

Chapter 9

Accounts of Companies

[Section 128 to Section 138]

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128	Books of Accounts to be kept by co/	133	CG to Prescribe AS
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Form	Purpose
AOC 1	Statement containing salient features of FS of subsidiaries/ associates/JVs
AOC 2	Details containing contracts or arrangements entered into with related parties
AOC 3	Statement containing salient features of the audited FS
AOC 3A	Detailed statement on FS to be filed by co. complying with Cos (Ind AS) Rules
AOC 4	Form to file a FS and other documents of the company with the Registrar
AOC 4 (XBRL)	XBRL doc. in respect of FS and other documents to be filed with the Registrar
AOC 4 (CFS)	Form to file CFS s and other documents with the Registrar
AOC 4 (NBFC)	Form for NBFCs to file financial statement and other documents with the Registrar
AOC 5	Notice to declare the address of the location in which the BoAs are maintained

Important Definitions

"Books of account" **includes records** maintained in respect of:

sums of **money** received and expended

sales and purchase

assets and liabilities

items of **cost** u/s 148

Financial statement in relation to a company, **includes**:

BS as at end of FY

P&L account (in case of **NPO - Income & Exp a/c**)

CFS for FY*

Statement of change in **equity**

Explanatory note annexed

*Provided that FS, w.r.t. **OPC, small co. and dormant co. and Private co. (startup)**, may not include CFS;

"Book and Paper" and "Book or Paper": Includes: **[WARM DVD]**

Books of **Accounts**

Deeds

Voucher

Writings

Documents

Minutes

Registers

maintained on **paper** or in **electronic** form;



Section 128: Books of account, etc., to be kept by company:

1 1A


For the purpose of this section, books of accounts (BOA) means - Books of account and other relevant books and papers ~~and financial statement (FS)~~

1. Co. to prepare BoA:

Every co. shall **prepare** and **keep** BOA and FS at its **RO** every FY

- Giving a **true and fair view** of **state of the affairs**
- of - the company, **including** that of its **branch** office(s), and
- **explaining** all such transactions and

Such books shall be kept on **accrual basis** and as per the **double entry system** of accounting

Note - Such **BOA** may be **kept** at **such other place** in India as BoD may decide. Inform **RoC** **within 7 days of such decision** - by filing a notice in writing (**Form AOC -5**) giving **full address** of  such place.

Provided that - Companies may keep books in **e-mode** in prescribed manner.



Rule 3 - Manner of maintaining BoA & FS in e-form [A bold fs - roc) :

- Such BOA in e-mode shall remain **accessible** in India **at all times** so as to be usable for subsequent reference.
- **Features of accounting software:**
- For FY commencing after **1/4/2023** - Every co. using **accounting software** for maintaining BOA shall use only such software which has the **following feature**:

recording **audit trail** of every transaction and

ensuring that audit trail cannot be **disabled**, and

creating an **edit log** of each change made in BOA **+ date** of such changes.

- BoA shall be **retained** completely in **original** format info. shall remain **complete & unaltered**.
- Info. received from **branch** office - **not be altered** + keep in manner depicting what was **originally** received from the **branches**.
- Info. of such e-record should be capable of being displayed in **legible form**.
- There shall be proper system for **storage**, retrieval, display or printout of the e-records
- Such e-records shall **not be disposed** of or rendered unusable, unless permitted by law.
- Backup of such e-records shall be kept in servers **physically located in India** on **daily basis**.
- Co. shall intimate the following to RoC on an **annual basis** at time of filing FS: (**No LIC**)

Name of the service provider

internet protocol (**IP**) address of service provider

location of the service provider*

where BOA are maintained on **cloud**, such address as provided by service provider

*Where service provider is located o/s India, name & add. of **person in control** of BoA in India

2. Where a co. has **branch office** (India or o/s India), it shall be **deemed** to have complied with provisions of BoA, if:
- **proper BOA** relating to transactions effected at branch office are **kept at that office and**
 - proper **summarized returns periodically** are sent to co. at its RO or other place as u/ss (1)

