

Role and Responsibilities of Auditors



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Provisions relating to Audit and Auditors

2

- Background / Genesis of the amended provisions
- Mainly contained in Chapter X of the Act
- Certain other provisions which affect the auditing profession

Provisions relating to auditors

3

Relating to	Companies Act, 2013	Companies Act, 1956
Appointment	139	224
Removal	140	225
Eligibility /Qualifications/ Disqualifications	141	224(1B) / 226
Remuneration	142	224
Powers and Duties	143	227
Prohibited Services	144	No provision
Signing of Reports	145	229
Attendance at General Meetings	146	231
Punishment for Contravention	147	232 / 233
Cost Records and Cost Audit	148	233B
Chapter X of Rules – Rules 10.1 to 10.11		

Appointment of Auditors

4

- Auditors to be appointed at AGM for 5 years – **Rule 10.1**
- Ratification required at each AGM
- Written consent and certificate required from auditor - **Rule 10.2**
- Company to inform auditors and file notice of appointment with ROC within 15 days
- Right of company to remove auditor or right of auditor to resign not affected
- Mandatory rotation of auditors in certain cases

Appointment of Auditors – contd.

5

- Members of a Company can resolve:
 - Rotation of audit partner at certain intervals
 - Rotation of audit team at certain intervals
 - Appointment of Joint Auditors
- Procedural provisions for appointment of first auditors in cases of Government Companies and other companies
- Procedural provisions relating to filling up of casual vacancy

Appointment of Auditors – contd.

6

- Retiring auditor cannot be reappointed if
 - Disqualified for reappointment
 - He gives notice of unwillingness
 - Someone else appointed or expressly decided not to reappoint
- Retiring auditor to continue if no auditor appointed
- Issues
 - Does Auditor have a choice not to accept / refuse?
 - When does the auditor communicate with retiring auditor?
 - What happens if appointment not ratified?

Rotation of Auditors

7

- Mandatory in certain cases – **Rule 10.3**
- Manner and procedure for rotation – **Rule 10.4**
- In case of individual – one term of 5 years
- In case of firm of auditors – two terms of 5 consecutive years
- Cooling off period – in both cases – 5 years
- Audit firms having common partner or partners as on the date of appointment cannot be appointed for 5 years

Rotation of auditors – contd.

8

- Existing companies to comply with these provisions within 3 years of enactment
- Incoming auditor not eligible if such auditor or audit firm is associated with outgoing auditor or firm
 - Under same network
 - Operates under same trade mark or brand

Rotation of auditors – contd.

9

- Mode of rotation when joint auditors are appointed
- Issues
 - Can another firm which earlier had common partners as the retiring auditor firm but not on date of appointment be appointed?
 - Can any partner of retiring firm join another firm after appointment ?
 - Can partner of a firm be appointed in individual capacity?
 - How will provision relating to joint auditor not retiring in same year be complied in the first year of application of section?

Removal / Resignation

10

- Mode of removing an auditor before expiry of his term – **Rule 10.5**
- Special notice to be given
- Auditor's rights in case of removal
- Resignation by an auditor – **Rule 10.6**
- Removal of auditor by Tribunal in certain circumstances

Eligibility/Qualifications/Disqualifications

11

➤ Eligibility / Qualifications

- Should be a Chartered Accountant
- Can be an individual or a firm (including LLP)

➤ Disqualifications

- Body Corporate (other than LLP)
- Any officer or employee of the Company
- Person who is partner or employee of officer or employee of the Company
- A person in full time employment elsewhere

Eligibility/Qualifications/Disqualifications – contd.

12

➤ Disqualifications – contd.

- Relating to investment / transactions / dealings - **Rule 10.7**
- Relative is director or employed as director or KMP
- A person or partner of a firm who is holding appointment as auditor of more than 20 companies

Eligibility/Qualifications/Disqualifications – contd.

13

- Disqualifications – contd.
 - A person who has been convicted in an offence involving fraud – disqualified for a period of 10 years from the date of conviction
 - Any person whose subsidiary or associate company or any other form of entity is, on the date of appointment, engaged in rendering consulting and specialised services specified in section 144
- Disqualification incurred after appointment

Other provisions relating to auditors

14

➤ Remuneration

- To be fixed at GM (except first auditors – Board) or as may be determined therein
- Does not include remuneration for other services
- Expenses incurred by auditors for audit – if not borne by Company – whether remuneration

➤ Signing of Reports

➤ Attendance at General Meetings

➤ Internal Audit

➤ Cost Records and Cost Audit

Powers and Duties

15

➤ Powers:

- Right of access to books and vouchers
- Entitled to information and explanation as deemed necessary
- Holding Company's auditor to have access to record of all subsidiaries in so far it relates to CFS
- Audit of a branch – **Rule 10.9**

Powers and Duties – contd.

16

➤ Duties:

- Inquiries to be made
- Reporting requirements – **Rule 10.8**
- Report on financial statement to be laid before GM
- Auditing Standards to be complied
- Reporting of fraud – **Rule 10.10**

Additional reporting requirements

17

- Observations or comments on financial matters which have adverse effect on the functioning
- Qualification, reservation, adverse remark relating to maintenance of accounts & other matters
- Whether Company has adequate internal financial controls system in place and its operative effectiveness

Additional reporting requirements – contd.

18

- Effect, if any, of pending litigation on financial position / statement – whether disclosed
- Provision for foreseeable losses, if any, on long term contracts (including derivative contracts) – whether made
- Depositing money in IEPF – whether any delay

Prohibited Services

19

- Apart from audit – auditor can provide only those services as are approved by the AC/BOD
- Auditor prohibited, directly or indirectly, from rendering certain specified services
- Auditors rendering such services at present to comply before the closure of first financial year.

Punishment for contraventions

20

- Contravention by auditor relating to:
 - Appointment
 - Reporting requirements
 - Prohibited services
 - Signing of reports
- Willful contravention or with an intention to deceive
- Consequences of conviction:
 - Refund the remuneration received to the Company
 - Pay damages
- Punishment for fraud under section 447

Other provisions affecting auditors

21

- Duties / responsibilities vis-à-vis audit committee
- Powers of Registrar / Inspector
- Class action suits
- Assist liquidator in prosecution

National Financial Reporting Authority

22

- Central Government to constitute NFRA
- Role of NFRA
- Powers of NFRA
- Penalties and other actions against auditors
- Role of ICAI

Key Takeaways

23

- Effect of mandatory rotation
- Increased compliances
- Increased exposure to liabilities
- Increased responsibility
- Reduced role of the Institute
- Will this be a boon or bane

Thank
You