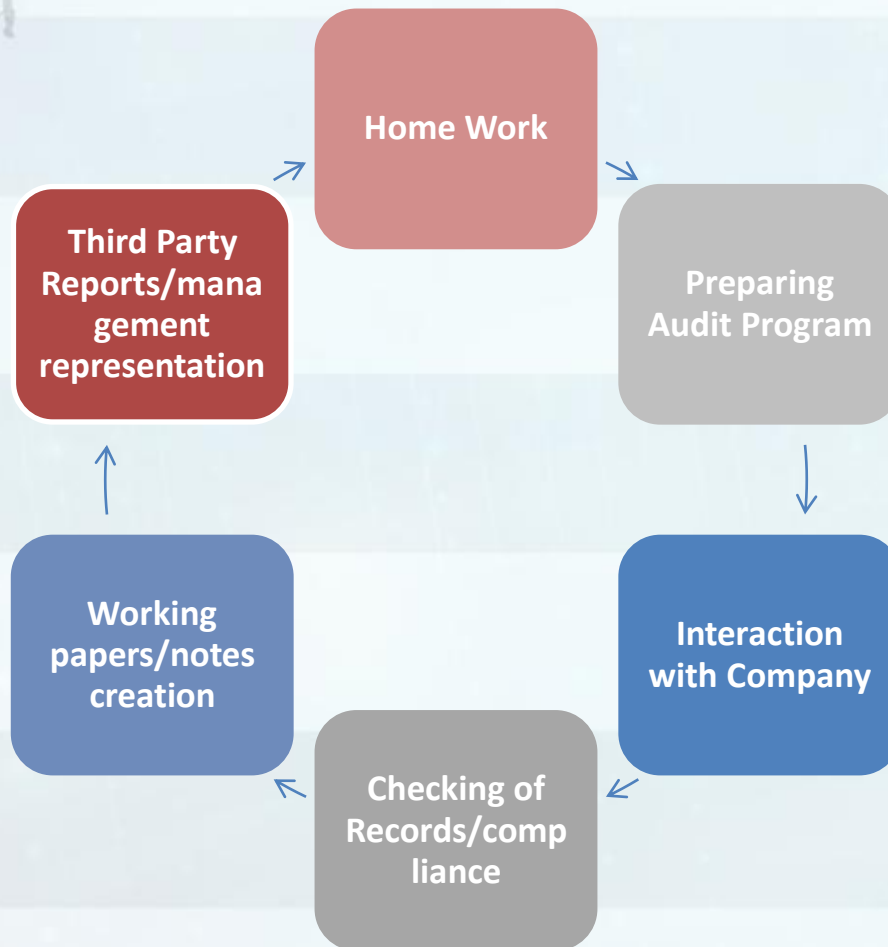
- Non compliances / observations / audit Qualification / reservation / adverse remarks

## Secretarial Audit Report

### Para 9

- Further Opinion:
- **Specific Events/actions**: List of specific events/actions having major bearing on the affairs.

# Audit Process





## Objectives of Homework

A

- Identification of trigger points for applicability of laws viz. Geographical locations, no of employees, capital, turnover etc

B

- Checking the applicability of 5 specific laws/rules. Preparing list of Industry specific applicable laws and others.

C

- Preparing list of events and filtering of events/actions having bearing on Companys' affairs

D

- Preparing Company profile and data sheet

E

- Board composition and changes

## Objectives of Home work

F

- Understanding Compliance management system

G

- Assessment of Board Process

H

- Website disclosures

I

- Understanding the gaps & preparing questionnaire

J

- List of documents/information required

## Documents/Returns etc. Required

|  |  |   |   |  |
|--|--|---|---|--|
| Statutory Registers  | Minutes/Agenda/<br>notices/dispatch<br>proof/ attendance<br>register | Audited Financial<br>Statements for last<br>3 years | Un-audited financial<br>statement for the<br>audit period | Returns/forms etc.<br>filed with statutory<br>authorities                  |
| News paper<br>Publication  | Non compliance,<br>prosecution letter/<br>orders                     | Report of Internal<br>Auditors for last 3<br>years  | Internal Auditor<br>report for audit<br>period            | Secretarial Audit<br>reports/ Due<br>Diligence Reports<br>for past 3 years |
| Declarations<br>regarding key<br>parameters that<br>triggers applicability | Statutory records /<br>returns under other<br>acts                   | Compliance officer/<br>officer in default           | Compliance<br>Management<br>System/ alert<br>system       | Organogram   |
| Third party Audit<br>reports   | Various Committee<br>charters, policies                              | Group Companies,<br>associates, JV's                | Agreements,<br>Technical<br>collaborations etc            | IPR's, Domain<br>registration, IT<br>Servers safety etc.                   |

## Home Work

# Know your Client Company

MCA/SE/Co Website

Google/  
Peer Co Websites

Geographic Locations/  
Industry/Structure/  
Sector/Segment (GLISSS)

Preparing Basic Co. data  
& Questionnaire

Create list of applicable  
laws

## List of Applicable Laws

### General Laws Applicable on all

Corporate

Labour

Taxation

### Structure

Listed

Unlisted

PSU

### Sector

Manufacturing

Trading

Service

## Various Segments

|                        |   |                   |                      |                 |
|------------------------|---|-------------------|----------------------|-----------------|
| Sugar/Alcohol          | Power                                   | Telecommunication | Mining               | Tourism & Hotel |
| Textile                | Capital Market & Financial Intermediary | Insurance         | Financial Service    | Banking & NBFC  |
| Information Technology | Drugs & Pharmaceuticals                 | Retail/Wholesale  | Agro/Food Processing | FMCG            |
| Engineering            | Infrastructure                          | Capital Goods     | Leather              | Leather         |