Note: Such BoA can be maintained at branch even if such branch is outside India

3. BOA open for inspection for directors only:

BOA maintained within India	<ul style="list-style-type: none"> ➤ open for inspection at RO or other place in India ➤ by any members director ➤ during business hours
BOA maintained outside India	<ul style="list-style-type: none"> ➤ Director shall furnish a request to co. setting out the full details of the financial info. sought and the period for which it is sought. ➤ Co. shall produce such info. to director within 15 days of date of receipt of the written request. ➤ Such info shall be sought for by the director himself and not by or through his power of attorney holder or agent or representative.

Note - Inspection of BoA of any subpy co. shall be done by person authorised by a Board resolution.

4. Where **inspection** is made u/ss (3), **officers** and other **employees** of co. to give all **assistance** to the person making such inspection.
5. BOA to be kept in good order:
BOA (together with **vouchers** relevant for entries) pertaining to the period:
- not less than **8 FY** immediately preceding a FY, or
 - where company had been in **existence** for <8 yrs, w.r.t. **all preceding years**
- together with vouchers relevant to any entry in such books of account shall be **kept in good order**.

Note - If **investigation** ordered - **CG** may direct that BoA may be kept for **longer** period.

6. In case of contravention of such provision, following shall be **responsible**:

MD

WTD in charge
of **finance**

CFO

Any **other** person of co. charged by BoD with
such duty

for a **fine** which shall **not < Rs. 50,000** which may extend **up to Rs. 5 lakhs**

Note - This section majorly talks about books of accounts and books and paper. Although, FS is mentioned in the first subsection, but details of FS is discussed in Sec 129 below.



Section 129: Financial Statement (FS)

1. FS shall:

give a **true** and **fair** view of state of affairs of the co

comply with the AS notified u/s 133, and

shall be in form as prescribed in **Schedule III**

Provided that the items contained in such FS shall be **in accordance with the AS**:

Provided further that nothing contained in this sub-section shall apply to:

insurance or **banking** co.

electricity co.

other class of co. for which form of FS specified in other Act

Provided also that FS shall **not be treated as not disclosing** a true and fair view of the state of affairs of the company, merely by reason of the fact that they do not disclose:

In case of:	Matters which are not required to be disclosed by:
Insurance co.	Insurance Act, 1938, or IRDA Act, 1999
Banking co.	Banking Regulation Act, 1949
Electricity co.	Electricity Act, 2003
Governed by other law	by that law

2. At every **AGM** of co. - BoD shall **lay before** such meeting - **FS** for the FY

3. Consolidated FS (CFS):

Where a co. has **one or more subsidiaries or associates** - Prepare CFS of co. and all subsidiaries (in addition to FS) in manner prescribed. Such CFS - **Lay before AGM** along with FS u/ss (2)

Provided that co. shall also **attach along** with its FS - a separate **statement** containing the **salient features of FS of its subsidiary, associates or JV** in **Form AOC - 1**



Rule 6 Manner of Consolidation

CFS shall be made in accordance with provisions of **Sch III + Applicable AS**

Provided that - If a co. is **not required** to prepare **CFS** under the **AS**, it shall be **sufficient** if it **complies** with provisions of CFS in **Schedule III** of the Act.

Provided further that - nothing in this rule shall apply w.r.t. prep of CFS if it meets **ALL** the following:

- it is wholly/partially owned **subsidiary** of another company **and**
 - all its other **members**, including those **not** otherwise **entitled** to vote,
 - having been intimated in **writing** and
 - do not object** to the company not presenting CFS
- securities **are not listed** or are not in the process of listing (in or outside India), **and**
- ultimate** or any intermediate holding co. **files CFS** with the **RoC** in compliance with Ind AS

