

**Auditor's enhanced responsibility in revised  
CARO 2020**

**Refresher Course on Ind AS – Audit &  
Accounts Finalization FY 2021-22**

**Arranged by**

**Ind AS - Accounting Standard Committee**

**WIRC of ICAI**

**29<sup>th</sup> March, 2022**

**Compiled and presented by**

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# Summary of changes

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- 7 new clauses added (viii, xiv, xvii, xviii, xix, xx, xxi)
- No change in 6 clauses (iv, v, vi, vii, xiii, xv)
- Scope expanded in 8 clauses by adding sub clauses (i, ii, iii, ix, x, xi, xii, xvi)
- 1 clause related to Managerial Remuneration deleted (erstwhile clause xi).

# Abbreviations

The Companies (Auditor's Report) Order, 2020	the Order
The Companies Act 2013	CA 2013
Indian Accounting Standards	Ind AS
Accounting Standards (applicable to Non-Ind AS Companies)	AS

## Acknowledgements

Guidance Note on the Companies (Auditor's Report) Order, 2020 – GN

# Exclusion of CARO 2016 Retained – not applied to

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- (i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
- (ii) an insurance company as defined under the Insurance Act, 1938;
- (iii) a company licensed to operate under section 8 of the Act; (iv) a one person company as defined under clause (62) of section 2 of the Act and a small company as defined under clause (85) of section 2 of the Act; and

# Private Limited Company

- a private limited company, not being a subsidiary or holding company of a public company,
- having a paid-up capital and reserves and surplus not more than one crore rupees as on the balance sheet date and
- which does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year and
- which does not have a total revenue\* as disclosed in Schedule III to the Act, (including revenue from discontinuing operations) exceeding ten crores rupees during the financial year as per the financial statements

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What if the Company is small  
Company and its turnover is in excess  
of Rs 1Crore ?

- Exemption to small company continuous even if it falls under any of the criteria specified for private company [Para 12 of GN]
- Effect of conversion to exempt category – The Order will not apply.
- The Order is also applicable to the audits of branch(es) of a company.
- The Order will not be applicable to Infrastructure Investment Trusts and Real Estate Investment Trusts.

- While calculating the paid-up capital, amount of calls unpaid should be deducted from and the amount originally paid-up on forfeited shares should be added to the figure of paid-up capital..
- Share application money received should not be considered as part of the paid-up capital.
- Convertible instruments should be considered in paid up share capital only once the actual shares are issued by the company



Treatment of Revaluation Reserve for determining capital and reserve.

**Division I - following to be taken into consideration.**

Capital and Revenue Reserve

Revaluation Reserve

Debit balance of Profit and Loss shall be netted off against the reserve & surplus.

All of the above forms part of reserves.

Para 19 of the GN

Treatment of Revaluation Reserve and items of OCI for determining capital and reserve.

**Division II – followings are not considered as reserves.**

Equity component of compound financial instrument,  
revaluation surplus,  
debt/equity instrument through other comprehensive  
income (OCI),  
effective portion of cash flow hedges,  
exchange difference on translating the financial statement  
and  
other items of OCI .

Para 20 of GN

Treatment of Revaluation Reserve and items of OCI for determining capital and reserve.

### **Division III NBFCs**

**All the items of OCI or for that matter those appearing in Statement of Changes in Equity are considered for determining Reserves and Surplus.**

**Para 21 –Page 20 of GN**

## **Analysis of new clauses, & clauses where the scope is expanded**

### **Significance Color signage.**

 **Indicates – Either new or amended clause.**

 **Indicates either no or minor change.**

# Clause 3(i)(A)-PPE – only the name changed.

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- Clause (i)- Fixed Assets

Clause (i) (A), the word “Fixed Assets” have been substituted by “Property, Plant & Equipment”

Analysis:

- In order to come in parlance with revised Accounting Standard 10 and Ind AS 16, the word fixed asset as been replaced with Property, Plant and Equipment as fixed assets included both tangible and intangible assets.
- Point for intangible asset has been separately given below in new sub-clause.

# Clause 3(i)(a)(B)-Intangible Assets – New Clause

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- Clause (i)(a)(B)-Intangible Assets has been inserted stating :

**Whether the company is maintaining proper records showing full particulars of intangible assets;**

## Analysis:

- The company needs to maintain proper records of all intangible assets maintained by the company. The company shall also adhere with Accounting Standard 26 or Ind AS 38 with respect to its cost, value, and period. The auditor should be obtain sufficient and appropriate audit evidence regarding the same.
- Challenge is determination of Development stage. As all expenses during the research stage are expensed out.

## Clause 3(i)(b) – No Change

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Whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account.

# Clause 3(i)(c)-PPE – Modified - Table

- Clause (i)(c)-Immovable property

Whether the title deeds of all the immovable properties (**other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee**) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below:-

[Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

## **Analysis:**

In the cases, where the company is the lessee and the lease agreements are duly executed in the favour of the lessee, reporting under CARO, 2020 is not required. However, where the immovable property is not in the name of the company, the company shall provide such details in the format prescribed in the said order.

Even the S 187 of the CA 2013 requires properties and investment in the name of the Company For Non Compliance shall be liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees.



## Immovable property – not classified as PPE – Order is not applicable to such properties.

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- Immovable properties not classified as property, plant and equipment, -like inventories of immovable property for a real estate company.
- The auditor may obtain the support of any legal expert in case there is any dispute or litigation as to the title of the immovable property or where the auditor seeks clarity in matters related to this clause.

# Ind AS

## Investment Property, Non-current assets held for sale and Right of Use (ROU) Assets

- YES
- Investment property as per Ind AS 41 and Ind AS 105 , Non-current assets held for sale will considered by the Auditor for this clause.
- ROU

# Clause 3(i)(d)-PPE - Revaluation

- Clause (i)(d): Revaluation of PPE – not applicable to Cost model.
- Whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;

## Analysis:

- In case of any revaluation of PPE or intangible assets, if the change is more than 10% in the aggregate of the net carrying value of each class of PPE or intangible assets, it needs to be disclosed in CARO, 2020 specifying the amount of change and whether the revaluation is based on the valuation by a Registered Valuer.
- Such clause shall apply to companies who follow revaluation model under revised AS 10 or Ind AS 16.
- Each class of asset shall be tested one by one and in case of revaluation and where such change 10% or more in the aggregate of the net carrying value of each class of PPE or intangible assets. should be reported
- Compliance with S 247 of the CA 2013. Appointment of Valuer. By Audit Committee in listed Companies and by the Board in unlisted Company.



Following not considered as Revaluation.

Fair valuation of PPE upon first time adoption of Ind AS. □

Remeasurements (i.e., changes in value due to interest or foreign exchange rates).

Changes to ROU assets due to lease modification as per Ind AS 116.

SA 620, “Using the Work of an Auditor’s Expert” but his report can be used as an evidence in terms of the principles enunciated in SA 500, “Audit Evidence”, with regard to using the work done by a management’s expert

# Clause 3(i)(e)-PPE – Benami –New Clause

- **Clause (i) (e): Benami Transactions**

Whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made there under, if so, whether the company has appropriately disclosed the details in its financial statements.