## Other factors affecting applicability of Law



## Examples of Labour Laws

|   |   |   |
|---|---|---|
| Factories Act, 1948   | Contract Labour Regulation & Abolition Act, 1970  | Fatal Accidents Act, 1855   |
| Workmen Compensation Act, 1923                                | Apprentice Act, 1961  | The Employers' Liability Act, 1938  |
| Minimum Wages Act, 1948                                       | Maternity Benefit Act, 1961   | The Personal Injuries (Compensation Insurance) Act, 1963                                |
| Payment of Wages Act, 1936                                    | Trade Union Act, 1926   | The Personal Injuries (Emergency Provisions) Act, 1962                                  |
| Equal Remuneration Act, 1976                                  | Employment Exchange Act, 1959   | The Sales Promotion Employees (Condition of Service) Act, 1976                          |
| Industrial Dispute act, 1947                                  | Prevention of Sexual Harassment Guidelines  | The Weekly Holidays Act, 1942   |
| Payment of Bonus Act, 1971                                    | Shops & Establishment Act   | The Children (Pledging of Labour) Act, 1938   |
| Payment of Gratuity Act, 1972                                 | Hazardous Waste Handling & Management Rules, 1989   | The Bonded Labour Systems (Abolition) act, 1976   |
| Employees Provident Fund & Miscellaneous Provisions Act, 1952 | Child Labour (Prohibition & Regulation) Act, 1986   | Retrenchment Compensation Act   |
| Employees State Insurance Act, 1948                           | The Industrial Employment (Standing Orders) Act 1946  | The Labour Welfare Fund Act   |
| Children (Pledging of Labour) Act 1933                        | The Labour Laws (Exemption from furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 | Interstate Migrant Workmen (Regulation of Employment & Condition of Service), Act, 1979 |



## List of Applicable Laws

| Corporate Laws                          | Corporate Laws                                     | Taxation                  |
|---|--|---------------------------|
| The Companies Act, 1956/2013            | Accounting Standards                               | Income Tax Act, 1961      |
| Listing Agreement                       | Secretarial Standards                              | Central Sales Tax Act/VAT |
| Securities Contract Regulation Act 1956 | Costing Standards                                  | Central Excise Act        |
| SEBI Act, Regulations & Guidelines      | SICA   | Service Tax               |
| Depositories Act, 1996                  | Industrial Development & Regulation Act, 1951      | Professional Tax Act      |
|   | Collection of Statistics Act, 1953                 |                           |
|   | Micro, Small & Medium Enterprises Devel. Act, 2006 |                           |
|   |  |                           |

## List of Applicable Laws

| Environment Related                  | General Industry                                  | Hazardous Industries   |
|--------------------------------------|---|--|
| The Environment Protection Act, 1986 | Industrial Development & Regulation Act, 1951     | Boilers Act, 1923  |
| Water Act, 1981                      | Motor Vehicles Act, 1988                          | Explosives Act, 1884   |
| Air Act, 1981                        | Collection of Statistics Act, 1953                | Petroleum Act, 1934  |
| The Energy Conservation Act, 2001    | Research & Development Cess Act                   | Dangerous Machines (Regulation) Act 1983                                     |
| Electricity Act, 2003                | Information Technology Act, 2000                  | Chemical Accidents (Emergency Planning, preparedness & Response) Rules, 1996 |
| State Electricity Acts               | Sales of goods Act, 1930                          | Insecticides Act 1968  |
| Water Cess Rules, 1977               | Standards of Weights & Measurement Act, 1976      | Poisons Act 1919   |
|                                      | Export (Quality Control and Inspection) Act, 1963 |  |

## List of Applicable Laws

| Event Based                      | Event Based   | Specific Industry  |
|----------------------------------|---|--|
| Indian Contract Act, 1872        | The Customs Act, 1962   | The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972                           |
| Indian Stamp Act, 1899           | The Consumer Protection Act, 1986   | The Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Fund Act, 1976 |
| Motor Vehicles Act, 1988         | The Competition Act   | The Cine Workers Welfare Fund Act, 1981  |
| Negotiable Instruments Act, 1881 | Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 | Motor Transport Workers Act, 1961  |
| Trademark Act, 1999              | Prevention of Money Laundering Act, 2002  | The Mica Mines Labour Welfare Fund Act, 1946   |
| Copy Right Act. 1957             | Sales Promotion Employees (Conditions of Service) Act, 1976                       |  |
| Designs Act 2000                 |   |  |
| FEMA, rules, regulations etc.    |   |  |

## List of Applicable Laws

| Sugar Industry  | Drugs Industry   | Tobacco Industry   |
|---|--|--|
| Sugar Cess Act, 1982                                      | Pharmacy Act, 1948   | Tobacco Board Act, 1975  |
| Levy Sugar Price Equalization Fund Act, 1976              | Drugs and Cosmetics Act, 1940                                    | Tobacco Cess Act, 1975   |
| Food Safety And Standards Act, 2006                       | Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 | Beedi and Cigar Workers (Conditions of Employment) Act, 1966   |
| Essential Commodities Act, 1955                           | Narcotic Drugs and Psychotropic Substances Act, 1985             | Beedi Workers Welfare Cess Act, 1976   |
| Sugar Development Fund Act, 1982                          | Food Safety And Standards Act, 2006                              | Beedi Workers Welfare Fund Act, 1976   |
| Export (Quality Control and Inspection) Act, 1963         | Indian Boilers Act, 1923   | Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA) |
| Agricultural and Processed Food Products Export Act, 1986 |  |  |
| Indian Boilers Act, 1923                                  |  |  |

## List of Applicable Laws

| Power Industry   | Gas Industry   | IT Industry   |
|--|--|---|
| The Electricity Act, 2003                                | Petroleum and Minerals Pipelines (Acquisition of Right of User Inland) Act, 1962 | The Information Technology Act, 2000                                      |
| National Tariff Policy                                   | Explosives Act, 1884   | The Special Economic Zone Act, 2005                                       |
| Essential Commodities Act, 1955                          | The Oilfield ( Regulation & Development) Act , 1948                              | Policy relating to Software Technology Parks of India and its regulations |
| Explosives Act, 1884                                     | Petroleum and Natural Gas Regulatory Board Act, 2006                             | The Export and Import Policy of India                                     |
| Indian Boilers Act, 1923                                 | The Petroleum Act, 1934  | The Indian Copyright Act, 1957  |
| Mines Act, 1952  | The Oil Industry( Development) Act 1974  |   |
| Mines and Mineral (Regulation and Development) Act, 1957 | The Mines Act, 1952  |   |
|  | Indian Boilers Act, 1923   |   |

## List of Applicable Laws

| Petroleum Industry   | Petroleum Industry  | Banking Industry   |
|--|---|--|
| Petroleum and Minerals Pipelines (Acquisition of Right of User Inland) Act, 1962 | The Territorial Waters, Continental Shelf, Exclusive Economic Zone And Other Maritime Zones Act, 1976 | The Banking Regulation Act 1949  |
| Explosives Act, 1884   | Merchant Shipping Act, 1983   | Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 |
| Petroleum and Natural Gas Regulatory Board Act, 2006                             | Offshore Areas Minerals (Development and Regulation) Act, 2002  | Regional Rural Banks Act, 1976   |
| The Petroleum Act, 1934  | Indian Boilers Act, 1923  | Information Technology Act, 2000                                       |
| The Oil Industry( Development) Act 1974  |   | Prevention of Money Laundering Act, 2002                               |
| Mines Act, 1952  |   | Credit Information (Companies Regulation Act), 2005                    |
| Mines and Mineral (Regulation and Development) Act, 1957                         |   | SARFAESI, 2002   |
|  |   | Securities Transaction Tax Act 2004                                    |

