

ACCOUNTS, AUDIT & AUDITOR UNDER THE COMPANIES ACT, 2013



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INTRODUCTION

<u>Companies Act, 1956</u>	<u>Companies Act, 2013</u>
Part VI Chapter I Management & Administration	Chapter IX - Accounts of Companies Chapter X - Audit & Auditors
Sec.209-223 Sec.224-233B	<p>Chapter IX Sec.128-138 Rules 9.1 to 9.15 & CSR Rules 2013</p> <p>Chapter X Sec.139-148 Rules 10.1 to 10.16</p>

CHAPTER IX

ACCOUNTS OF COMPANIES



DEFINITIONS

“FINANCIAL STATEMENT” includes - BS, P & L, Cash Flow, statement of changes in equity, notes forming part. Does not include Cash flow statement OPC/Small & Dormant company.

Definition of “Financial year” - in relation to a company/Body Corporate

- Mean 31st March every year
- Existing Company/BC within 2 years to align its FY
- Tribunal on an application by Holding/Subsidiary of a company incorporated outside India, which is required to follow different financial year for consolidation of accounts outside India, allow any period as its financial year.

DEFINITIONS

“ASSOCIATE COMPANY”

- A Company in which the other company has **Significant influence** & includes a **JV company** (not defined)
- Significant influence means control of min. 20% of *total share capital or of business decision under an agreement*

“SUBSIDIARY COMPANY”

- *Controls composition of BOD/exercise/controls more than one-half of total share capital either at its own or together with one or more of its subsidiary companies*

SECTION 128

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p>• <u>BOOKS OF ACCOUNTS TO BE KEPT BY THE COMPANY :</u></p>	<ul style="list-style-type: none"> • Section 128 • The company may keep such books of account or other relevant papers in <u>electronic mode</u> in such manner as may be prescribed. • The inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors • The books of account of every company relating to a period of not less than <u>eight financial years</u>. Where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such <u>longer period</u>.

SECTION 128- RULES

Rules	<u>Companies Act, 2013</u>
•9.2	<p>•Section 128 (3)</p> <p>•copies of such financial information shall be maintained and produced for inspection by any director <u>subject to such conditions as may be prescribed</u></p> <p>•Summarised returns of the books of accounts maintained outside India shall be sent to the registered office at monthly or quarterly intervals as may be decided by the Board of directors</p> <p>•any other <u>financial information maintained outside the country</u> is required by a <u>director</u> (indicating the reason) shall be provided on request</p> <p>•Company shall produce such financial information within fifteen days of the date of receipt</p> <p>•financial information required shall be sought for by the director himself and not by or through his power of attorney holder or agent or representative</p>

SECTION 129

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>FINANCIAL STATEMENT</u>	<p><u>SECTION 129</u></p> <ul style="list-style-type: none">• True & Fair View, Compliance with Accounting Standards etc., (Section 211 of CA 56)• Schedule III (Schedule VI of CA 1956)• Exemption to Insurance/Banking/Power/Other companies• Where company has subsidiary(ies), to prepare <u>consolidated financial statement</u> (AS 27) and lay before AGM• To attach <u>separate statement containing salient features</u> of Financial statement of subsidiary(ies) in such form as “may be prescribed” (similar to sec.212 of 56 statement)• <u>“Subsidiary” to mean associate company/”Joint Venture”</u>

SECTION 129

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>FINANCIAL STATEMENT</u>	<p><u>SECTION 129</u></p> <ul style="list-style-type: none">•The provisions applicable to preparation, adoption & audit of the financial statements of the <u>holding company shall mutatis mutandis, apply to the consolidated financial statements too.</u>•Without prejudice to Section 129(1) - (true & fair view) if FS do not comply with AS the same shall be disclosed in FS with reason for such deviation & financial effects, if any arising out of such deviation.•CG may (own or application by a class or class of companies) by notification, exempt from complying with any of the requirement of this section or rules either unconditionally or subject to such conditions.•Penalty for contravention: <u>MD/WTD - in charge of Finance/CFO/person charged</u> by board, if not, all directors - Imprisonment upto one year or <u>fine not less than Rs.50,000 but extend upto Rs.5,00,000 or both.</u>