4. **Provisions** applicable to preparation, adoption and audit of **FS** of holding company shall, *mutatis mutandis*, apply to the **CFS** referred u/ss (3).
5. **Without prejudice** to ss (1), where **FS** do not comply with **AS**, co. shall **disclose** in its FS:
deviation from AS **reasons** for deviation **financial effects**, if any, of such deviation
6. **CG** may, on its **own or on application** by companies, **exempt** any class of companies from complying with this section, if it is considered necessary in **public interest**.
7. If company contravention this section, following shall be responsible:
- MD** **WTD in charge of finance** **CFO** Any **other** person of co. charged by BoD with such duty
- or in absence of any officer mentioned above, **all directors**
- Punishable with - **Jail up to 1 year or fine Rs. 50,000 to Rs. 5 lakhs or BOTH**



Section 129A. Periodical financial results

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CG may, require such class or classes of **unlisted companies**, as may be prescribed:

(a) prepare **financial results** of the co. on such periodical basis and in prescribed form;

(b) to obtain **approval** of **BoD** & complete **audit/limited review** of such results in manner as prescribed;

(c) file copy with **RoC** within **30 days** of completions of relevant period with prescribed fees.



Section 130 - Re-opening of Accounts on Court's or Tribunal's Orders:

2

1. A company shall **not re-open** its BOA and **not recast** its FS **unless**:
- An **application to Court/Tribunal** in this regard is made by: **[CISCO]**
CG **Income Tax Auth.** **SEBI** **Other stat. body** **any person concerned**
 - And an **order** is made by court or Tribunal to this effect that:
 - o the relevant earlier **accounts** were prepared in a **fraudulent** manner, or
 - o the **affairs** of co. were **mismanaged** - casting doubt on reliability of **FS**
- Provided that the court or Tribunal shall give **notice** to - **CG**, **ITA**, **SEBI**, etc. and **consider their representation**, if any, before passing orders.
2. Without prejudice to the provisions contained in this Act the **accounts so revised or re-cast** under sub-section (1) shall be **final**.
3. No order shall be made u/ss (1) for **re-opening** of BOA relating to a **period earlier than 8 FY** immediately preceding current FY.

Provided that, on **investigation**, where **CG** has directed for keeping BOA for **period > 8 years**, the BOA may be ordered to be **re-opened within such longer period**.



Section 131 - Voluntary Revision of FS or Board's Report (after Tribunal's approval):

Notice
Served

Representation
Considered

Order
Passed


Accounts
Revised

1. If it appears to **directors** of a co. that:

FS of co. do not comply with Sec 129 or

BoD report do not comply with Sec 134,

they **may** prepare **revised** FS or BoD report:

- in respect of any of **3 preceding FY**
- after obtaining **approval** of the **Tribunal**
- on an **application** made by the **company** in **Form NCLT 1** within **14 days** of BoD decision and 
- a **copy** of order passed by Tribunal shall be **filed** with **Registrar** within **30 days**:

Provided that **Tribunal** shall give **notice** to **CG** and **ITA** and shall consider their **representation**, if any, made by that Government or the authorities before passing any order under this section.

Provided further that such revised FS or report shall **not be prepared/filed more than once** in a FY

Provided also that **detailed reasons** for revision of such FS or report shall also be **disclosed** in the **Board's report** in the **relevant FY** in which such revision is being made.



Rule 77 of NCLT Rules 2016:

- Application shall contain following particulars:
 - **FY** or period to which such accounts relates
 - Name and details-**MD**, **CFO**, **CS**, Directors and officers responsible for making BoA/FS
 - Where accounts are audited - Name and details of **auditor**
 - Copy of board **resolution**
 - **Grounds** for seeking such revision
 - Disclose facts if majority of dir./auditor has changed immediately before such appln.
- Co. to **advertise** application - At least **14 days** before date of hearing.
- Tribunal to issue **notice to auditor** of original FS and give OOBH.
- Tribunal to pass appropriate **orders** as it may deem fit.
- On receipt of Tribunal's approval, call for **GM** and **notice** of such GM publish in 2 newspaper.
- In **GM** - Revised FS, statement of directors and auditors - Put up for **consideration**.
- On **approval** in **GM** - File such revised FS + statement - **ROC** within **30 days**.