## List of Applicable Laws

| Broadcast Industry   | Broadcast Industry   | Broadcast Industry   |
|--|--|--|
| The Telecom Regulatory Authority of India Act, 1997                                      | The Standard of quality of service regulations -23.8.2009                        | Programme and Advertising Codes  |
| The Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 | Downlinking Guidelines dated 15/12/2009  | Compendium 2012 (CRS Guidelines)   |
| The Indian Wireless Telegraphy Act, 1933   | Guidelines for providing Headend-in-the-Sky (HITS) Broadcasting Service in India | Compendium 2011 Community Radio Stations in India  |
| Cable Television Networks (Regulation) Act,1995  | CAS Areas Tariff Order-31.08.2006  | Policy Guidelines for setting up Community Radio Stations in India                                     |
| Sports Broadcasting Signals (mandatory Sharing with Prasar Bharati) Act, 2007            | Advisory to TV Channels on quiz based game shows                                 | Compulsory transmission of Doordarshan and Parliament Channels on satellite/ cable Television Network. |

## List of Applicable Laws

| Broadcast Industry   | Broadcast Industry   | Broadcast Industry  |
|--|--|---|
| The Prasar Bharati (Broadcasting Corporation of India) Act -1990 | Guidelines to regulate child participation in TV serials, reality shows and advertisements | Carrying illegal TV Channels in violation of Downlinking policy guidelines in Cable dth Service |
| Policy guidelines for IPTV Service in India                      |  |   |
| Channels to be compulsorily carried by IPTV operators            |  |   |
|  |  |   |
|  |  |   |
|  |  |   |



## List of Applicable Laws

| Film Industry  | Media Industry  |  |
|--|---|--|
| The Standard of quality of service regulations -23.8.2009      | Press Council Act, 1978   |  |
| Policy for Certification of Films for Film Festivals           | Registration of Newspapers (Central) Rules 1956                   |  |
| The Cinematograph Act, 1952 and Rules                          | Press & Registration of Books Act 1867                            |  |
| Draft Cinematograph Bill, 2010                                 | The Parliamentary Proceedings (Protection of Publication) Act, 77 |  |
| Certification of Film Songs, Film Promos etc for Cable Service |   |  |
|  |   |  |
|  |   |  |

## Preparing Questionnaire

**Objective - 1** To update basic data sheet and confirm key parameters that triggers the applicability of specific law

**Objective - 2** To identify major events during the period under report

**Objective - 3** List of documents, records, returns, etc required for audit

## Preparing Audit Program

### Team

To create Audit team.  
Appropriate mix of Senior/junior and trainees.  
Back office to create check lists

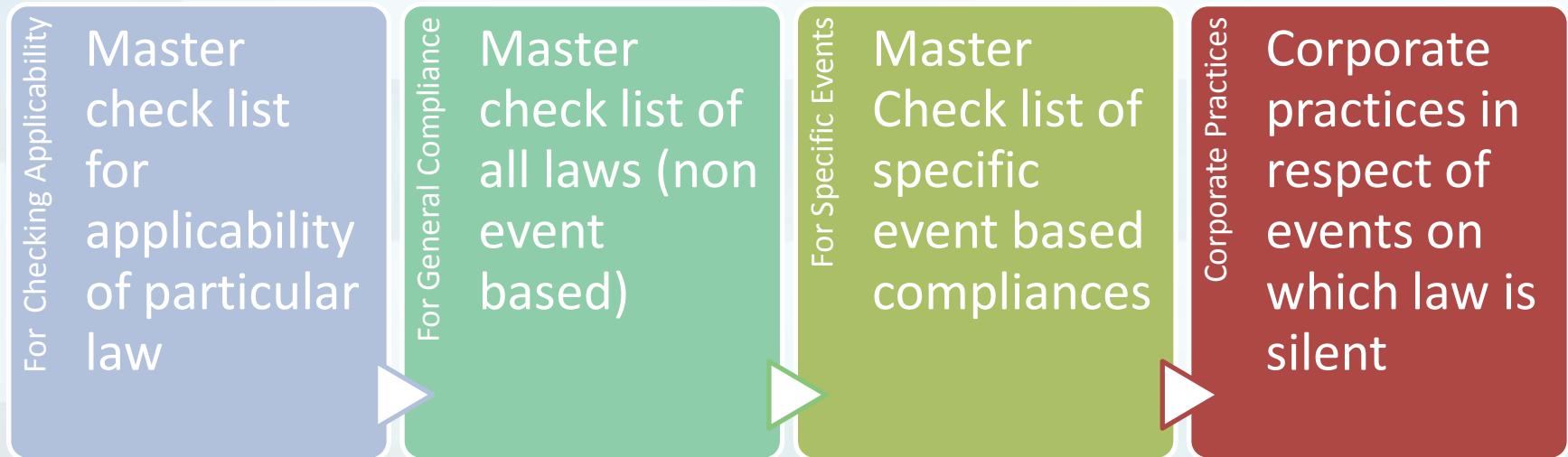
### Work Allocation

To divide entire work in to parts and assign responsibilities to team leaders

### Schedule

To draw time schedule. Time allocation to each type of work

## Master Check list creation



## Master Sample Check List (Applicability Test)

| S<br>r<br>N<br>o | Name of<br>the Act            | Applicability<br>factors   | If<br>Company<br>fulfils<br>applicability<br>factors | Primary<br>Evidence           | Secondary<br>Evidence | Remarks |
|------------------|-------------------------------|--|--|-------------------------------|-----------------------|---------|
| 1                | The<br>Factories<br>Act, 1948 | <ul style="list-style-type: none"><li>▪Must be manufacturing unit</li><li>▪Employs at least 10 workers (without aid of power) or 20 workers (with power)</li></ul> | Yes  | Muster roll/<br>Annual Report | Pay roll              |         |