SECTION 129- RULES

Rules	<u>Companies Act, 2013</u>
9.3	<p data-bbox="481 465 842 511"><u>Sec 129 (1) - FS</u></p> <ul data-bbox="481 522 1818 1196" style="list-style-type: none"><li data-bbox="481 522 1309 568">•Class of companies to file FS in XBRL<li data-bbox="481 639 1818 851">•The statement containing the salient feature of the financial statement of a company's subsidiary or subsidiaries, associate company and joint venture shall be in Form 9.1<li data-bbox="481 922 1818 1196">•If under Accounting Standards, consolidation is not required for the company whose immediate parent outside India, then such companies will also be required to prepare Consolidated Financial Statements in the manner and format as specified under Schedule III to the Act.
9.4	

SECTION 130

DESCRIPTION	<u>CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p>• <u>Re-Opening of Accounts on Court/ Tribunal Order</u></p>	<p>• <u>Section 130 - New Provision</u></p> <p>• No Company shall re-open or recast the Financial Statements unless :</p> <ul style="list-style-type: none"> • <u>An application by CG, IT, SEBI or any other statutory regulatory body or</u> • An order made by the Court of competent jurisdiction/ Tribunal that : • <u>Earlier accounts were prepared fraudulently</u> • <u>Affairs of the company were mismanaged casting a doubt on the FS.</u> <ul style="list-style-type: none"> • Court to give Notice to CG, IT, SEBI or any other statutory regulatory body • Court to take into consideration the representation of Govt before passing order • Recast/ Revised accounts shall be final

SECTION 131

DESCRIPTION	<u>CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p><u>•VOLUNTARY REVISION OF FINANCIAL STATEMENTS /BOARD'S REPORT :</u></p>	<p><u>Section 131 - New Provision</u></p> <ul style="list-style-type: none"> •If the Company has not prepared the FS or Board Report in compliance with the provisions of Section 129 (Financial Statement) or Sec. 134 (Financial Statement, Boards' report)of the CA 2013, the Board may prepare a Revised FS or Revised Report in respect of any 3 preceding FY. •Can be revised after obtaining approval of the Tribunal on an application in such form and manner as may be prescribed •Copy of the order to be filed with Registrar •Tribunal to give Notice to CG, IT, SEBI or any other statutory regulatory body & to take into consideration their representation •Revised FS or Board Report not to be prepared for more than once in a FY

SECTION 131

DESCRIPTION	<u>CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p>•<u>VOLUNTARY REVISION OF FINANCIAL STATEMENTS / BOARD'S REPORT :</u></p>	<ul style="list-style-type: none"> • Board report for the relevant FY in which the revision made, to disclose the detailed reason for such revision • FS has been already sent to members/delivered to Registrar/ laid before GM then the revision must confine the corrections in respect of Previous FS/ report which do not comply section 129/134 and making of any necessary consequential alternation. • <u>CG to make rules</u> as to application of in relation to revised FS / Report in particular to : <ul style="list-style-type: none"> • Provisions relating to previous FS/ Report to be replaced/ supplemented by document indicating corrections. • Provision relating to functions of the company's auditor • Provisions requiring Directors to take such steps as may be prescribed

SECTION 131- RULES

Rules	<u>Companies Act, 2013</u>
9.5	<ol style="list-style-type: none"> 1. the company shall apply to the Tribunal in Form No. 9.2. 2. application to the Tribunal shall be made within 2 weeks of the decision taken by the Board 3. In case of change in management/ auditors before such decision, application to state that fact 4. IF present auditor is different, the Tribunal can send notice to auditor of original FS 5. Order to be filed within 30 days of receipt of certified copy
•9.6	<ol style="list-style-type: none"> 1. Previous financial statement or report may be replaced and supplemented by : summarised statement of revisions effected Order Copy of the Tribunal revised auditor’s report on the revised financial statement 2. word “revised” is prefixed prominently on all the documents forming part of Revised FS / Board Report 3. Revision to be effected in accordance with Rule 9.5

SECTION 131- RULES

Rules	<u>Companies Act, 2013</u>
•9.7	<p>•Functions of the auditor pursuant to an order of the Tribunal allowing revision of the financial statement is as follows :</p> <ul style="list-style-type: none"> •To <u>carry out the audit</u> procedures, if necessary •Review steps taken by company on information of the situation to those who received previous FS •To ensure the revised <u>Audit Report mention “revision of the financial statements”</u> •To <u>issue a revised auditor’s report</u> & sign the same •Paragraph in bold explaining the reasons for the revision with cross reference to the earlier report •If qualification in audit report, board to address the same in its report.