2. How much can you alter FS or report of previous FYs?

Where **copies** of previous FS or report have been **sent out** to **members** or delivered to **Registrar** or laid before the Company in general meeting, the revisions must be **confined to**:

- (a) **correction** w.r.t. which previous FS/report **do not comply** with provisions of sec 129 or 134; **and**
- (b) the making of any necessary **consequential** alteration.

3. **CG** may make rules relating to or provisions as to:

- How previous FS or report shall be **supplemented** by document indicating correction
- Function of **company's auditor** in case of revised FS
- require the **directors** to take prescribed steps.

Note - Here, application will be made to Tribunal only. Courts (e.g., district court) cannot be involved.

Concept clarity check:

A Ltd. applied to Tribunal for revising FS on Dec 2022. Such application was approved and revisions were made. A Ltd again applied in March 2023 for revision board report. Is such application valid?

Yes! The limit of once in a year is for each of these - FS and BoD report. As in Dec 2022, application was made to revise FS, one application for revising Board report can be made.



Section 132 - Constitution of National Financial Reporting Authority



1. **CG** may **constitute** NFRA to provide for matters w.r.t. Accounting & Auditing **Standards (ASS)**.
2. **Functions of NFRA** (subsection 1A and 2 read with Rule 4, 6, 7, 9)
 - NFRA to protect **public interest** and interest of investors, creditors and others by:
 - o establishing high **quality AAS**, and
 - o exercising effective **oversight** on accounting and auditing **functions**.
 - NFRA shall exercise the following function:
 - o Maintain particulars of **auditors** appointed in Cos./BC
 - o **Recommend** AAS for CG's approval (NFRA to seek and consider **ICAI's** recommendation)
 - o Monitor and **enforce** compliance with AAS.



Rule 7: Accounting Standard

To ensure compliance with **accounting** standard by a co./BC, NFRA:

- o may **review FS** and request additional info. from company/auditor, if necessary
- o may require **personal presence** of officers & auditors for additional info. for FS review
- o shall **publish** its findings on non-compliance on its website unless not in public interest
- o where NFRA finds **violations** of AS - it may **further investigate**.



Rule 8: Auditing Standard

To ensure compliance with **auditing** standard by a co./BC, NFRA may:

- o review **working papers** and communications related to the audit.
- o evaluate the auditor's **quality control system** and documentation.

- o perform **other testing** of audit and quality control procedures as necessary.
 - o require auditors to report on **governance** practices and **risk reduction measures**.
 - o seek additional information or **the personal presence** of the auditor for clarifications.
 - o shall **monitor** and enforce through experienced **officers** or experts in audit.
 - o shall **publish** findings on non-compliances, with **exceptions** for **public interest** and **confidentiality**.
 - o send a separate **report** with proprietary information to the CG.
 - o investigate or take enforcement **action** if laws or standards are violated by an auditor
- Oversee **Quality** of service of professions associated with **ensuring compliance** of AAS and suggest measures for improvement therein.



Rule 9: Overseeing quality of service:

- o NFRA may instruct auditors to **improve audit quality**, specifying a detailed plan with time-limits. Auditors must **implement** the required improvements and report compliance to NFRA.
 - o NFRA monitors the auditor's **progress** and takes appropriate **actions** based on the improvements made.
 - o NFRA may **refer cases** related to auditors' quality of service to the **Quality Review Board** or request reports from the Board.
 - o NFRA may seek assistance from **experts** for oversight and monitoring activities.
- Promote awareness for compliance of AAS
- Co-operate with national and international organisation for adherence to AAS
- Other incidental functions

3. Constitution of NFRA:

- a **chairperson**-appointed by **CG**, having expertise in accountancy, auditing, finance or law, and
- such **other members not > 15** consisting of part-time & full-time members as prescribed:

Each division of the NFRA shall be **presided** over by **Chairperson** or full-time Member authorised by Chairperson. [Section 3A]

Section 3B - There shall be an **executive body** of the NFRA consisting of **Chairperson and full-time Members** of such Authority **for efficient** discharge of its functions.