## Master Sample Check List (Applicability Test)

| S<br>r<br>N<br>o | Name of<br>the Act | Applicability<br>factors   | If<br>Company<br>fulfils<br>applicabili<br>ty factors | Primary<br>Evidence           | Secondary<br>Evidence | Remarks |
|------------------|--------------------|--|---|-------------------------------|-----------------------|---------|
| 2                | ESI Act,<br>1948   | <ul style="list-style-type: none"><li>▪Must be non seasonal factory</li><li>▪Employs at least 10 workers</li></ul> | Yes   | Muster roll/<br>Annual Report | Pay roll              |         |

## Sample Check List (Increase in authorised Share capital)

### Event Date – 25.01.2015

| S<br>r<br>N<br>o | Details                        | Due<br>Date | Compliance<br>Date | Primary<br>Evidence | Secondary<br>Evidence           | Remarks                                 |
|------------------|--------------------------------|-------------|--------------------|---------------------|---------------------------------|---|
| 1                | Notice convening Board meeting | 24.01.15    | 30.12.14           | Dispatch Register   | Email/Speed Post/<br>Regd. Post | Consent not available                   |
| 2                | Board Meeting                  | 01.01.15    | 01.01.15           | BM Minutes          | Attendance Register             |   |
| 3                | Convening of EGM               | 01.01.15    | 03.01.15           | Dispatch Register   | Email/Speed Post/<br>Regd. Post | Shorter notice consent of all available |

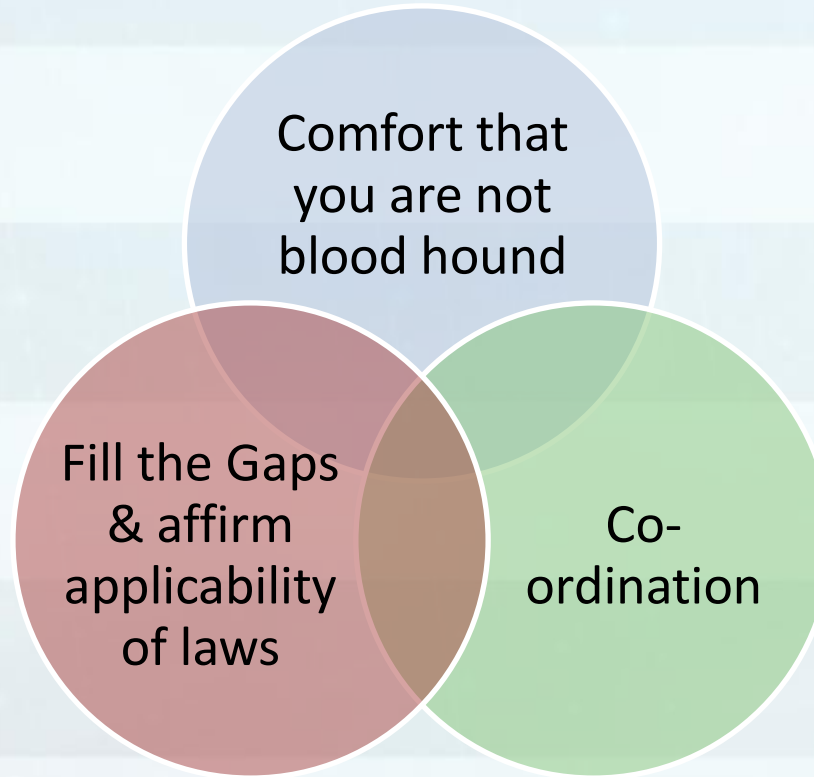
## Sample Check List (Increase in authorised Share capital)

### Event Date – 25.01.2015

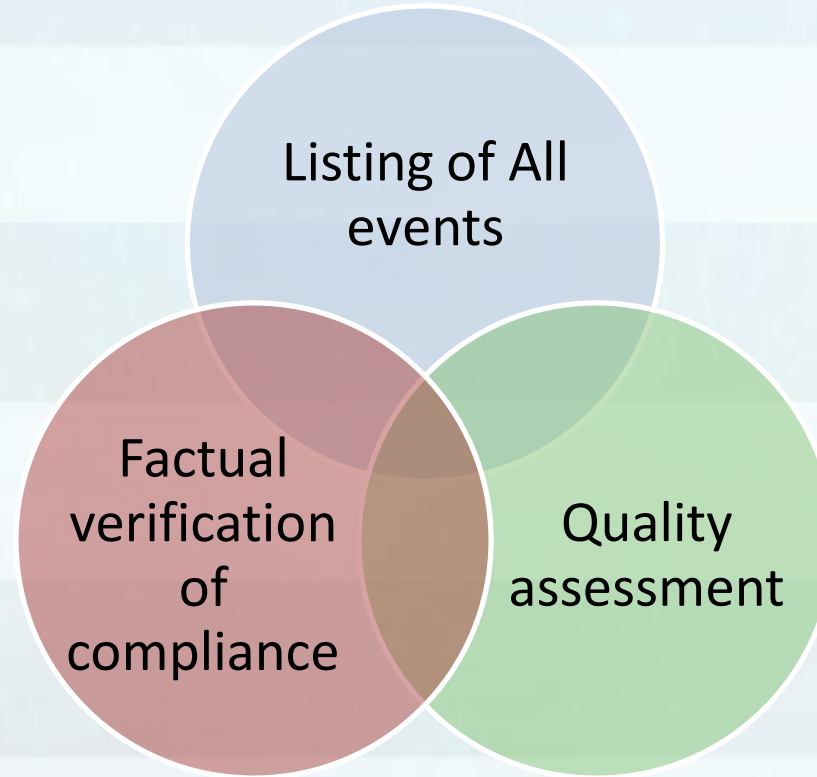
| S<br>r<br>N<br>o | Details                | Due<br>Date | Compliance<br>Date | Primary<br>Evidence         | Secondary<br>Evidence     | Remarks  |
|------------------|------------------------|-------------|--------------------|-----------------------------|---------------------------|--|
| 4                | EGM                    | 25.01.15    | 25.01.15           | EGM<br>Minutes              | Attendanc<br>e Register   |  |
| 5                | SH7                    | 24.02.15    | 27.01.15           | Filing<br>Receipt &<br>form | Updated<br>master<br>data | MGT14 also<br>to be filed                            |
| 6                | Verification of<br>AOA |             |                    | AOA                         |                           | SR Required.<br>Alteration in<br>AOA was<br>required |