SECTION 131- RULES

Rules	<u>Companies Act, 2013</u>
•9.8	<p><u>DIRECTORS TO TAKE FOLLOWING STEPS FOR REVISION IN FS/ REPORT :</u></p> <ul style="list-style-type: none"> •<u>Proposed Revision to be presented to Directors/ Auditors who authenticated / attested the original FS/ Report</u> •<u>Opinion of the Auditor to be obtained before approval of revised FS</u> •<u>Dissent/ Dissent Vote at the BM to be recorded in the Minutes with reasons.</u> •<u>Revised FS to be reported by current Auditor. If the present auditor is different, then the consent letter from the auditor of the original FS</u> •<u>In case such auditor do not agree or company is unable to procure the consent letter, reasons for such different opinion or inability to be explained.</u>

SECTION 131- RULES

Rules	<u>Companies Act, 2013</u>
•9.8	<ul style="list-style-type: none"> •<u>Duty of the board to intimate members, Stock Exchange & other regulatory authority and to fix the date for GM to approve Revised FS/ Report</u> •<u>Revised FS/ Report to be signed in the manner prescribed u/s 134 (like any other FS) accompanied by the reasons justifying the proposed revision.</u> •<u>Members approval at GM</u> •<u>Management to revise all FS subsequent to the FY of the revised FS</u>

SECTION 132

DESCRIPTION	<u>RELEVANT PROVISIONS -CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>CONSTITUTION OF NATIONAL FINANCIAL REPORTING AUTHORITY</u>	<ul style="list-style-type: none">•<u>Section 132</u>- Similar to Section 210 A of Companies Act but with changes <i>National Advisory Committee on Accounting Standards (NACAS) renamed as NFRA</i> <p><i>NACAS is mere an advisory body , NFRA is Quasi Judicial Body to discipline Chartered Accountants</i></p> <p><u>WHAT IT PROVIDES FOR?</u></p> <ul style="list-style-type: none">•CG may by notification constitute a NFRA to provide for matters relating to <u>accounting & accounting standards</u>

SECTION 132

DESCRIPTION	<u>RELEVANT PROVISIONS -CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>CONSTITUTION OF NATIONAL FINANCIAL REPORTING AUTHORITY</u>	<p><u>WHAT ARE THE FUNCTIONS OF NFRA?</u></p> <ul style="list-style-type: none">•Recommend to CG on formulation of A/c'g. & Auditing policies/Standards•Monitor & enforce the compliance with Accounting & Auditing Standards•Oversee the quality of service of the professionals to ensure compliances with such standards & to suggest measures to improve the quality•To perform other function relating to above.

SECTION 132

DESCRIPTION	<u>RELEVANT PROVISIONS -CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>CONSTITUTION OF NATIONAL FINANCIAL REPORTING AUTHORITY</u>	<ul style="list-style-type: none">•Constitution of NFRA•Chairperson & other members not exceeding 15 (incl. full time & part time) Chairman & full time member shall not associate with any audit/consultancy firm •Powers of NFRA: •To investigate into professional or other misconduct by member/firm of Cas (no other institute/body shall initiate or continue any proceedings if NFRA initiated investigation) •Powers of city court under Code of Civil Procedure 1908 in respect of •Discovery/production of Books of A/c's, summoning/inspection of books & other documents/examination of witness/documents etc.,

SECTION 132

DESCRIPTION	<u>RELEVANT PROVISIONS -CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>CONSTITUTION OF NATIONAL FINANCIAL REPORTING AUTHORITY</u>	<ul style="list-style-type: none"> •To impose penalty (min. Re.1 lac upto 5 times of fee received for individuals & min. 10 lacs and ten times off the fee received in case of firms •To debar member/firm (min six months not exceeding 10 years) •Appeal against order of NFRA : •Before Appellate authority to be constituted by CG by notification having chairperson & not more than two members. Qualification/selection/procedure/filing etc., to be prescribed

SECTION 133

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<ul style="list-style-type: none"> •<u>CENTRAL GOVERNMENT TO PRESCRIBE ACCOUNTING STANDARDS</u> •<u>(No change - 211 (3C) of CA 1956</u> 	<ul style="list-style-type: none"> •<u>Section 133</u> •CG to prescribe standards of accounting or any addendum thereto •The standards shall be recommended by ICAI in consultation with / examination of the recommendations of NFRA