Such chairperson and members shall:

give **declaration** to CG regarding no **conflict** of interest or lack of **independence**

not associate with any **audit firm** (or related consultancy firm) during course of such appt + **2 years** after ceasing

The following persons shall be appointed as **part time members of NFRA**, namely:

Position	Designation
MCA Representative	Joint Secretary (ex-officio)
CAG of India Representative	Accountant General or Principal Director (ex-officio)
RBI Representative	Executive Director (ex-officio)
SEBI Representative	Executive Director (ex-officio)
President, ICAI	Ex-officio
Chairperson, AS Board, ICAI	Ex-officio
Chairperson, AAS Board, ICAI	Ex-officio
Two experts	From the field of accountancy, auditing, finance, or law

4. **Powers to investigate:** The NFRA shall:

- have power to **investigate**, either suo motu or on **reference** by CG into matters of professional or other misconducts under CA Act, 1949
Provided that - where **NFRA** has initiated such investigation, **no other institute** shall initiate or continue any proceedings in such matter.

- have same power as vested in civil court: [A IPC]
 - o Discovery and **production** of BoA and other docs at specified place & time;
 - o summoning and enforcing the **attendance** of persons and examining them on oath; and
 - o **inspection** of any books, registers and other docs. of co. at any place.
 - o issuing **commissions** for examination of witnesses or documents;
- where professional or other misconduct is **proved**, have the power to make order for:

a. **Fine:**

Person liable:	Minimum	Maximum
Individuals	Rs. 1,00,000	5 times of fees received
Firms	Rs. 5,00,000	10 times of fees received

- b. NFRA can **debar** a member/firm from audits and valuations for 6 months to 10 years based on their discretion.

5. Any **person aggrieved** by order of NFRA u/ss (4) - may prefer an **appeal** before **Appellate Tribunal**.

Additional points of NFRA:

Head office	New Delhi
Meeting	At any place in India as it may deem fit
Books of accounts	Maintain in manner as prescribed in CG in consultation with C&AG
Audit	C&AG
Annual Report	Each FY, giving full account of its activities during FY
Forward to CG (annually) CG to lay these reports before each House of Parliament	<ul style="list-style-type: none"> ➤ Accounts as certified by C&AG ➤ Auditor's report thereon ➤ Annual Repot

**Rule 3 of NFRA Rules: Classes of companies or BC governed by NFRA:**

NFRA may undertake investigation of auditors of following classes of companies and BC:

- companies whose securities are **listed** on any stock exchange in India or outside India;
- **unlisted** public companies having:

PUSC not less than
500 crores, or

T/O not less than
Rs. 1,000 crore

outstanding loans, debentures and
deposits of not less than **Rs. 500 crores**

as on the 31st of March of immediately preceding FY

- **insurance cos.**, banking companies, electricity companies or companies governed by special Act.
- any BC or company or person, etc. - on a reference **made to NFRA by CG** in **public interest**
- BC incorporated outside India which is subsidiary or associate of any of the above mentioned companies if the **income** or **net worth** of such subsidiary or associate company **> 20%** of **consolidated** income or net worth of such above mentioned companies,

Every BC, (other than co. as defined in section 2(20)), **formed in India**, and governed under this rule shall, **within 15 days** of **appointment** of an **auditor** u/s 139, **inform** NFRA in **Form NFRA-1**, the particulars of the auditor so appointed.

Where PUSC or T/O or o/s loans fall below limit **for 3 consecutive years** - NFRA stops governing.

**Section 133: CG to prescribe Accounting Standards (AS):**

CG may prescribe **AS** or any addendum thereto, as recommended by **ICAI**, constituted u/s 3 of CA Act, 1949, **in consultation with** and after examination of recommendations made by **NFRA**.