## **Analysis:**

The statutory auditor should obtain sufficient and appropriate audit evidence with respect to compliance with the Benami Transactions (Prohibition) Act, 1988 by performing audit procedures as laid down in Standard on Auditing (SA) 250, “Consideration of Laws and Regulations in an Audit of Financial Statements”

The auditor should also ask for management representation letter regarding noncompliance for the above as laid down in. SA 580- Written Representations

In case where there is any on going proceedings against the officers in default, the auditor shall apply SA 501 Audit Evidence to verify the completeness and accuracy of provision for penalties or disclosure as contingent liability as per AS 29/Ind AS 37 in financial statements.

It may be noted that this clause refers to Benami Transactions (Prohibition) Act, 1988. The name of the aforesaid Act has been changed to Prohibition of Benami Property Transactions Act, 1988 in the year 2016. Therefore, for the purpose of reporting under this clause reference should be made to Prohibition of Benami Property Transactions Act, 1988 (as amended in 2016)

The Initiating Officer (IO), as the name indicates is an authority who initiates the proceedings under the aforesaid Act

Definition given in Annexure A of the GN

Section 2(8) – "benami property" means any property which is the subject matter of a benami transaction and also includes the proceeds from such property;

## What is not considered as Benami Property?

For the removal of doubts, it is hereby declared that benami transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), if, under any law for the time being in force,—

- (i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;
- (ii) stamp duty on such transaction or arrangement has been paid; and
- (iii) the contract has been registered;

Section 2(26) - "property" means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal and includes any right or interest or legal documents or instruments evidencing title to or interest in the property and where the property is capable of conversion into some other form, then the property in the converted form **and also includes the proceeds from the property;**



# Clause 3(ii)(a) Inventory – Opinion Sought for.

## Clause (ii)(a): Physical verification of inventory

Whether physical verification of inventory has been conducted at reasonable intervals by the management and **whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;**

## Analysis:

Auditor has to specifically comment on coverage and procedure adopted. Also Materiality has been defined as 10% or more in each class of Inventory. In case of any discrepancies of 10% or more in the aggregate for each class of inventory, its disclosure whether they have been properly dealt with in the books of account of the company is required.



What constitutes “appropriate” is a matter of professional judgement

While the physical verification of inventories is primarily the duty of the management, the auditor is expected to examine the methods, procedures and the coverage of such verification

The auditor should also perform test counts to satisfy himself about the effectiveness of the count procedures.

The auditor may compare the final inventories with stock records and other corroborative evidence, e.g., inventory statements submitted to banks, etc

Third party custody – their Auditor’s report.

# Clause 3(ii)(b) - Inventory – New Clause

## Clause (ii)(b)-Working capital requirement

Whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details.

# Clause (ii)(b) - Inventory – New Clause

## Analysis:

This is a new sub-clause inserted in CARO, 2020.

Whether company has sanctioned any working capital limits from any banks for financial institutions exceeding Rs. 5 cr rupees during the year. If yes, the company shall provide quarterly return filed with such bank accounts.

Not applicable if limit is unsecured.

This clause does not require reporting where such limits are unsecured or sanctioned on the basis of assets other than current assets.

## Clause 3(iii) – Few inclusion

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Whether during the year the company has made **investments in, provided any guarantee or security** or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so, [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

Clause 3(iii) Special attention to S  
179,180,185,186 and 187 of CA  
2013

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In case of Ind AS compliant Company –  
Guarantee by Parent to Subsidiary  
must be accounted as per Ind AS 109

(The auditor should obtain details of all investments made, guarantee or security provided or loans/advances in nature of loans granted during the year from the management. The details should include, name of the parties, relationship of the company with the parties (i.e. whether subsidiary, joint venture or associate, promoter, any other party etc.), gross amount of investments made, guarantees/security provided, loans/advances in nature of loans granted during the year, date and amount of settlement of guarantee/loans / advances in nature of loan as per the terms of contracts etc. Further, in respect of guarantees, security, loans and advances in nature of loans, the details of amounts outstanding as at March 31st of the year under audit should also be obtained from the management.

Loan given but squared-up should not be missed out.

# Clause 3(iii)(b) New Clause

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**Whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in nature of loans and guarantees provided are not prejudicial to the company's interest; [Paragraph 3(iii)(b)]**

This clause is applicable even to NBFCs

Clause 49(j) of the GN page 63 is for the illustration of reporting



## Clause 3(iii)(c)

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**In respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;**

**[Paragraph 3(iii)(c)] [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)**

(e) If there is no such agreement / arrangement or the agreement / arrangement does not contain the schedule of repayment of principal and payment of interest, the auditor shall report that there is no stipulation of schedule of repayment of principal and payment of interest and may report that he is unable to make specific comment on the regularity of repayment of principal & payment of interest, in such cases. Advances in nature of loans which do not contain the schedule of repayment and payment of interest are required to be reported under this clause.

# Clause 3(iii)(d)

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**If the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest; [Paragraph 3(iii)(d)]** [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

An amount is considered to be overdue when the payment has not been received on the due date as per the lending arrangement. In such cases, the auditor has to examine the steps, if any, taken for recovery of this amount

## Clause 3(iii)(d)

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It is not necessary that steps to be taken must necessarily be legal steps. Depending upon the circumstances, the degree of delay in recovery and other similar factors, issue of reminders or sending of an advocate's or solicitor's notice, obtaining enhanced security, may amount to "reasonable steps" even though no legal action is taken

The auditor is not, therefore, required to comment on the mere absence of legal steps if he is otherwise satisfied that reasonable steps have been taken by the company.

# Clause 3(iii)(e)-New Clause

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Whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdue of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year *[not applicable to companies whose principal business is to give loans]*;  
[Paragraph 3(iii)(e)] [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

# Clause 3(iii)(e)-New Clause

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This clause is a new reporting requirement. Fallen due during the year and has been renewed or extended or fresh loans granted to settle the overdue of existing loans given to the same parties.

**This clause is inserted to identify instances of ‘evergreening’ of loans/advances in nature of loans.** [Note: The term ‘evergreening’ is not defined in the Act. However, in general parlance it implies an attempt to mask loan default by giving new loans to help delinquent borrowers to repay/adjust principal or pay interest on old loans.]

Insert Table.

# Clause 3(iii)(f)-New Clause

Whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013; [Paragraph (iii)(f)] [.Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

This clause is a new reporting requirement. This clause requires reporting of the gross amount in respect of loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment. If response is 'yes', the auditor is required to report the aggregate amount of loans granted to promoters as defined in clause (69) of section 2 of the Act, related parties as defined in clause (76) of section 2 of the Act

SA 550 Related parties and also AS 24 and Ind As 18.

# Promoter

- S 2 (69) “promoter” means a person—
- (a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or
- (b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or
- (c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:
- Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;

# Clause 3(iv) S 185 and S 186

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**In respect of loans, investments, guarantees, and security, whether provisions of section 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof; [Paragraph 3(iv)] [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)**

Form MBP-1 and from the register maintained under section 189 of the Act

What to report in case of Non- Compliance :

The Auditor report the nature of non-compliance, the maximum amount outstanding during the year and the amount outstanding as at the balance sheet date in respect of: (i) the directors; and (ii) any person in whom any of the director of the company is interested (specify the relationship with the director concerned.