SECTION 134

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<u>FINANCIAL STATEMENT, BOARDS' REPORT ETC...</u>	<ul style="list-style-type: none"> • <u>Section 134 (Sec 215,216, 217 of CA 1956) Sec 134 (1)</u> • Financial statement, <u>including consolidated financial statement</u>, shall be approved by the Board of Directors • Such FS to be signed on behalf of the Board by following for submission to the auditor for his report thereon. <ul style="list-style-type: none"> <input type="checkbox"/> - chairperson of the company where he is authorised by the Board or <input type="checkbox"/> - by two directors out of which one shall be managing director, Chief Executive Officer, if he is a director in the company <input type="checkbox"/> - Chief Financial Officer and company secretary of the company, wherever they are appointed, • In the case of a One Person Company, only by one director . Sec. 134(2)

SECTION 134

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p>•<u>FINANCIAL STATEMENT, BOARDS' REPORT ETC...</u></p>	<p>•<u>SEC 134 (3) BOARD REPORT TO INCLUDE THE FOLLOWING :</u></p> <ul style="list-style-type: none"> ✓ The extract of the annual return (Section 92 (3)) ✓ <u>Number of meetings of the Board</u> ✓ Directors' Responsibility Statement ✓ <u>company's policy on directors'</u> appointment and remuneration including criteria for determining qualifications and other matters, in case of a company covered under section 178 (1) (Nomination/remuneration/stakeholders committee.) ✓ Explanation/ comments for qualification of Auditor- Audit Report / PCS- Secretarial Audit Report ✓ particulars of loans, guarantees or investments u/s 186 ✓ particulars of contracts or arrangements with related parties u/s 188 as:

SECTION 134

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p><u>•FINANCIAL STATEMENT, BOARDS' REPORT ETC...</u></p>	<ul style="list-style-type: none"> ✓ statement indicating development and implementation of a risk management policy. ✓ CSR Policy & its level of implementation. ✓ Statement on formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors, in case of Listed & every public co having Paid up of Rs, 25 Cr calculated as at the end of the preceding financial year. ✓ Such other matter as may be prescribed <p>•(Apart from other disclosures under Section 217 of CA 56)</p>

SECTION 134

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p><u>•FINANCIAL STATEMENT, BOARDS' REPORT ETC...</u></p>	<ul style="list-style-type: none"> •Sec 134 (5) - Directors' Responsibility Statement to include few other additional points : <ul style="list-style-type: none"> •in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively •directors have devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

SECTION 134

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p><u>FINANCIAL STATEMENT, BOARDS' REPORT ETC...</u></p>	<p>Sec. 134(6) - Board Report to be signed by :</p> <p>chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director</p> <p>Sec. 134(7) signed copy of every financial statement, including consolidated financial statement to be circulated with Notes/ Auditors Report/ Board Report</p> <p>Sec. 134(8) :</p> <ol style="list-style-type: none"> 1. Company punishable with fine Rs.50000 to 25 lakhs, 2. Officer punishable with Imprisonment for 3 yrs or with fine of Rs.50000 to Rs.5 lakhs

SECTION 134- RULES

Rules	<u>Companies Act, 2013</u>
9.10	<ul style="list-style-type: none"> • Board Report on stand alone basis : • Report on the performance and financial position of each of the subsidiaries, associates and joint venture to be included in the consolidated financial statement. • The Report of the Board shall also provide the following information : • A. <u>Conservation of Energy</u> : steps taken by the company for utilising alternate sources of energy including waste generated & Capital investment on energy conservation equipments • B. <u>Technology absorption</u> : Efforts made, Benefits derived as a result of the above efforts, Details of technology imported, year of Import , if technology fully absorbed, expenditure on R & D

SECTION 134- RULES

Rules	<u>Companies Act, 2013</u>
9.10	<p data-bbox="311 511 1818 615"><u>C. Foreign exchange earnings and Outgo</u> : Actual Inflows and Outflows</p> <ul style="list-style-type: none"> <li data-bbox="311 682 1715 733">•Report of the Board shall also provide the following information <li data-bbox="311 796 1006 848">•Financial summary/highlights; <li data-bbox="311 911 1203 962">•change in the nature of business, if any; <li data-bbox="311 1025 1754 1076">•Details of directors or KMP appointed or resigned during the year <li data-bbox="311 1139 1812 1248">•companies which have become or ceased to be its Subsidiaries, joint ventures or associate companies