Provided that:

- **Until NFRA** is constituted u/s 132,
- the **CG** may prescribe the **AS** or any addendum thereto,
- as **recommended by ICAI**, **in consultation** with and after examination of recommendations by **National Advisory Committee on Accounting Standard (NACAS)** constituted u/s 210A of Companies Act, 1956 (previous law)

Note - Since **NFRA** constituted in 2018, hence this proviso **lost** its operating effects.

**Section 134: Financial Statement, Board's Report, etc.**

3 5 6 7 8 23

- The FS, including CFS, shall be **approved** by the BoD before it is **signed** on behalf of BoD by:
 - Chairperson of the co., if so authorized by BoD or else - 2 directors (1MD), **AND**
 - CEO, CFO **and** CS**before** it is submitted to **auditor** for his report thereon.

In case of OPC - Sign by **one director** only.

2. Auditor's report shall be attached to **every FS**.
3. In the FS laid before company in GM, a **BoD's report** shall be attached, which includes [**FC WARM Dividend Reserve 3 Policy**]:

Web address where AR u/s 92 has been placed	No. of board meetings	Directors's responsibility statement (DRS)	Details of fraud reported by auditors u/s 143(12) other than those reportable to CG
Statement on declaration given by ID u/s 149(6)	Explanation & comments on every qualifn, reservatn & adverse remark - by auditor in his report or by CS in practice in his secretarial audit report		state of company's affairs
particulars of loan, guarantee investments u/s 186	material change and commitments - affecting fin. position of co. between end of FY and date of report	contracts and arrangements with related parties u/s 188 (Form AOC -2)	
amount proposed to be carried to any reserve	the conservation of energy, tech absorption, forex earnings and outgo as prescribed	recommended amount of dividend	
statement indicating development & implementation of risk mgt. policy and risks identified therein	Policies on director's appointment and rem. (if covered u/s 178)	details of policy developed and implemented on CSR initiatives taken during the year	
in case of listed company and every other public company having such PUSC >= Rs. 25 crores - statement indicating the manner in which formal annual evaluation of performance of Board, its Committees and of individual Directors has been made			Other matters as may be prescribed

Provided that - where above **disclosures** are made in FS already, such disclosures shall be referred to instead of repeating it in BoD's report

Provided further that where **policies** are made available on company's **website**, if any, it shall be **sufficient compliance** of the requirements under such clauses if the **salient features** of the policy and any change therein are specified **in brief** in the **Board's report** and the **web-address** is indicated therein at which the complete policy is available

Note - In case of OPC or Small co, CG may prescribe an **abridged Board's report**.

4. BoD report shall, in case of a **OPC**, mean a **report** containing **explanations** or comments by the Board on every **qualification**, reservation or adverse remark or disclaimer made by auditor in his report.

5. Director's responsibility statement shall state that: [AS AP Care GC Control Law]
- in preparation of the **annual accounts**, the applicable **AS** had been followed along with proper explanation relating to **material** departures;
 - Directors had selected such **accounting policies** and applied them **consistently** and made **judgments** and estimates that are **reasonable** and prudent so as to give a true and fair view of the state of affairs of the company at the end of FY and of the P&L for that period;
 - Directors had taken proper and sufficient **care for**:
 - the maintenance** of adequate accounting records as per this Act
 - safeguarding the assets** of the co. and
 - for preventing and detecting **fraud** and other irregularities;
 - the Directors had prepared the annual accounts on a **going concern** basis; and
 - the Directors, in the case of a **listed company**, had laid down internal financial **controls (IFC)** to be followed by the company and that such IFC are **adequate** and were **operating effectively**.

Explanation: For the purposes of this clause, the term "IFC" means:

- the **policies** and procedures adopted by the company
 - for ensuring the orderly and **efficient conduct** of its business,
 - including **adherence** to company's policies, the **safeguarding** of its assets, the prevention and detection of **frauds** and errors, the accuracy and **completeness** of the accounting records, and the **timely** preparation of reliable financial information;
- the Directors had devised proper **systems** to ensure compliance with the provisions of all applicable **laws** and that such systems were **adequate** and operating **effectively**.