## Interaction with Company



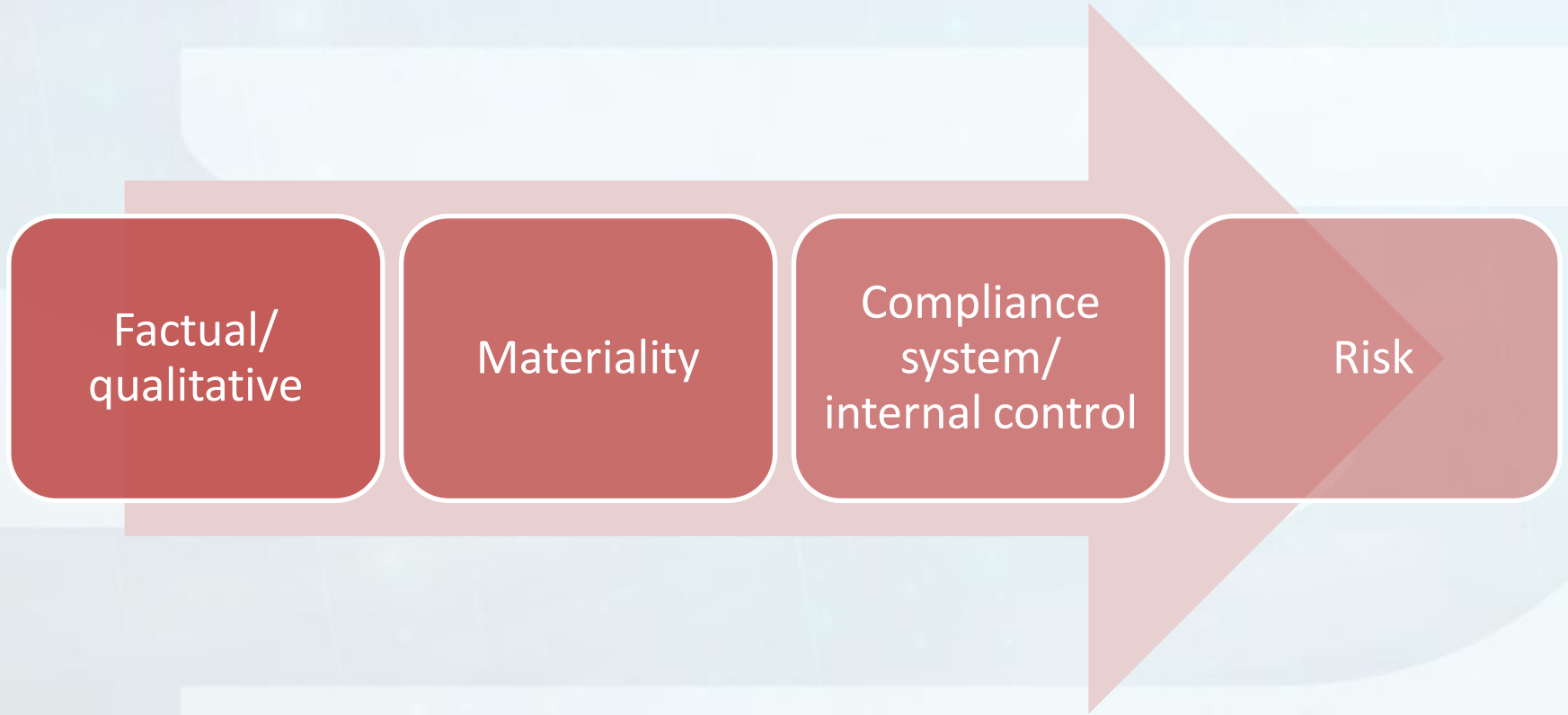
## Checking of Records/Compliances



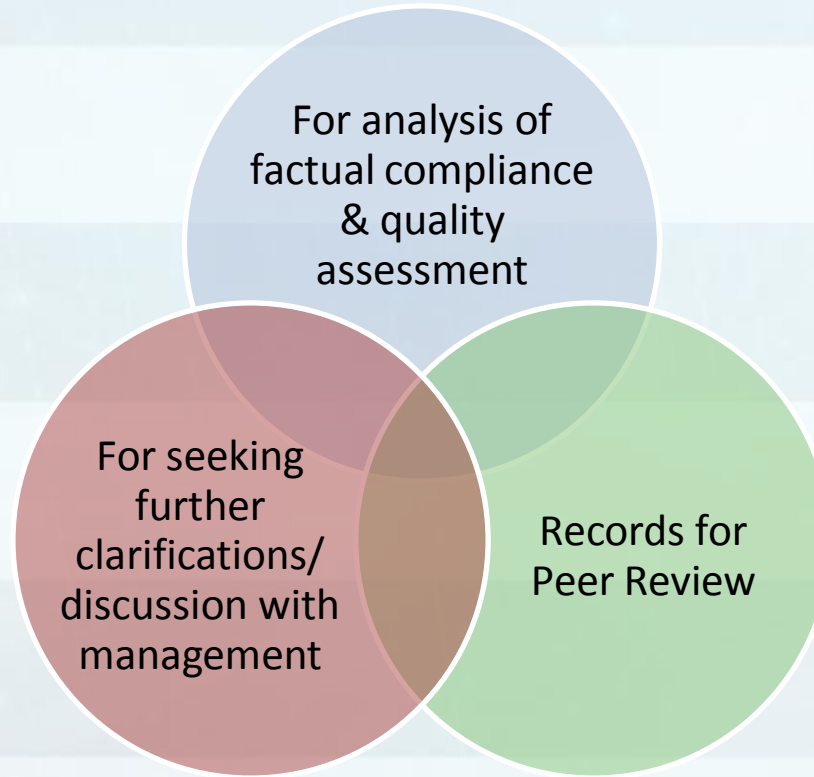
## Audit Techniques



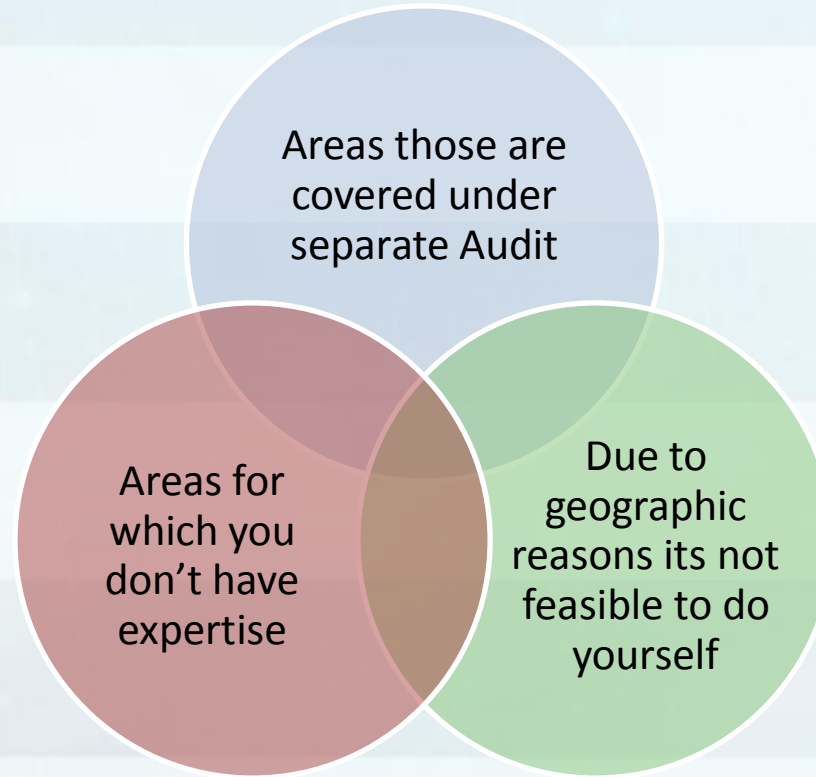
## Factors responsible for Sampling

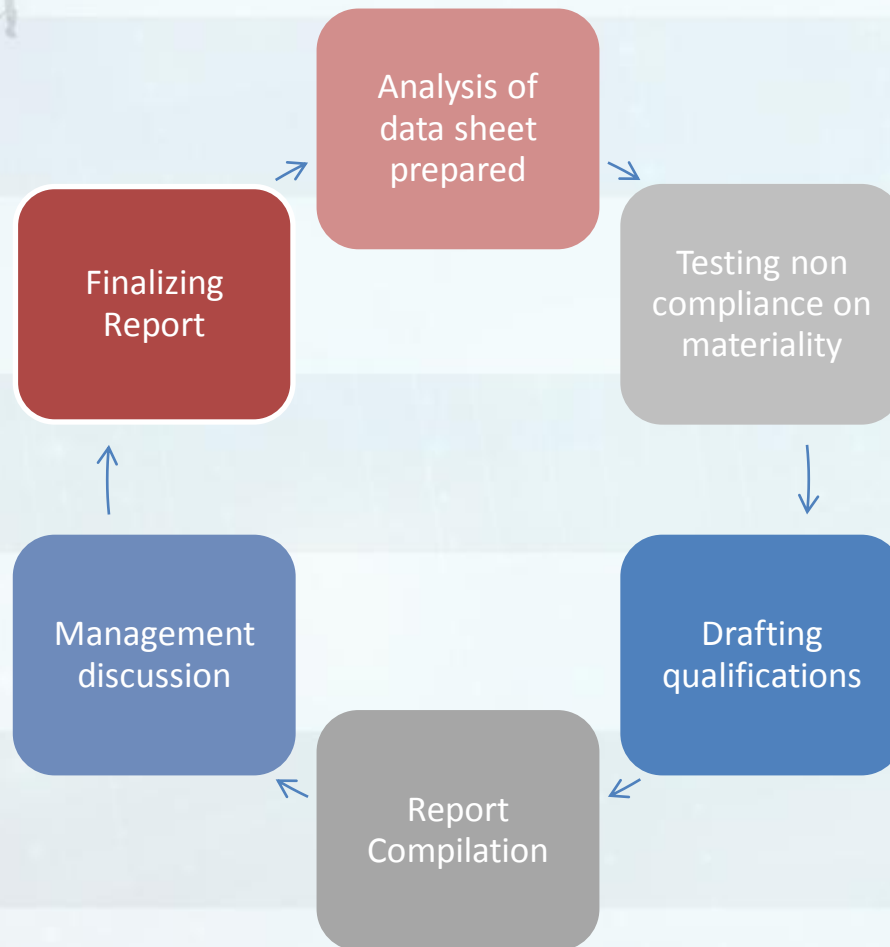


## Preparing Working Papers

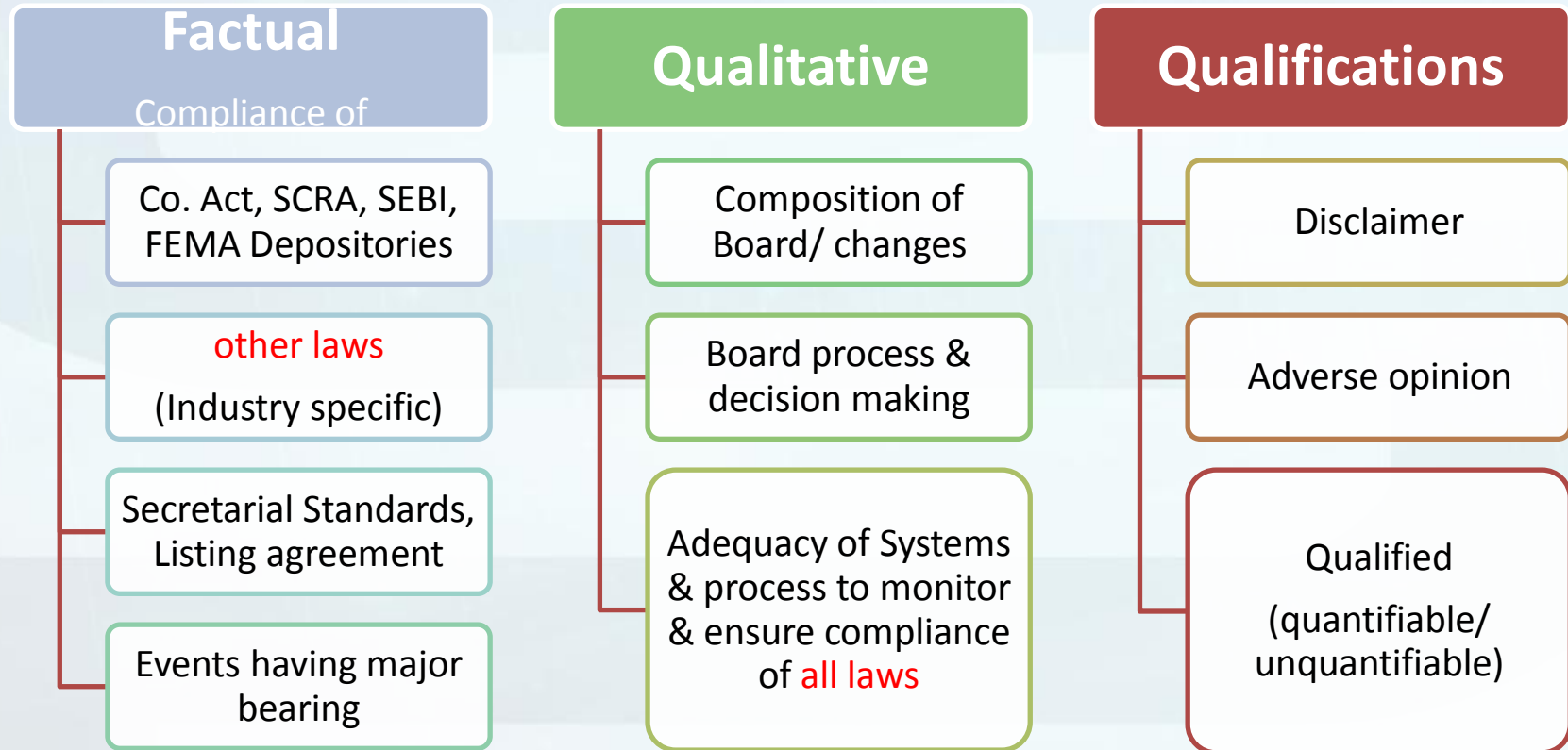


## Third Party Reports/Management Representation





## Secretarial Audit Report





## Secretarial Audit Report

If anything can be added in MR-3, provided in rule 9 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules 2014

If MR-3 disclosures are sufficient to protect the interest of Auditors

If not. Then what to do?

## Annexure to Secretarial Audit Report

To,  
The Members,  
XYZ Limited

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

1. Maintenance of secretarial record is the responsibility of the management of the Company. Our responsibility is to express an opinion on these secretarial records based on our audit.

## Annexure to Secretarial Audit Report

2. We have followed the audit practices and process as were appropriate to obtain reasonable assurance about the correctness of the contents of the secretarial records. The verification was done on test basis to ensure that correct facts are reflected in secretarial records. We believe that the processes and practices, we followed provide a reasonable basis for our opinion.
3. We have not verified the correctness and appropriateness of financial records and books of accounts of the Company.