SECTION 134- RULES

Rules	<u>Companies Act, 2013</u>
9.10	<ul style="list-style-type: none"> •Details relating to Deposits covered under Chapter V : •<u>Accepted</u> during the year; •remained <u>unpaid or unclaimed</u> as at the end of the year; •whether there has been any <u>default in repayment</u> and if so, number of such cases and the total amount involved •Details of deposits which are not in compliance with the requirements of Chapter V •Details of significant and material orders passed by the Regulators or courts or tribunals impacting the going concern status and company's operations in future

SECTION 136

DESCRIPTION	<u>RELEVANT PROVISIONS -CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p>•<u>RIGHT OF THE MEMBER TO COPIES OF AUDITED FS</u></p> <p><u>Section 136 (Section 219 of CA 1956)</u></p>	<ul style="list-style-type: none"> •Copy of complete FS including Consolidated FS to be sent to the members 21 days before the meeting. •FS made available for inspection during office hours for period of 21 days before the meeting •Statement containing details in prescribed form/ copies of FS is sent to all members not less than 21 days unless shareholder ask for full FS. •To place the full FS including consolidated in its website •CG may prescribe the manner of circulation of FS of companies <u>having Networth & Turnover as may be prescribed.</u>

SECTION 136

DESCRIPTION	<u>RELEVANT PROVISIONS -CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p><u>•RIGHT OF THE MEMBER TO COPIES OF AUDITED FS</u></p>	<ul style="list-style-type: none"> •Every company having Subsidiary to place : •Separate audited accounts for each subsidiary •Provide copy of separate audited FS to any shareholder who ask for it. •Right of the member to inspect documents mentioned in point 1 •Penalty : Company- Rs.25000 , Every Officer- Rs.5000

SECTION 137

Rules	<u>Companies Act, 2013</u>
<p>COPY OF THE FINANCIAL STATEMENT TO BE FILED WITH REGISTRAR</p>	<p><u>Section 137 (Section 220 of CA 1956)</u> A copy of the financial statements, <u>including consolidated financial statement</u>, if any, along with all the documents required to be attached to such financial statements, duly adopted at the annual general meeting of the company, <u>shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner.</u> If accounts not adopted at annual general meeting or adjourned annual general meeting, such <u>un-adopted financial statements</u> along with the required documents shall <u>be filed with the Registrar within thirty days of the date of annual general meeting</u> and the <u>Registrar shall take them in his records as provisional</u> till the financial statements are filed with him at adjourned AGM for this purpose within 30 days .</p>

SECTION 137- RULES

Rules	<u>Companies Act, 2013</u>
<p>COPY OF THE FINANCIAL STATEMENT TO BE FILED WITH REGISTRAR</p>	<ul style="list-style-type: none"> •If not filed within 30 days , filing may be done within 300 days with additional fees as may be prescribed. Else penal consequences shall ensue. •OPC to file copy of FS duly adopted by members within 180 days

SECTION 138

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER IX - ACCOUNTS OF COMPANIES</u>
<p>INTERNAL AUDIT</p> <p>New Provision</p>	<p><u>Section 138 : -</u></p> <p><u>Such class or classes of companies as may be prescribed</u> shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.</p>

SECTION 138- RULES

Rules	<u>Companies Act, 2013</u>
<u>9.15</u>	<ul style="list-style-type: none"> • Every listed company • Every public company: <ul style="list-style-type: none"> • Having <u>paid up share capital of Rupees ten crores</u> or more; • Has any <u>outstanding loans or borrowings</u> from banks or public financial institutions exceeding Rs.25.00 crores • Has accepted deposits of Rs.25 crores or more at any point of time during the last financial year. • Audit Committee of the company or the Board shall, in consultation with the Internal Auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit.

CHAPTER X

AUDIT & AUDITORS



SECTION 139

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
FIRST AUDITORS	<p><u>SECTION 139 (6)</u></p> <ul style="list-style-type: none"> • To be appointed by <u>BOARD</u> within 30 days from the date of registration of Company or <u>within 90 days</u> at an EGM by the <u>SHAREHOLDERS</u>.
GOVT. COS	<p>(i) First Auditor to be Appointed by CAG of India <u>within 60 days</u> .</p> <p>(ii) If not appointed, <u>BOARD shall appoint within 30 days</u> &</p> <p>(iii) In case of failure members shall appoint <u>within 60 days at an EGM</u></p>
•Comments in comparison with CA 1956	<ul style="list-style-type: none"> •Time lines specified for First Auditors & for Govt Cos •Sec 224A CA 1956- Auditors not to be appointed except by Spl Resln in certain cases is removed •Sec 224(3) CA 1956 Appointment by CG where Auditor not appointed/ reappointed at AGM

SECTION 139

TENURE

- Listed Company/ Class of Companies as may be prescribed (Rule 10.3) shall not appoint :
- Individual as Auditor not more than 1 term of 5 consecutive years
- Audit Firm as Auditors not more than 2 terms of 5 consecutive years
- Cooling Period for Reappointment : 5 years
- No appointment of audit firms having common Partners whose tenure has expired in a company for 5 years
- Within 3 years from the date of commencement of this Act.