6. Sign on BoD report - Chairman, if authorised. Or else, 2 directors (1 MD)
- Note - In case where in the co. there is **only 1 director**, FS shall be **signed** by such 1 dir. (e.g. OPC)
7. A signed **copy** of every FS, including CFS, if any, shall be issued, circulated or published along with:

any **notes** annexed to or forming part of such FS

auditor's report

Board's report

8. If a company is in **default** in complying with this section:
Co. liable to penalty of **Rs. 3 lakhs**; **OID** shall be liable to penalty of **Rs. 50,000**



Rule 8: Matters to be Included in Board's Report

- BoD's report shall be prepared based on **standalone** FS of the co. and shall report on highlights of performance of subsy, associates and JVs and their contribution to overall performance of co.

2. Additionally, BoD report shall include following information:

- (i) the **financial** summary or highlights;
- (ii) the change in nature of **business**, if any;
- (iii) details of directors or KMP who were **appointed** or have **resigned** during the year;
- (iiia) statement regarding opinion of Board w.r.t. integrity, expertise and experience of **independent** director appointed during the year".
- (iv) names of cos. which have **become or ceased** to be its subsy, JV or assoc. during the year;
- (v) the details relating to **deposits**, covered under Chapter V of the Act:
 - a. accepted
 - b. remaining unpaid or unclaimed as at the end of the year;
 - c. any **default** in repayment of **deposits** or interest thereon **during** the year and **if so**, **number** of such cases and the total **amount** involved:

at the **beginning** of year

max during the year

at the **end** of year

- (vi) the details of **deposits** which are **not in compliance** with requirements of Chapter V;
- (vii) details of **significant and material orders** passed by regulators/courts/tribunals **impacting** the **going concern** status and company's operations in future;
- (viii) details in respect of adequacy of internal financial **controls** w.r.t. FS
- (ix) a **disclosure**, as to whether maintenance of **cost records** as specified by the CG u/s 148, is **required** and accordingly such accounts and records are made and maintained,
- (x) a statement that the co. has complied with provisions relating to the constitution of **Internal Complaints Committee** under the **Sexual Harassment** related Act
- (xi) details of **application** made or any proceeding pending under **IBC** during the year along with their **status** as at the end of the financial year.
- (xii) the details of **difference** between amount of **valuation** done at **time of one time settlement** and the valuation **done** while taking loan from the Banks or FI along with reasons thereof.



Section 135: Corporate Social Responsibility (CSR):

10 11 12 13 14 24 25

Read with Companies (Corporate Social Responsibility Policy) Rules, 2014

1. Every co. having:

- **net worth** \geq Rs. 500 crores, or
- **turnover** \geq Rs. 1,000 crore or
- **net profit** \geq Rs. 5 crores

During immediately **preceding FY**

shall **constitute CSR Committee** consisting of **3 or more Directors** (at least 1 independent director)

Company Type	CSR Committee Composition
Co. which is not required to appoint ID	2 or more directors (without any ID)
Private co. with only 2 directors	2 directors
Foreign company covered under these rules	CSR Committee with at least 2 persons - one as per section 380(1)(d) & one nominated by the foreign co.

Note:

1. If any of the limits not met for **3 consecutive FYs** - **not** required to comply with Sec 135.
2. Net profit to be considered as per Sec 198 i.e., **Profit Before Tax**.

Exemption - Where the **amount to be spent** by co. u/ss (5) **≤ Rs. 50 lakhs**, **CSR committee shall not be applicable**. In such case, function of CSR committee to be discharged by BoD.