4. Where ever required, we have obtained the management representation about the compliance of laws, rules and regulations and happening of events etc.

## Annexure to Secretarial Audit Report

5. The Compliance of the provisions of Corporate and other applicable laws, rules, regulations, standards is the responsibility of management. Our examination was limited to the verification of procedure on test basis.
6. The Secretarial Audit Report is neither an assurance as to the future viability of the Company nor of the efficacy or effectiveness with which the management has conducted the affairs of the Company.

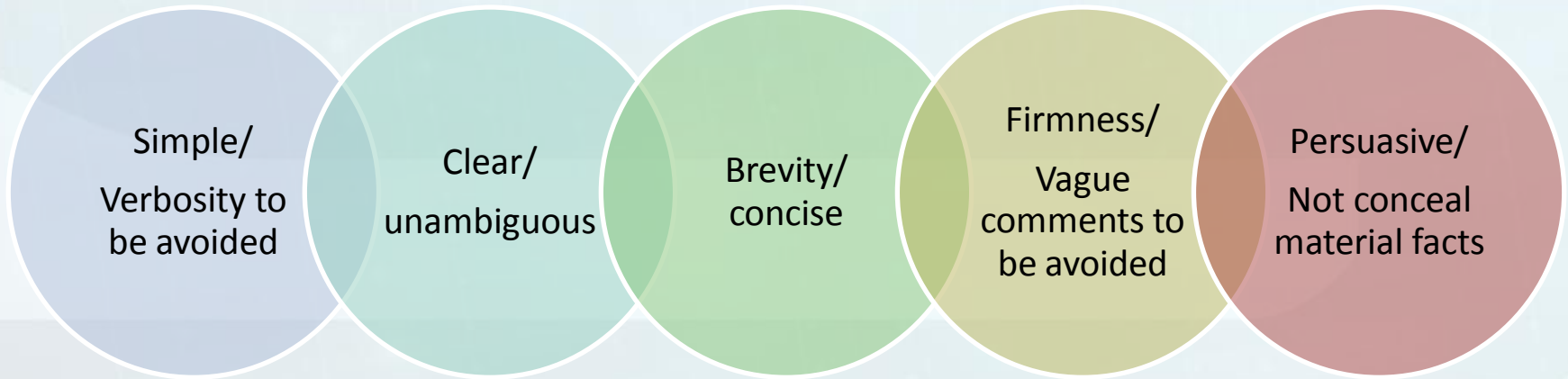
For ABC & Co.

Company Secretaries

Date:

Place:

## Audit Qualifications



## Audit Qualifications - Samples

During the period under review the Company has complied with the provisions of the Act, rules, regulations, guidelines, standards etc. mentioned above, except to the extent as mentioned below:

1. In respect of issue of further shares Company did not pass a special resolution before allotment of shares to persons other than existing members.
2. The Company could not spend the sum allocated toward CSR corpus. However the Company has constituted the CSR committee and its constitution was as per rules.
3. The Company has filed Form CHG -1, with delay of 120 days, for registration of charge on vehicle purchased in the name of the Company on loan from SBI.
4. The Company has given loan of Rs. 10 lacs to M/s ABC P Ltd in which Mr. A, director of the Company is director in violation to the provisions of section 185 of CA, 2013. However the same has been received back.