SECTION 139

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
<u>EXISTING COS' TO COMPLY</u>	<p><u>SEC.139(3)</u> Members may resolve for audit by more than 1 auditor or rotation of partners of audit firm on intervals. Firm includes LLP</p>
<u>GOVT COS'</u>	<p>CAG shall appoint auditors within 180 days from the commencement of FY</p>

SECTION 139

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
<p><u>CASUAL VACANCY</u></p> <p><u>Time limit prescribed</u></p> <p><u>•GOVT COS'</u></p>	<p><u>•SEC.139(8)</u></p> <ul style="list-style-type: none"> •To be filled by BOD within 30 days •In case of resignation, the same shall also be approved by Company in GM within 3 months of recommendation of Board •If no Auditor is appointed/ reappointed at AGM then the existing Auditor shall continue (previously powers with CG) <ul style="list-style-type: none"> •Appointed by CAG within 30 days •If not Board will appoint within 30 days

SECTION 139- RULES

Rules	<u>Companies Act, 2013</u>
10.1	<ul style="list-style-type: none"> • <u>Manner & procedure for selection of Auditors - Sec 139 (1)</u> • <u>Audit Committee Recommendation</u> to be recommended by the Board (if any) • Audit Committee/ Board to consider shall consider the completed & pending proceedings against auditor before ICAI/ National Financial Reporting Authority / Tribunal / Any court of Law. • <u>Board if satisfied on</u> recommendation of individual / firm , shall recommend to shareholders . <u>If not to seek reconsideration from Audit Committee.</u> • If Audit committee does not agree, the board shall submit to members its recommendation for consideration of members along with reason for non-accepting the recommendation of audit committee in Boards report.

SECTION 139- RULES

Rules	<u>Companies Act, 2013</u>
10.2	<p data-bbox="436 448 1093 496"><u>Conditions for Appointment :</u></p> <ul data-bbox="436 565 1734 782" style="list-style-type: none"> <li data-bbox="436 565 1537 611">•Appointee Auditor shall submit a certificate that : <li data-bbox="436 619 1734 722">•He / It is eligible for appointment & not disqualified under CA / Companies CA Act, 1949 <li data-bbox="436 731 1663 776">•The appointment is within term allowed / limit allowed
10.3	<p data-bbox="436 915 1734 1018">For the Purpose of Section 139(2) Class of Companies shall mean all companies <u>excluding OPC / Small Company.</u></p> <p data-bbox="436 1086 1734 1189">Implies retirement of auditors in 5 /10 years shall not apply to OPC/Small company.</p>

SECTION 139- RULES

<ul style="list-style-type: none"> •Rules 	<ul style="list-style-type: none"> •<u>Companies Act, 2013</u>
<ul style="list-style-type: none"> •10.4 	<ul style="list-style-type: none"> •<u>Manner in which the Companies to rotate their auditors on expiry of term - Section 139 (4)</u> •The Audit Committee to recommend to the Board & •The Board shall consider the recommendation of Audit Committee •In other cases , Board shall consider & recommend . •Existing term served by existing Auditors to be calculated for the purpose of 5 yrs/ 10 yrs tenure. •Incoming Auditor not to be associated with Outgoing auditor / firms under network of audit firms/ under same TM or Brand • In case of Joint Auditors, Company shall follow the rotation in such manner that all of them do not complete the term in the same year.

SECTION 140

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
•REMOVAL	<ul style="list-style-type: none"> •<u>Section 140</u> :
•RESIGNATION OF AUDITORS	<ul style="list-style-type: none"> •Only by Special Resolution at GM after CG approval •Auditor to inform resignation within 30 days in a form prescribed to Company & ROC. In case of GOVT Co with CAG too indicating reason/ fact for such resignation. •In case of non- compliance minimum of Rs. 50000 maximum Rs. 5 lakhs
•POWER OF TRIBUNAL	<ul style="list-style-type: none"> •Tribunal either suo-moto / on an application made by CG / any other person concerned , if satisfied that auditor of the Company has acted in fraudulent manner or abetted / colluded in any fraud in relation to Company/ Director/ Officers may direct company to change its auditors.

