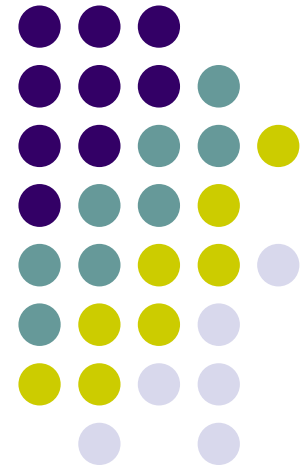


WIRC - ICAI – 24th May, 2014



Companies Act, 2013

The Game Changer!
Accounts, Audit & Auditors



- Anand Bathiya

B.Com., A.C.A., LL.B., D.I.S.A.

Coverage



- Key points for discussion
ET: 10 mins
- Provisions relating to Internal Audit
ET: 15 mins
- Provisions relating to Accounts
ET: 30 mins
- Provisions relating to Audit & Auditors
ET: 30 mins
- Q&A
ET: 5 mins



Key Principles of Companies Act

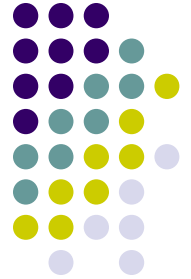


- Proactive vs. Reactive
- Shareholder vs. Stakeholder
- Majority vs. Minority
- Third Party Regulation
- Transparency and Good Corporate Governance
- Hub and Spoke Model



Companies Act, 2013

Internal Audit



Position under the Act

Section 138 - Internal Auditor shall either be:

- a. a chartered accountant or
- b. a cost accountant, or
- c. such other professional as may be decided by the Board

Section 144 - Statutory Auditor cannot be an Internal auditor of the auditee, its holding company or its subsidiaries.

Internal Audit



Position under the Act

Section 177: Audit committee shall recommend appointment of Internal Auditor

Audit committee may call for comments, reports and discuss issues with Internal Auditor



Internal Audit



Position under the Companies (Accounts) Rules, 2014

Rule 13:

Applicability of Internal Audit

Following class of companies:

- a. All Listed Companies
- b. Unlisted Public Companies – PUC > INR 50crores
Turnover > INR 200crores
Loans > 100 crores
Deposits > 25 crores
- c. Private Limited Companies – Turnover > INR 200crores
Loans > 100 crores

Existing companies to have a 6-months transition period.

Internal Audit



Position under the Companies (Accounts) Rules, 2014

Rule 13: *The Internal Auditor may or may not be an employee of the Company.*

The term Chartered Accountant shall mean a Chartered Accountant whether engaged in practice or not.

The Audit committee shall formulate the:

- a. Scope
- b. Functioning
- c. Periodicity
- d. Methodology

Accounting Requirements



- No mandatory requirement for transfer to reserve before declaration of dividend
- Related Party Transactions to be at 'Arms Length'. No CG approval. Members approval.
- **Sick Companies to include all kinds of companies**
- Mandatory following of Financial Year 31st March
- CFO to be mandatorily appointed by certain companies (Listed company + Public company having PUC of INR 10crores or more)
- **CFO to attest financial statements**

Audit and Auditors



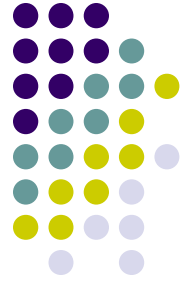
- Chapter X - Section 139 to Section 148
- Resolution for appointment can be passed for 5 years, subject to ratification each year
- Mandatory rotation of auditors every five years
- **Mandatory rotation of auditor firms every five + five years**
- Common partner, common control, same network, etc. firms not permitted reappointment
- **Transition period of 3 years**
- Removal by company requires special resolution and central government approval
- **Resignation requires filing a statement of reasons with ROC**
- Tribunal\Central Govt. can remove auditors
- **Auditor to report on adequate internal financial control system and also their operating effectiveness**
- **Mandatory Auditing standards**

Appointment & Rotation of Auditors



Applicability of Rotation	Applicability of Internal Audit
<p>Following class of companies (excluding OPC and SC):</p> <ul style="list-style-type: none">a. All Listed Companiesb. Unlisted Public Companies – PUC > INR 10croresc. Private Limited Companies – PUC > INR 20croresd. All companies – Borrowings > INR 50 crores	<p>Following class of companies:</p> <ul style="list-style-type: none">a. All Listed Companiesb. Unlisted Public Companies – PUC > INR 50crores Turnover > INR 200crores Loans > 100 crores Deposits > 25 croresc. Private Limited Companies – Turnover > INR 200crores Loans > 100 crores

Liabilities, Fine and Obligations



- **Liability of the entire Firm and not the signing partner – Joint & Several**

“147(2) ... the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees:

*Provided that if an auditor has contravened such provisions **knowingly** or willfully with the intention to deceive the company or its shareholders **or creditors or tax authorities**, he shall be punishable with imprisonment for a term which may extend to one year **and** with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.*

(3) Where an auditor has been convicted under sub-section (2), he shall be liable to—

*(i) **refund** the remuneration received by him to the company; and*

*(ii) pay for **damages** to the company, **statutory bodies or authorities or to any other persons** for loss arising out of incorrect or misleading statements of particulars made in his audit report.”*

- **Imprisonment upto One Year AND fine upto 25 lacs + fees + damages**

- NFRA has powers to conduct disciplinary proceedings against CA's

- **Class Action Suits against Auditors! Damages can be claimed**

- **The whole firm can be debarred for upto 10 years by NFRA!**

- **Whistle Blower! (penalty upto 25laks 143(12))**

Auditors Practice Impact



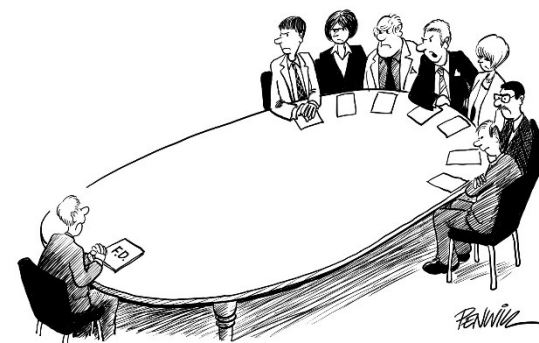
- No limit on number of partners in a professional firm \ LLP
- CA firm can have other professionals as partners
- Appointment restricted to 20 companies (can be lesser too)
- Limit of 20 companies is 'per partner'

- Board resolution for other services. Auditors are prohibited from rendering specified services to the company/its holding company / subsidiary company, *inter-alia*, including: (a) internal audit; (b) investment banking; (c) outsourced financial services; (d) actuarial services; (e) investment advisory services; (f) management services; (g) any other kind of services as may be prescribed.
- Members can pass resolution for early rotation or joint auditors

- Mandatorily attend to all General Body Meetings

- Stricter reporting requirements

- Relatives matter!



Thank You!

Anand Bathiya

anand@shbathiya.com

The views expressed herein are individual and personal in nature and neither the organizing body nor the representative firm has endorsed or supports nor rejects the view of the individual. Reliance on matter herein should be after due care and professional advice.