## Compliance of Section 186 of the Companies Act 2013: Loan and Investment by Company

Reference may be made to section 186 and relevant extract of Rules 11, 12 & 13 of the Companies (Meeting of Board and its Powers) Rules, 2014

Check whether, at any point of time during the year in case of aforesaid transactions, the company has exceeded the limit of **sixty per cent of its paid-up share capital, free reserves and securities premium account or one hundred per cent of its free reserves as defined in section 2(43) of the Act and securities premium account, whichever is more.**

**If it exceeds the limits specified above, check whether prior approval by means of a special resolution passed at a general meeting has been obtained.**

Check whether the company has made investments through more than two layers of investment companies

Check whether the company has passed the board resolution as prescribed and obtained the **prior approval from the public financial institution concerned where any term loan is subsisting.**

(Check whether rate of interest is not lower than the prevailing yield of one year, three year, five year or ten year government security closest to the tenor of the loan granted. (viii) Check if the company is in default in the repayment of any deposits accepted or in payment of interest thereon, then the company is not allowed to give any loan or guarantee or provide any security or make an acquisition till such default is subsisting.

Check whether the company has maintained a register (as per Form MBP-2) in the manner as prescribed and also check the compliances of other provisions and relevant rules.

## S 186 Not applicable to

It may be noted that the aforesaid section is not applicable in respect of any loan made, any guarantee given or any security provided or any investment made by banking company or an insurance company or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities.

However the restriction with regard to the investment through more than two layers of investment companies would be applicable for such companies also.

The auditor may ensure compliance accordingly.

## Clause (v)- Deposits – No major change except inclusion of deemed deposit

In respect of deposits accepted by the company or amounts which are **deemed to be deposits**, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made there under, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;

# Clause (v)- Deposits

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- Very critical addition – Deemed Deposit.
- For this Rule 2(1)(C) is very important –which states the exclusion
- Detailed PPT.

## Paragraph 3 (vi) — **No Change**

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**Whether maintenance of cost records has been specified by the Central Government under sub-section (1) of Section 148 of the Companies Act, 2013 and whether such accounts and records have been so made and maintained.**

These books of account and records form part of the books of account of the company within the meaning of Section 2(13) of the Act.

The Central Government has issued the Companies (Cost Records and Audit) Rules, 2014 which has specified the list of class of companies in which maintenance of cost record is prescribed under section 148 of the Act

# Paragraph 3 (vi)

The Companies (Cost Records and Audit) Rules, 2014 has defined “cost records” as books of account relating to utilization of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act, and these rules. These rules also prescribed the items of cost to be included in the Books of Account

The Order requires the auditor to report whether cost accounts and records have been *made* and maintained.

The word “made” applies in respect of cost accounts (or cost statements) and the word “maintained” applies in respect of cost records relating to materials, labour, overheads, etc.

**Reporting requirement is regardless of whether a cost audit has been ordered by the central government.**

## Paragraph 3 (vi) – Written representation

A written representation from the management stating

- (a) whether cost records are required to be maintained for any product(s) or services of the company under section 148 of the Act, and the Companies (Cost Records and Audit) Rules, 2014; and
- (b) whether cost accounts and records are being made and maintained regularly. The auditor should also obtain a list of books/records made and maintained in this regard.



Paragraph 3 (vi) – No investigation- No judgement – Just the facts.

The Order does not require a detailed examination of such records.

The auditor should, therefore, conduct a general review of the cost records to ensure that the records as prescribed are made and maintained.

He should, of course, make such reference to the records as is necessary for the purposes of his audit.

# Clause 3(vi) – Reporting

Clearly bring out the extent of the examination made by the auditor in the report.

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“We have broadly reviewed the books of account maintained by the company pursuant to the Rules made by the Central Government for the maintenance of cost records under section 148 of the Act, and are of the opinion that prima facie, the prescribed accounts and records have been made and maintained.”

Where the auditor finds that the records have not been written or are not prima facie complete, it will be necessary for the auditor to make a suitable comment in his report.

## Paragraph 3(vii)(a) – Only one change – GST added

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**57. Whether the company is regular in depositing undisputed statutory dues including *Goods and Services Tax*, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, Cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated; [Paragraph 3(vii)(a)]**[Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

The words “any other statutory dues” indicates that the clause covers all type of dues under various statues which may be applicable to a company having regard to its nature of business.

# Paragraph 3(vii)(a)

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This clause requires the auditor to report upon

the regularity of the company in depositing undisputed statutory dues including provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of custom, duty of excise, value added tax, cess and any other statutory dues to appropriate authorities.

If the company is not regular in depositing the above mentioned undisputed statutory dues, the auditor is required to state

- the extent of arrears of statutory dues which have remained outstanding as at the last day of the financial year concerned for a period of more than six months from the date they became payable

# Paragraph 3 (vii)(a)

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In other words, obligation to pay a statutory due is created or arises out of a statute, rather than being based on an independent contractual or legal relationship.

Thus, examples of “statutory dues” would include municipal taxes, taxes deducted at source, fees payable to the licensing authority in respect of business being carried on under license granted by an authority, say a cinema hall.

Accordingly, any sum payable to an electricity company as electricity bill would not constitute a statutory due despite the fact that such a company has been established under a statute. This is so because the due has arisen on account of contract of supply of goods or services between the parties

In case any dues are recoverable as arrears of land revenue by the concerned authority, the same shall be treated as a statutory due.

## Paragraph 3 (vii)(a)

However, it may be noted that the interest and rent that are required to be incurred under section 61 of the Customs Act, 1962 would come under other statutory dues and the auditor would have to examine and comment upon the regularity of the company in depositing such interest and rent.

Non-payment of advance income tax would constitute default in payment of statutory dues.

Consider a case where the company might not have any taxable income on the due dates on which advance tax is required to be paid. If such a company has an income after the last date on which the advance tax was required to be paid and consequently the company incurs interest under the relevant provisions of the Income Tax Act, 1961. How would you deal with this situation ?

## Paragraph 3 (vii)(a)

What is to be reported is the regularity of deposit of statutory dues irrespective of the fact whether or not there are any arrears on the balance sheet date.

In cases where there are no arrears on the balance sheet date but the company has been irregular during the year in depositing the statutory dues, the auditor should state this fact while reporting under this clause.

For the purpose of this clause, the auditor should consider a matter as “disputed” where there is a positive evidence or action on the part of the company to show that it has not accepted the demand for payment of tax or duty, e.g., where it has gone into appeal.

For this purpose, where an application for rectification of mistake (e.g., under section 154 of the Income Tax Act, 1961) has been made by the company, the amount should it be regarded as disputed.?

## Paragraph 3 (vii)(a)

If only partially disputed – report only undisputed .

The auditor is not required to examine the sustainability or otherwise of the claim of the company regarding disputed amounts.

It is sufficient for his purpose if the evidence available shows that the amount is disputed by the company.

Mere representation to the concerned Department shall not be treated as a dispute.



## Paragraph 3 (vii)(a) – when do the statutory dues becomes payable.

There can be two views with regard to the question.