SECTION 140

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
POWER OF TRIBUNAL	<ul style="list-style-type: none"> •<u>Section 140</u> : •Liability is with the Firm also in case of any fraud by a partner of the firm. •CG can make application before tribunal for change of auditor & tribunal to pass order within 15 days . CG will appoint new auditor in its place. Such Auditors shall <u>not be eligible to be appointed as Auditor of any Company</u> from the date of passing of the Order.

SECTION 140- RULES

Rules	<u>Companies Act, 2013</u>
10.5	•Application for removal to be filed within 30 days of Special Resolution with CG along with prescribed fee.
10.6	•Auditor has to file resignation in prescribed statement .

SECTION 141

DESCRIPTION	RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS
<p>•ELIGIBILITY, QUALIFICATION</p> <p>•DISQUALIFICATION OF AUDITORS</p>	<p>•<u>Section 141</u> :</p> <p>•LLP is included .</p> <p>•Following person shall not be appointed if :</p> <ul style="list-style-type: none"> ✓ A Person who or his relative or Partner ✓ <u>Holding Security in Subsidiary/ holding/ Associate Company for a face value or interest not exceeding Rs.1 lakh</u> ✓ <u>Indebt</u> to the Co /Subsidiary/ holding/ Associate Company for a face value or interest not exceeding <u>Rs.1 lakh</u> ✓ <u>Give Guarantee / provide security</u> in connection with indebtness of any third person to the Company/ Subsidiary/ holding/ Associate Company for a face value or interest not <u>exceeding Rs.1 lakh</u>

SECTION 141

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
<p>•DISQUALIFICATION OF AUDITORS</p>	<ul style="list-style-type: none"> ✓ Has <u>business relationship</u> with Company/ Subsidiary/ holding/ Associate Company. Business relationship means those entered into <u>commercial purpose except those in nature of professional service permitted under CA 2013 & CA Act</u> . ✓ A person Whose relative is a Director/ is in employment of the company as Director / KMP ✓ Person in full time employment/ partner of a firm holding appointment/ reappointment as auditor <u>for more than 20 companies</u> ✓ Person convicted of a court for offence involving fraud & 10 yrs not elapsed ✓ Whose subsidiary/ associate co or other form of entity is engaged in consulting / specialised service u/s 144 ✓ If a person incurs above said disqualification after appointment, he shall deemed to vacate office under casual vacancy

SECTION 142

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
REMUNERATION OF AUDITOR	SECTION 142 To be fixed in the GM or in such manner as may be prescribed Board can fix the remuneration if the First Auditor. NO CHANGE IN THE CURRENT PROVISION (SEC.224 (8) CA 56)

SECTION 143

DESCRIPTION	RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS
<p>•POWERS & DUTIES OF AUDITOR</p>	<p>•SECTION 143</p> <p>•Apart from the other powers/ duties following are the new provisions :</p> <p>•The auditor of a company which is a holding company shall also have the right of access to the records of all its subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.</p> <p>•Auditors report shall state :</p> <p>•Observation or comments which have any adverse remarks <u>on the financial transactions</u> / matters which have any adverse effect on the functioning of the Company (not specifically need be in Italics/ Bold)</p>

SECTION 143

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
•POWERS & DUTIES OF AUDITOR	<ul style="list-style-type: none">•any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith; •whether the company has adequate internal financial controls system in •such other matters as may be prescribed. •The Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor's report shall also include a statement on such matters as may be specified therein

SECTION 143

DESCRIPTION	RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS
•POWERS & DUTIES OF AUDITOR	<ul style="list-style-type: none">•<u>No Provision empowering CG to exempt Branch office from Audit</u> •<u>If the Auditor has reasons to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government.</u> • If any <u>auditor, cost accountant or company secretary</u> in practice do not comply with the above provisions he shall be punishable with <u>fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.</u> •The provisions of this section shall mutatis mutandis apply to— •(a) the cost accountant in practice conducting cost audit under Section 148; or (b) the company secretary in practice conducting secretarial audit under section 204.