## Audit Qualifications - Samples

5. Form DIR 12 regarding appointment of Mr. A as Director was filed with delay of 60 days.
6. The Company has not appointed Independent Directors up till 31.03.2015. However as on date of issue of report the Board of the Company has appointed 3 Independent Director, subject to the approval of the Shareholders.
7. The Company has not filed Form DIR 12 in respect of vacation of office of director of Mr. B, due to non attending of meeting during 12 month w.e.f. 01.04.2014 in terms of the provisions of section 167(1)(b) of the Act.
8. The Company needs to improve its compliance management and alert system to avoid delays in filing of forms/returns.
9. We are not able to make comments in respect of Nagpur unit started w.e.f. 01.01.2015, as no documents could be provided by the Company.

## Compliance of other Laws applicable to the Company

### Section 205: Functions of Company Secretary

1. The functions of Company Secretary shall include,—
  - (a) to report to the Board about compliance with the provisions of this Act, the rules made there under **and other laws applicable to the company**;
  - (b) to ensure that the company complies with the applicable secretarial standards;
  - (c) to discharge such other duties as may be prescribed.
- (2) The provisions contained in section 204 and section 205 shall not affect the duties and functions of the Board of directors, chairperson of the company, managing director or whole-time director under this Act, or any other law for the time being in force.