On the one hand, it can be argued that the statutory dues referred to in this clause become payable on the last date by which payment can be made without attracting penalty and/or interest under the relevant law.

On the other hand, it can also be argued that the amounts referred to in the clause become so payable as at the date of the expiry of the stay granted by the authorities or, where instalments have been granted for the payment of statutory dues referred to in the clause, the date on which the default occurs and the amount becomes payable to the authorities.

The latter view seems to conform more closely to the requirements of the Order

## Paragraph 3 (vii)(a)

Will Statutory dues include just the taxes or include penalties and interest also .?

The report should be restricted to the actual arrears and should not include the amounts which have not fallen due for payment to appropriate authority and have been recognised as outstanding dues at the balance sheet date

## Paragraph 3 (vii)(a) and written representation. Table

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The auditor should obtain a written representation with reference to the date of the balance sheet from the management:

- (i) specifying the cases and the amounts considered disputed;
- (ii) containing a list of the cases and the amounts in respect of the statutory dues which are undisputed and have remained outstanding for a period of more than six months from the date they became payable; and
- (iii) containing a statement as to the completeness of the information provided by the management

## Paragraph 3 (vii) (b)

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Where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute); [Paragraph 3(vii)(b) Compilation of Tables by CA Finalist Heena Sondhi.xlsx]

## Paragraph 3 (vii) (b)

A show-cause or similar notice generally contains the requirements/queries of the assessing officer. Normally, issuance of a show cause notice by the concerned department should not be construed to be a demand payable by the company.

However, in some cases, a show cause notice and demand may be combined in one document. Normally, in such cases, the demand would not be construed to have arisen till the time the assessee has disposed off the requirements of the show cause order. Hence, it would be necessary to evaluate each situation individually.

## Paragraph 3 (vii) (b)

Would you treat the followings as dues:-

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Tax demands that have been set aside

A demand has been referred for reassessment and the effect of such referral is the cancellation of the earlier demand ?

A demand which has been stayed.

## Paragraph 3 (vii) (b)

How would deal with this situation :-

In case where the amount under the dispute is pending for an appeal to be filed and the time limit for filing the appeal has lapsed.?

Further, in case where the amount under dispute has not been paid before filing the appeal and no appeal is filed within the time allowed and the time limit for filing the appeal has expired, the disputed amount would become a statutory due.

The amounts to be reported are those which have not been deposited on account of any dispute, irrespective of the treatment of such disputed amounts in accounts.

Such an amount will need to be reported, notwithstanding that it has been provided for. Similarly, even if it had not been provided for, it would have to be reported as long as it is not deposited

Deposit under protest should also be brought out by the Auditor

## Paragraph 3 (vii) (b) and AS

Whether a disputed amount should be provided for in the accounts or not will need to be judged in the context of Accounting Standard (AS) 4, “Contingencies and Events Occurring After the Balance Sheet Date and/or Accounting Standard (AS) 29, “Provisions, Contingent Liabilities and Contingent Assets”.

The reporting should be restricted to the actual arrears and should not include the amounts which have not fallen due for payment to appropriate authority and have been recognised as outstanding dues at the balance sheet date.



## Clause 3(viii) New Clause

Whether any transactions not recorded in the books of account have been **surrendered or disclosed** as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;  
[Paragraph 3(viii)]

In this context, it is relevant to understand the meaning of “undisclosed income”. As per Section 158B of the Income Tax Act, 1961, "undisclosed income" includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or ***property which has not been or would not have been disclosed for the purposes of this Act, or any expense, deduction or allowance claimed under this Act which is found to be false.***

. The emphasis is on the words surrendered or disclosed which implies that the company must have voluntarily admitted to the addition of such income, which can be demonstrated on the basis of the returns filed by the company.

The auditor should also obtain a copy of the statements made in the course of search and survey to verify the nature of income so surrendered or disclosed.

*Where, however, such statement has been retracted on the ground that such disclosure was obtained under force, coercion, etc. the income cannot be treated as surrendered or disclosed by the company*

Accordingly, where the addition is made by the income tax authorities and the company has disputed such additions, reporting under this clause is not applicable..

The surrender or disclosure of unrecorded income might relate to any assessment year under the Income Tax Act, 1961 – not necessarily current FY.

Requirement AS 5, “Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies”.

And Ind AS 8, “Accounting Policies, Changes in Accounting Estimates and Errors” have been complied with, particularly paragraphs 41- 49 in respect of correction of prior period errors.

Assess the possibility of exceptional item.

# Clause 3(ix)(a)

Whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, certain details to be reported. [Paragraph 3(ix)(a)] [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)

Minor addition made

“or in the payment of interest thereon”

Borrowings do not include public deposits as the reporting on public deposits is covered by clause 3(v) of the Order.

Even preference share capital should not be considered as borrowings.



The format prescribed by this clause also requires reporting on default in repayment of loans or other borrowings taken from the Government and / or interest thereon.

The term “Government” means the Central Government, a State Government and its departments and a Union Territory and its departments,

The Government does not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the constitution or the rules made thereunder. (As defined under section 65B(26A) of the Finance Act 1994).

The term “Government” does not include  
Government Company  
Public Sector Undertaking  
Boards  
Authority  
Corporation and Foreign Government.

(The auditor should obtain the confirmation of the concerned lender as to the status of the loan account including the overdue position as at the balance sheet date.

(Cases where the company might have submitted application for reschedulement/restructuring proposals to the lenders, which may be in different stages of processing.

Submission of application for reschedulement/ restructuring does not mean that no default has occurred.

Accordingly, in such situations also the auditor should report the period of default and the amount of default.

Where reschedulement of loan has been approved subsequent to the balance sheet date, the auditor should report the defaults during the year.

However, he may mention this fact in the remarks column.

Where the company has adequate balance in its current account on the due date of repayment of loan or payment of interest, but such date is either a public holiday or a bank holiday. If debited next day the auditor should not consider the same as default.

The auditor may come across a situation where there may be disputes between the company and the lender on certain issues relating to repayments. In such situations, the auditor should consider the prevailing terms and conditions only. However, he may give a brief nature of the dispute while reporting under this clause.


What if loans/borrowings and/ or interest are repayable on demand and no repayment terms have been specified in the agreement.

Obtain a management representation letter confirming that such loans/ borrowings and/ or interest have not been demanded for repayment.

The auditor should mention the same in the audit report. A suggested reporting is:

**Whether the company is a declared willful defaulter by any bank or financial institution or other lender; [Paragraph 3(ix)(b)] New Clause.**


The term 'lender' appearing in the RBI Circular covers all banks/financial institutions to which any amount is due, provided it is arising on account of any banking transaction, **including off balance sheet transactions such as derivatives, guarantee and letter of credit**



**The auditor is required to report whether the company has been declared as a willful defaulter by any bank or financial institution or any other lender – restricted to the relevant financial year under audit till the date of audit report.**

Government or government authorities by virtue of their powers, may be in a position to declare any borrower as a willful defaulter

**Refer to Master Circular of RBI dated July1,2014 as updated from time to time**

- 
1. Unit has defaulted in meeting its payment / repayment obligations to the lender **even when it has the capacity to Honour the said obligations.**
  2. The unit has defaulted in meeting its payment / repayment obligations to the lender and has not utilised the finance from the lender for the specific purposes for which finance was availed of but has diverted the funds for other purposes
  - 3 The unit has defaulted in meeting its payment / repayment obligations to the lender and has siphoned off the funds
  4. **The unit has defaulted in meeting its payment / repayment obligations to the lender and has also disposed off or removed the movable or immovable property given by him or it for the purpose of securing a term loan without the knowledge of the bank/lender.**

**Triggering event default – of Interest and or principle**



However, as stated above, in respect of other lenders, reporting should be restricted to cases where either government or any government authority has declared the company as willful defaulter. During the year – and after the year end but before the date of Authorization

If not declared as willful defaulter but declared during the subsequent period – this is considered as adjusting event.