SECTION 143- RULES

Rules	<u>Companies Act, 2013</u>
•10.8	<ul style="list-style-type: none">•Section 143(3) : Auditors report shall also state :•(j) <u>such other matter as may be prescribed</u>
10.9	<ul style="list-style-type: none">•Effect of <u>pending litigation</u> on its financial position in its Financial statement•Whether provision is made for <u>foreseeable losses</u> if any on long term contracts•Whether there has been any delay in depositing money into IEPF•Duties & powers of Auditor for Branch Audit shall be as mentioned in Sec. 143 (1) to (4)
10.10	<ul style="list-style-type: none">•<u>Reporting of Fraud</u> :•Auditor shall report fraud etc within 30days of his knowledge of information with a copy to Audit Committee or to Board.

SECTION 143- RULES

Rules	<u>Companies Act, 2013</u>
10.10	<ul style="list-style-type: none">• Auditor to report the matter to CG immediately within 30 days of his knowledge with a copy to Audit Committee / Board where he has sufficient reason & information to believe that an offence involving fraud which is likely to <u>materially affect the company means</u> • Means <u>fraud happening frequently</u> • Amount involved in <u>not less than 5 % of its Net Profit or 2 % of Turn Over</u> in the preceding FY • In <u>other cases report to Audit Committee / Board</u> & Board to reply to auditors on steps taken by them • <u>If auditor not satisfied, shall report to CG even if not material.</u>

SECTION 144

DESCRIPTION	RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS
AUDITOR NOT TO RENDER CERTAIN SERVICES	<ul style="list-style-type: none">•SECTION 144•Auditors shall provide services as approved by Board/ Audit Committee but shall not include following, directly or indirectly to co/ holding/subsidiary company<ul style="list-style-type: none">(a) accounting and book keeping services;(b) internal audit;(c) design and implementation of any financial information system;(d) actuarial services;(e) investment advisory services;(f) investment banking services;(g) rendering of outsourced financial services;(h) management services; and(i) any other kind of services as may be prescribed•Auditors / firm performing any non-audit service on/before commencement of this act, shall comply with provisions before closure of first FY after date of commencement.

SECTION 145

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
•AUDITOR TO SIGN AUDIT REPORT ETC	•SECTION 145 • <u>Only Qualification, observation or comments</u> on Financial Transaction or matters which have any adverse effect on the functioning of the Company to be read before GM.

SECTION 146

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
<ul style="list-style-type: none">•AUDITOR TO ATTEND AGM	<ul style="list-style-type: none">•<u>SECTION 146</u>•Shall attend the meeting by himself / through authorised representative qualified to be an Auditor unless exempted by Company

SECTION 147

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
<p>•PUNISHMENT FOR CONTRAVENTION BY COMPANY</p>	<ul style="list-style-type: none">•<u>SECTION 147</u><ul style="list-style-type: none">•Contravention of provisions of sections 139 to 146 (both inclusive) is contravened, the company shall be punishable with <u>fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees</u> and•every officer of the company who is in default shall be punishable with <u>imprisonment for a term which may extend to one year</u> or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both.•If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, 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.

SECTION 147

DESCRIPTION	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
•PUNISHMENT FOR CONTRAVENTION BY COMPANY	<ul style="list-style-type: none">•If an auditor has contravened knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with <u>imprisonment for a term which may extend to one year and with fine</u> which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.•Auditor has been convicted, he shall be liable to•Refund the remuneration received by him to the company 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•If partner or partners of the audit firm has or have acted in a fraudulent manner, the liability shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally

SECTION 148

DESCRIPTION	RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS
<ul style="list-style-type: none"> •CENTRAL GOVERNMENT •TO SPECIFY AUDIT OF ITEMS OF COST IN RESPECT OF CERTAIN COMPANIES. 	<ul style="list-style-type: none"> •<u>SECTION 148</u> • •Previous approval of Central Government is no longer required for appt. of Cost Auditor • •Remuneration of Cost Auditor shall be determined by members of company (under CA 56 can be decided by BOD) • •Cost Auditing Standards issued by Institute of Cost Accountants of India is mandatory

SECTION 148- RULES

Rule	<u>RELEVANT PROVISIONS - CHAPTER X - AUDIT & AUDITORS</u>
•10.11	<ul style="list-style-type: none"> •Remuneration to Cost Auditor •In case of Company required to constitute Audit Committee, •Audit Committee shall take into consideration the qualifications & experience appointed by Board as Cost Auditor •Remuneration recommended by Audit Committee shall be considered and approved by Board & ratified by the shareholders •In case of non-requirement for Audit Committee, shall be considered and approved by Board & ratified by the shareholders .



THANK YOU

PRESENTATION BY

P. SRIRAM

PROWIS CORPORATE SERVICES