## Compliance of all Laws applicable to the Company

### Section 134(5)(f) – Directors Responsibility Statement

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

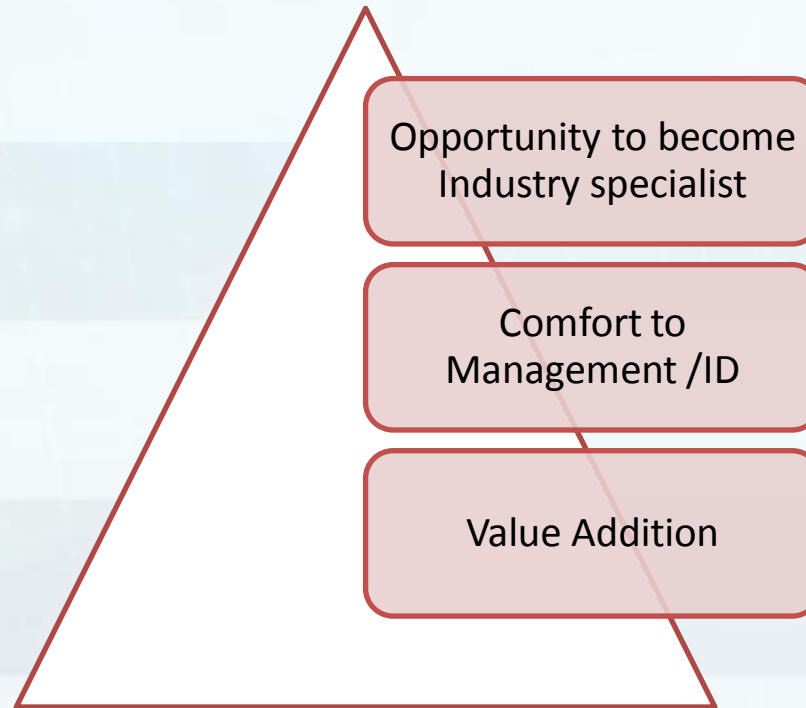


## Compliance of all Laws applicable to the Company

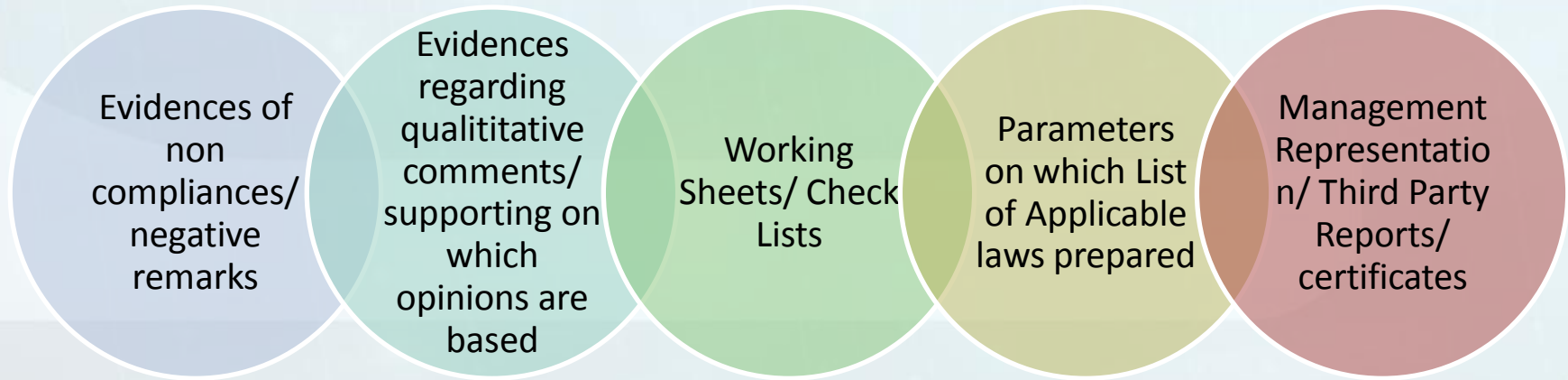
### Clause 49 of the Listing Agreement

The Board shall **periodically review compliance reports of all laws applicable to the company**, prepared by the company as well as steps taken by the company to rectify instances of non compliances.

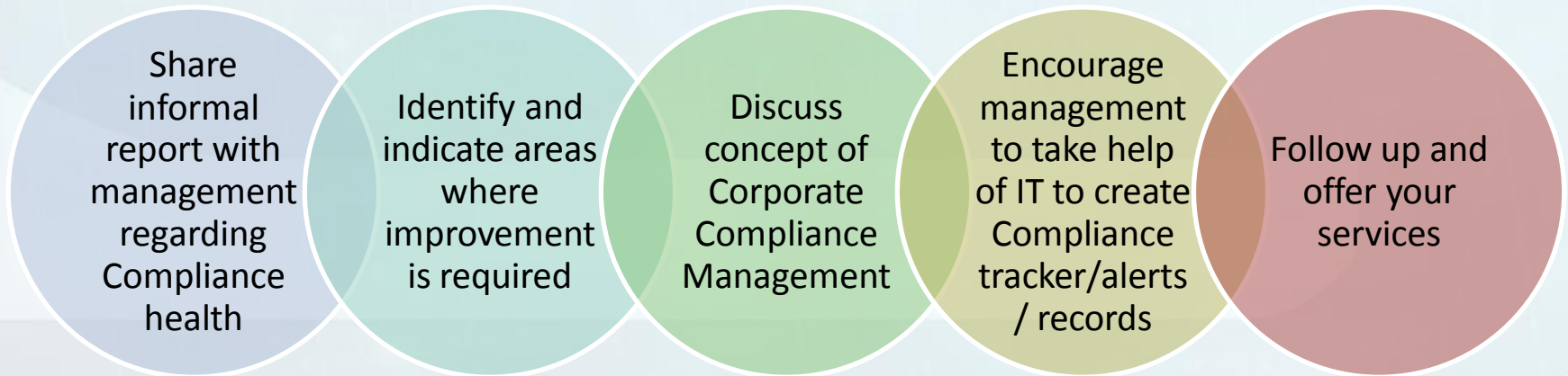
## Advantage - other Laws applicable to the Company



## Contents of Record File



## Create a niche over others



# Thank You

E-amitguptacs@gmail.com



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