What if the show cause notice is received  
???

Advisable to disclose.

# Example of Reporting

An example of reporting under this clause is as follows:

According to the information and explanations given to us and on the basis of our audit procedures, we report that the company has not been declared willful defaulter by any bank or financial institution or government or any government authority. Or

According to the information and explanations given to us and on the basis of our audit procedures, we report that the company has been declared willful defaulter by XXX on (date)

# Clause 3(ix)(c) New Clause

**Whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;**  
**[Paragraph 3(ix)(c)][Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)**


This clause is applicable to “term loan” -have a fixed or pre-determined repayment schedule. In the common parlance period beyond 36 months are usually known as term loans.

**Cash credit, overdraft and call money accounts/deposits are therefore not covered by the expression “Term Loans”.**

# What is diversion of funds ?

Diversion of funds would be construed to include any one of the undernoted occurrences:

- a) utilization of short-term working capital funds for long-term purposes not in conformity with the terms of sanction;
- b) deploying borrowed funds for purposes / activities or creation of assets other than those for which the loan was sanctioned;
- c) transferring borrowed funds to the subsidiaries / Group companies or other corporates by whatever modalities
- d) routing of funds through any bank other than the lender bank or members of consortium without prior permission of the lender;
- e) investment in other companies by way of acquiring equities / debt instruments without approval of lenders;
- f) shortfall in deployment of funds vis-à-vis the amounts disbursed / drawn and the difference not being accounted for



Whether this clause also covers term loans obtained from entities/persons other than banks/financial institutions.

A strict interpretation of this clause would mean that the term loan obtained from entities/persons other than banks/financial institutions would also have to be examined by the auditor for the purpose of reporting under this clause


**No one –to-one relationship needs to established – in other words no nexus to be established**

It may happen that the company might have acquired improved version/model of assets as against the assets for which the loan had been sanctioned.

Would this tantamount to diversion?

What if the funds are temporarily invested ?

What if the loan is received at the fag-end of the year.?



If the debt instrument is required to be split as per Ind AS it should be treated as Debt and not to be bifurcated.

Where the auditor concludes that the term loans were not applied for the purpose for which the loans were obtained,:-

he should report the amount so diverted and the purpose for which such loan was used.

the amount of term loan as well as the fact the term loan was not utilised for the purpose for which it was obtained and report the amounts diverted and purpose for which such loan was used.


# Clause 3 (ix)(d)

**Whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated; [Paragraph 3(ix)(d)]**

Investing money from overdraft facilities in long-term investments in shares of subsidiaries/associates/joint ventures or investing money raised from public deposits due for repayment in three years in a project whose pay-back period is ten years.

Ideal management of funds borrowed – short term or short term usage and long term borrowing for long term usage

If funds raised for short term is used for long term it is not a prudent policy.




It is clarified that current maturities of long-term loans which are included as current liabilities as per Schedule III to the Act, are to be treated as long term sources of funds for the purpose of reporting under this clause

Long term applications of funds include investment in property, plant & equipment, intangible assets, long-term investments in shares, debentures and other securities and other assets of similar nature, repayment of long-term loans and advances or redemption of long-term debt or securities, etc.

Application of funds which is not long-term may be categorized as short-term application.





If Loan Term Investment is  $<$  Long Term Fund it is an indication that short-term funds have been used to finance the long-term assets of the company

Current Ratio less than 1 is also an indication that short-term funds have been used to finance long-term assets of the company.

**For the purpose of calculating current ratio, current maturities of long term borrowings should be considered as non-current liability.**

Cash Flow statement may also be pursued



An example of reporting under this clause is as follows:

According to the information and explanations given to us, and the procedures performed by us, and on an overall examination of the financial statements of the company, we report that no funds raised on short-term basis have been used for long-term purposes by the company.

An example of unfavourable reporting under this clause is as follows:


According to the information and explanations given to us, and the procedures performed by us, and on an overall examination of the financial statements of the company, we report that the company has used funds raised on short-term basis aggregating to Rs. X crores for long-term purposes.

# Clause 3(ix)(e)] New Clause

Whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case; [Paragraph 3(ix)(e)] [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)


Funds will include both long term and short-term funds

Reporting under this clause would normally be required when the company has taken any funds from any entity or any person and has also granted loans or advances in the nature of loans to its subsidiaries, associate companies or joint ventures or has made further investments in such subsidiaries, joint ventures, or associate companies.



The auditor needs to consider new loans or advances given during the year, meeting the obligations of subsidiaries, joint ventures, or associate companies during the year and new investments (equity or debt investment) made during the year for the purpose of reporting under this clause.


Therefore, if there are no such transactions during the year, the auditor may conclude that the company has not taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures.



The Act or the Order does not define the word “obligation”.- in normal parlance, obligation means a debt security (such as a mortgage or corporate bond) or a commitment to pay a particular sum of money.

Obligation of subsidiary, joint venture or associate would mean the amounts that such subsidiaries, joint venture or associate companies are required to pay themselves either to their vendors, lenders, employees, or statutory authorities.

When a company pays these amounts on behalf of its subsidiaries, joint ventures or associate companies, the amount so paid is generally treated as an asset either as loan, advance, or other current/ non-current assets in the financial statements of the company.



It is possible that the financial statements of subsidiaries, joint ventures, and associates are audited by another auditor.

In such cases, the principal auditor may consider seeking specific information from the auditors of the components in accordance with the guidance given in SA 600, “Using the Work of Another Auditor” and Guidance Note on Audit of Consolidated Financial Statements to enable him to report under this clause.

(i) The auditor should review the cash flow statement of the company.


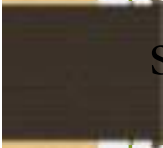
Positive cash flows from operations, investing activities from issue of equity instruments and has utilised these cash inflows to make investments in, grant loans or advances or to meet the obligations of its subsidiaries, joint ventures and associates,

the auditor may be able to conclude that borrowed funds have not been used to grant loans or advances or to meet the obligations of its subsidiaries, joint ventures and associates.



An example of positive reporting under this clause is as follows:

According to the information and explanations given to us and on an overall examination of the financial statements of the company, we report that the company has not taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures





An example of negative reporting under this clause is as follows:

According to the information and explanations given to us and on an overall examination of the financial statements of the company, we report that the company has taken funds from following entities and persons on account of or to meet the obligations of its subsidiaries, associates or joint ventures as per details below:



## Clause 3(ix)(f)

**Whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised; [Paragraph 3(ix)(f)] Compilation of Tables by CA Finalist Heena Sondhi.xlsx**

If yes, give details of such loans; and

Report if the company has defaulted in repayment of such loans raised. –Yes or No – nothing else



As the defaults are in any case required to be reported under clause 3(ix)(a) for all lenders.

All loans taken during the year even if these have been repaid during the year.

Further, reporting is required only in case of loans taken during the year,

Loans taken in earlier years and outstanding as at the balance sheet date need not be reported.

Default will include both repayment of principal and payment of interest.

Covers cases where the securities have been evoked.

Definition of Pledge : Refer to Indian Contract Act 1972

Definition of 'Securities' has been defined under section 2(81) of the Act to mean 'securities' as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (SCRA).

Under section 2(h) of SCRA, the term 'securities' include the following

- Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- Derivative;
- Units or any other instrument issued by any collective investment scheme to the investors in such scheme;
- Security receipt as defined in section 2(zg) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
  - Units or any other such instrument issued to the investors under any mutual fund scheme;
- Government securities;
- Such other instruments as may be declared by the Central Government to be securities; and
- Rights or interest in securities.

Verify the form CHG 1 and CHG 4 lodged with the ROC \ MCA while creating and releasing the charge

An example of reporting under this clause is as follows:

According to the information and explanations given to us and procedures performed by us, we report that the company has not raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies. Or

According to the information and explanations given to us and procedures performed by us, we report that the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies as per details below. Further, the company has not defaulted in repayment of such loans raised.

## Clause 3(x)(a)

Whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported; [Paragraph

3(x)(a)] Compilation of Tables by CA Finalist Heena Sondhi.xlsx

No Change

A suggested reporting format under this clause is as follows:

In our opinion and according to the information and explanations given to us, the company has utilised the money raised by way of initial public offer/ further public offer (including debt instruments) for the purposes for which they were raised, except for the following cases:

Note: The reporting under this clause also seeks to cover the details of non-compliances in respect of moneys which were raised **during the previous accounting period but were actually utilized in the current accounting period.**

Whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 Private Placement and section 62 Right issue of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance; [Paragraph 3(x)(b)] Compilation of Tables by CA Finalist Heena Sondhi.xlsx

Two types of reporting.

1. Whether Provisions of Section 42 and S 62 have been complied with, and
2. Whether the funds raised have been used for the purposes for which the funds were raised,

If NOT

provide details in respect of amount involved and nature of non-compliance



Section 62 read with Rule 13 of the Act read with Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014 deals with issue of shares on preferential basis

No fresh offer or invitation of private placement shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company

Allotment within sixty days from the date of receipt of the application money.

If no allotment – return within 60 days, If not repaid within 60 days it shall be liable to repay that money with interest at the rate of twelve percent per annum from the expiry of the sixtieth day.

What else?????

Money received as application money to be parked in separate account – this cannot be used for any purpose other than (a) for adjustment against allotment of securities; or (b) for the repayment of monies where the company is unable to allot securities

The company making any allotment of securities under section 42 of the Act shall file with the Registrar a return of allotment in Form PAS-3 within fifteen days from the date of allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.

S 62 of the CA 2013 (d) Section 62 of the Act and Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014 requires, inter alia, as under:

(i) Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) of section 62 or clause (b) of

If by listed Company follow the CA 2013 and SEBI Rules

An entity is not listed, the preferential offer shall be made in accordance with the provisions of the CA 2013s.

Paragraph 2(i) of the Form PAS-4, Private Placement Offer cum application Letter<sup>4</sup> , requires the company to provide particulars in respect of the purposes and objects of the offer.

Rule 13 of the Companies (Share Capital and Debentures) Rules, 2014, requires the company to disclose the objects of the issue in the explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 of the Act. Thus explanatory statement should be pursued by the Auditor.

## Negative Report

Where the auditor concludes that the funds raised were not applied for the purpose for which the same were raised, the auditor should mention in his report the amount involved as well as the nature of default including delay in utilization. The auditor is also required to report the details of any subsequent rectifications made by the company

# Suggested Positive Reporting

“In our opinion and according to the information and explanations given to us, the company has utilized funds raised by way of preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) for the purposes for which they were raised, except for the following:”

*Note: The reporting under this clause also seeks to cover the details of non-compliances in respect of funds which were raised during the previous accounting period but were actually utilized in the current accounting period.*

## Para 3(xi)(a)

Whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;  
[Paragraph 3(xi)(a)]

### Earlier Clause

whether any fraud by the company or any fraud on the Company by **its officers or employees** has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated;




New clause widened the responsibility of the Auditor by removing the words “officers or employees”.

This clause requires the auditor to report whether any fraud has been noticed or reported either on the company or by the company during the year and does not require to discover such frauds on the company and by the company.


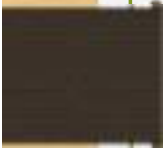
Irrespective of the auditor’s comments under this clause, the auditor is also required to comply with the requirements of SA 240, “The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements”. As also required to comply with the requirements of section 143(12) of the Companies Act, 2013.

The auditor is required to report separately on the nature and amount involved for (i) fraud on the company (ii) fraud by the company


“We have been informed that the accountant of the company had misappropriated funds amounting to rupees ten lakhs during the preceding year and the year under audit. Investigations are in progress and the accountant has been dismissed and arrested. The company has withheld his terminal benefits and it is estimated that the amount misappropriated may not exceed the terminal benefits due to the accountant. The company is also adequately covered by fidelity insurance cover.”



**Whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government; [Paragraph 3(xi)(b)]**



Section 143(12) of the Act read with Rule 13(1) of the Companies (Audit and Auditors) Rules, 2014 -, has reason to believe that an offence of fraud involving an amount of one crore rupees or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Board or the Audit Committee, immediately but not later than two days of his knowledge of the fraud, seeking their reply or observations within forty-five days



On receipt of such reply or observations, or if not received any reply within 45 days the auditor shall forward his report in Form ADT-4 and the reply or observations of the Board or the Audit Committee along with his comments (on such reply observations of the Board or the Audit Committee) to the Central Government within fifteen days from the date of receipt of such reply or observations.

Non compliance by the Auditor with the provisions of subsection (12) of Section 143 of the Act, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty five lakh rupees.

## Clause 3(xi)(c) – New Clause

**Whether the auditor has considered whistle-blower complaints, if any, received during the year by the company.**


**The establishment of whistle blower mechanism is not mandatory for all companies.** U/s 177(9) of the Act the following class of companies to establish a vigil mechanism for their directors and employees to

- Every listed company.
- Companies which accept deposits from the public.
- Companies which have borrowed money from banks and public financial institutions in excess of fifty crore rupees.



**Regulation 4(2)(d) and 46 (2) (e) of the SEBI LODR need to be borne in mind.**

The auditor is not required to consider whistleblower complaints pertaining to earlier years while reporting under this clause. Emphasis is “during the year”



Where there is no whistle blower mechanism established by the company considering that it is not a mandatory requirement either under the Act, or under SEBI LODR Regulations or under any other law, the auditor should ask from the management to share all whistle blower complaints and review the whistle blower complaints while reporting under this clause

## Sample reporting

### Where Vigil Mechanism is mandatory

“We have taken into consideration the whistle blower complaints received by the company during the year while determining the nature, timing and extent of audit procedures”.

### For other companies,

”We have taken into consideration the whistle blower complaints received by the company during the year and shared with us for reporting under this clause”.

### In case no whistle-blower complaints are received during the year:

“As represented to us by the management, there are no whistle blower complaints received by the company during the year”.



# Clause 3(xii) Nidhi Company

**(a) Whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1:20 to meet out the liability;**

**(b) Whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;**

**(c) Whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof; Clause C is added**

# Nidhi Company

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Relevant Sections and Rules of the CA  
2013

S 406 and S 620A(1)

Nidhi Rules 2014

Rule 5(1) of these rules prescribes the requirements for minimum number of members, net owned fund etc.

Every Nidhi shall, within a period of one year from the date of its incorporation, ensure that it has—

- (i) not less than two hundred members;
- (ii) net owned funds of ten lakh rupees or more; (
- iii) unencumbered term deposits of not less than ten per cent of the outstanding deposits as specified in Rule 14; and Guidance Note on CARO 2020 152 (iv) ratio of net owned funds to deposits of not more than 1:20.

The auditor should report the period and amount of all defaults:

- Existing as at the year-end; and
- Defaults existing during any period and made good during the year

## Clause 3(xiii)

Whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act, where applicable and the details have been disclosed in the financial statements etc., as required by the applicable accounting standards; Compilation of Tables by CA Finalist Heena Sondhi.xlsx

**No Change same as the CARO 2016**

## Clause 3 (xiv)- Internal Audit – New Clause

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(a) Whether the company has an internal audit system commensurate with the size and nature of its business.

In accordance with section 138 of the Act, which mandates internal audit system, this clause has a mandatory application for the listed companies irrespective of the size of paid-up share capital, turnover, borrowings or deposits.

(i) in case of private limited companies , if

➤ the turnover is greater than rupees two hundred crores during the previous financial year or (250)

➤ outstanding loans/ borrowings from banks/public financial institutions is greater or equal to one hundred crore rupees at any time during the previous financial year. (100)

(

## **(ii) in case of unlisted public limited companies, If**

- the paid up share capital is greater than rupees fifty crores during the previous financial year or (50)
- the turnover is greater than rupees two hundred crores during previous financial year or (200)
- outstanding loans/ borrowings from banks/public financial institutions is greater or equal to one hundred crore rupees at any time during the previous financial year or (100)
- outstanding deposits is greater or equal to twenty five crore rupees at any time during the previous financial year. (25)


# Who can be Internal Auditor

Internal auditor may be either an individual or a partnership firm or a body corporate.

The qualification of internal auditor, shall be chartered accountant or a cost accountant, (whether engaged in practice or not), or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

Internal auditor may or may not be an employee of the company.





Generally internal audit function includes the following activities with regard to the entity:

- (i) Evaluation of internal controls.
- (ii) Examination of financial and operational information.
- (iii) Review of operating activities. (iv) Review of compliance with laws and regulations.
- (v) Evaluation of risk management and governance practices

# Clause 3 (xiv)(b)- Internal Audit

**Whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;**

The statutory auditor should consider the work of internal auditor only after satisfying himself as per SA 610 “Using the work of Internal auditor” and state in CARO whether internal auditor’s report was taken into consideration while finalizing the books of accounts of the company.

- (a) **Situation A – Company has an adequate Internal Audit System:** “In our opinion and based on our examination, the company has an internal audit system commensurate with the size and nature of its business.”
- (b) **Situation B – Company does not have Internal Audit System though mandated under section 138 of the Act:** “In our opinion and based on our examination, though the company is required to have an internal audit system under section 138 of the Act, it does not have the same established for the year.”
- (c) **Situation C – Company does not have Internal Audit System also, not mandated under section 138 of the Act:** “In our opinion and based on our examination, the company does not have an internal audit system and is not required to have an internal audit system as per provisions of the Companies Act 2013.”

## Clause 3(xv) Same as CARO 2016

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Whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;

## Few Important Forms under the CA 2013

Form No. MBP 1, Notice of Interest by Director, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014 [Ref: Section 184(1) and Rule 9(1)]

Form No. MBP 2, Register of Loans, Guarantee, Security and Acquisition Made by the company, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014 [Ref: Section 186(9) and Rule 12(1)]

Form No. MBP 4, Register of Contracts with Related Party and Contracts and Bodies etc in which Directors are Interested, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014 [Ref: Section 189(1) and Rule 16(1)]

# Clause 3(xvi)(a) Same no change


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Whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained; [Paragraph 3(xvi)(a)]

## Clause 3(xvii) New Clause

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**Whether the Company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses; [Paragraph 3(xvii)]**



The term “cash losses” is not defined in the Act and the accounting standards/Indian accounting standards.

The figure of cash losses is not readily available from the financial statements of the company.

The term ‘cash losses’ needs to be distinguished from ‘distributable surplus’ and ‘realised profits/losses





Cash Loss is not the same as the negative operating flow

For Companies following AS – PAT is adjusted for the effects of transactions of non-cash nature such as

- depreciation provided as per provisions of AS 10, Property, Plant & Equipment, amortization as per AS 26, Intangible Assets and impairment loss or its reversal as per AS 28, Impairment of Assets etc.

Adjustments would also required for non-cash items such as deferred tax income/expense, foreign exchange gain/loss, fair value changes for determination of cash losses etc.

- For Ind AS Compliant CO.PAT is adjusted for the effects of transactions of non-cash nature such as:
- depreciation provided as per provisions of Ind AS 16, Property, Plant and Equipment, and Ind AS 116, Leases,
- amortisation as per Ind AS 38, Intangible Assets and
- impairment loss or its reversal as per Ind AS 36, Impairment of Assets etc

**Though not specifically mentioned in the GN – ECL provisions could be added back and writing back of provisions also to be reduced**

Also consider the adjustment for the effect of qualifications in the respective audit reports to the extent the qualifications are quantified .

What if loss in one year and profit in another year?

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May be the company has suffered cash losses in only one of the years referred to in this clause. In such a situation, the auditor is well advised to comment on the two years separately.


# Clause 3 (xviii)- New Clause Resignation of Auditors

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Whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;

## Analysis:

This point states that the incoming auditor shall take on record, any objections raised by the outgoing auditor, and whether the same has been properly dealt with the management. If the same is negative, the auditor should point out the same in his report.



This clause is applicable where new auditor ('incoming auditor') is appointed during the year to fill a casual vacancy caused by resignation of the auditor created in the office of the previous auditor under section 140(2) of the Act. Auditor's resignation can occur for various reasons.

Also, it should be noted that this clause does not cover change of auditors pursuant to mandatory rotation requirements prescribed under Companies Act, 2013.

The incoming auditor, prior to accepting the position as auditor, in accordance with the requirements of ICAI Code of Ethics<sup>6</sup>, is required to communicate with the previous auditor to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant.

The Incoming Auditor should be concerned with :

- Section 140(2) of the Act read with Rule 8 of the Companies (Audit and Auditors) Rules 2014 which requires the auditor who has resigned from the company to file within a period of thirty days from the date of resignation, a statement in Form ADT 3 - Notice of Resignation by the Auditor, with the Registrar of Companies (ROC) indicating the reasons and other facts as may be relevant with regard to his resignation
- The “Implementation Guide on Resignation/ Withdrawal from an Engagement to Perform Audit of Financial Statements” (the “Implementation Guide”)
- In respect of listed entities, SEBI vide its Circular CIR/CFD/CMD1/114/2019 dated October 18, 2019 on “Resignation of statutory auditors from listed entities and their material subsidiaries” with specific mention of Annexure A of the Circular.

Incoming Auditor should besides pursuing ADT 3 and in case of listed Companies Annexure A should also carry out the following additional audit procedures:

- reading minutes of Board meetings.
- inquiring from the management and reading the communication to audit committee e.g. audit committee presentation to determine if there is any matter communicated to those charged with governance.
- exercise his professional judgement while evaluating the reasons for resignation.

The following are examples of reporting by the auditor under this clause:

**Where there is resignation of statutory auditor during the year:**

“There has been resignation of the statutory auditors during the year and we have taken into consideration the issues, objections or concerns raised by the outgoing auditors.”

**Where there is no resignation of statutory auditor during the year:** “There has been no resignation of the statutory auditors during the year and accordingly this clause is not applicable.



## Clause 3(xix)

On the basis of the **financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities**, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that **no material uncertainty exists as on the date of the audit report** that company is capable of meeting its liabilities existing at the date of balance sheet **as and when they fall due within a period of one year from the balance sheet date**; [Paragraph 3(xix)]

Currently, there is no legal requirement – neither in FS or Director's report about the company's capability of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date.

As per AS 1 Going Concern is a fundamental assumption – under para of 27 disclosure is warranted if that assumption is not followed.

Paragraph 25 of Ind AS 1, requires that when preparing financial statements, management shall make an assessment of an entity's ability to continue as a going concern.

As per SA 570(Revised), Going Concern, the auditor's responsibilities are to obtain sufficient appropriate audit evidence regarding, and to conclude on, the appropriateness of management's use of the going concern basis of accounting in the preparation of the financial statements, and to conclude, based on the audit evidence obtained, whether a material uncertainty exists about the entity's ability to continue as a going concern

The liabilities to be examined for payment should exist at the date of balance sheet which fall due within a period of one year from the balance sheet date.

It should be noted that “liabilities falling due within a period of one year” and “current liabilities” should not be construed as same as the criteria of Current liability also depends on

Operating Cycle

Meant for trading , and existence or absence of

Unconditional rights to defer the liability beyond one year from the reporting date

# Going Concern V/s Ability to meet obligations

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Going concern assumption may be appropriate due to support letters provided by the holding company, **but the company may not be able to meet its liabilities falling due within a period of one year from the balance sheet date.**

The auditor will need to state this fact in his report while also stating the facts on the financial position of the company.

Financial assets and financial liabilities have been defined in Ind AS 32, Financial Instruments: Presentation. In the absence of definition of financial assets and financial liabilities under any other standard or the Act, the definitions as per Ind AS 32 may be considered for the purpose of this clause.

The auditor needs to comment on the basis of:

- (i) The financial ratios;
- (ii) Ageing and expected dates of realization of financial assets and payment of financial liabilities;
- (iii) Other information accompanying the financial statements, for example - the director's report, management discussion and analysis forming part of the annual report of the company;
- (iv) Auditor's knowledge of the plans of the Board of Directors and management plans.

The parameters prescribed in this clause appear to be inclusive.

# Relevant Ratios

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The auditor can refer the liquidity ratios such as

current ratio,

acid-test ratio,

cash ratio and

efficiency ratios such as

asset turnover ratio,

inventory turnover ratio, accounts

receivable turnover ratio

Refer to the 11 ratios in the revised SCH III



# Other information

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MIS for subsequent months,

Cash flow projections for the future period of 12 months from the date of balance sheet,

Assess the assumptions of the management.

The minutes of Audit Committee meeting and Board of Directors meeting held after the balance sheet date

# Special consideration

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Ind AS Companies –  
Disclosure and maturity  
analysis as per Ind AS 107

NBFC are required to disclose  
their asset liability maturity  
(ALM) pattern in the financial  
statements, the auditor may  
give due consideration to the  
information furnished in the  
ALM disclosure.

# Clause 3(xx)(a)- New Clause

- (a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act; [Compilation of Tables by CA Finalist Heena Sondhi.xlsx](#)
- (b) Notification date 22.1.2021
- (c) CSR 2 which required to be lodged before March 31,2022
- (d) FAQ on CSR [FAQ CSR August 2021.pdf](#)
- (e) Guidance Note on Accounting for Expenditure on Corporate Social Responsibility Activities issued by the Institute of Chartered Accountants

**(a) This clause requires the auditor to comment whether the company has transferred the unspent amount, in respect of “other than ongoing projects”, to a fund specified in Schedule VII to the Companies Act 2013 within a period of six months of the expiry of the financial year in compliance with the second proviso to sub-section (5) of section 135 of the said Act**

(b) Auditor should refer to the Board Report as an evidence. Failure to spend the required amount the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.

# Treatment of Excess spent on CSR

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- The excess amount can be set off against the required 2% CSR expenditure up to the immediately succeeding three financial years subject to compliance with the conditions stipulated under rule 7(3) of the Companies (CSR Policy) Rules, 2014. This position is applicable from 22nd January, 2021 and has a prospective effect. Thus, no carry forward shall be allowed for the excess amount spent, if any, in financial years prior to FY 2020-21.

3) Where a company spends an amount in excess of requirement provided under sub-section (5) of section 135 , such excess amount may be set off against the requirement to spend under sub-section (5) of section 135 up to immediate succeeding three financial years subject to the conditions that –

(i) the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of sub-rule (2) of this rule.

(ii) the Board of the company shall pass a resolution to that effect.

## **What if on the date of report the deadline is not expired?**

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“The company has not transferred the amount remaining unspent in respect of ongoing projects, to a Special Account till the date of our report. However, the time period for such transfer i.e. thirty days from the end of the financial year as permitted under the sub-section (6) of section 135 of the Act, has not elapsed till the date of our report.”

What if the unspent amount has not been transferred?

In case the company has not transferred the unspent amount, in respect of other than ongoing projects, to a fund specified in Schedule VII to the Act within the time limits, the auditor should ascertain the following details as a part of his working papers for reporting under this clause – next slide



## Schedule VII funds

1. Contribution to the Prime Minister's National Relief Fund or
2. Prime Minister's Central Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or
3. any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Schedule Tribes, other backward classes, minorities and women

## Clause 3(xx)(b)

Whether any amount remaining unspent under section (5) of section 135 of Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with provision of sub section (6) of section 135 of the said Act; [Paragraph 3(xx)(b)] Compilation of Tables by CA Finalist Heena Sondhi.xlsx

Any amount remaining unspent any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy,

shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year

in any scheduled bank to be called **the Unspent Corporate Social Responsibility Account**, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer,

**failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.**

## Clause 3(xxi)-New Clause

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**Whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks. [Paragraph 3(xxi)]**



*Any Questions ?*

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Thank You

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