2. Board report u/s **134** to **disclose** the **composition** of CSR committee
3. Function of CSR committee:
 - Formulate and recommend to board **CSR policy** indicating **activities** to be undertaken
 - Recommend **amount** of expenditure to be incurred on such activity
 - **Monitor** CSR policy of company
4. The Board of such company shall:
 - (a) after taking into account recommendations of CSR Committee, approve CSR Policy and disclose contents of thereof in its **report** and place it on **website**.
 - (b) ensure that **activities** as are included in CSR Policy are **undertaken** by the company.
5. The Board shall ensure that the company **spends**, in every FY,
 - at least **2% of average net profits**
 - made during the **3 immediately preceding FY**
 in **pursuance** of its CSR Policy

Note - Where co. has not completed 3 FY since incorp. - Take average of such immediately preceding FYs (i.e., Jitne saal tha, unka average lo)

Provided that the co. shall **give preference to the local area** and areas around it where it operates, for spending the amount earmarked for CSR activities:

Provided further that, if a co. **fails** to spend such amount:

- **Board** shall specify **reasons** for not spending the amount in its report u/s **134**, and
- **unless** the unspent amt. relates to any **ongoing project**, **transfer** it to a **Fund** specified in **Schedule VII**, within **6 months** of expiry of the FY

Provided that if co. **spends** excess amounts, such company **may set off** such excess amount against the requirement to spend **for such number of succeeding FY** and in such manner as prescribed.

**As per Rules**

Where co. **spends** an amount in **excess** of requirement, such **excess** amount may be **set off** against requirement to spend u/ss (5) up to immediate succeeding 3 FY provided that:

- (i) such **excess amt.** shall **not include** the **surplus** arising out of such CSR activities
- (ii) the Board of the company shall pass a **resolution** to that effect.

6. Transfer ongoing project to special account:

Amt. remaining **unspent** u/ss (5), pursuant to any **ongoing project**, undertaken by a co. in pursuance of its CSR Policy, shall be:

- **transferred within 30 days** from **end of FY** to a **special account** to be opened in any scheduled bank to be called "**Unspent Corporate Social Responsibility Account**", and
- spent it in pursuance of obligation towards CSR Policy **within 3 FY** from date of such trf,
- failing which, the **co. shall trf.** the same to a **Fund** (as per sch VII) **within 30 days** from date of completion of the 3rd FY.

7. Default u/ss (5) or (6):

Co. shall be liable to penalty - **Lower** of:

- **2x** of (amt. required to be transferred to the Fund or unspent CSR account) or
- **Rs. 1 crore**

OID shall be liable to penalty - **Lower** of:

- **1/10th** of (amt required to be transferred to the Fund or unspent CSR account) or
- **Rs. 2 lakhs**

Companies (Corporate Social Responsibility Policy) Rules, 2014**Rule 2: Definitions**

"**CSR**" means the **activities undertaken** by a Company in pursuance of its **statutory obligation** u/s 135 as per provisions contained in these rules, but **shall not include** the following, namely: (**SPEL FB**)

Sponsorship

Political

Employee

Law

Foreign

Business

(i) activities undertaken in **normal course of business** of the company.

Provided that any company engaged in research and development (R&D) activity of new vaccine, drugs and medical devices in their normal course of business may undertake R&D activity of new vaccine, **drugs and medical** devices related to COVID-19 for FY 2020-21 to 2022-23 subject to the conditions that:

- (a) such R&D activities is carried out in **collaboration** with institutes mentioned in Sch VII;
- (b) details of such activity to be **disclosed** separately in **Annual report on CSR** (in BoD report);
- (ii) any **activity undertaken** by **co. outside India** except for **training** of Indian **sports** personnel representing any State or UT at **national level** or **India** at **international level**;
- (iii) **contribution** of any amount directly or indirectly to any **political party** u/s 182 of the Act;
- (iv) activities benefitting **employees** of the company;
- (v) activities supported by cos. on **sponsorship basis** for **marketing benefits** for its products;
- (vi) activities carried out for fulfilment of **any other statutory obligations** under any other law

"**Administrative overheads**" means:

- expenses incurred for '**general** mgt. and admin' of CSR functions
- but shall **not include** expenses directly incurred for **designing, implementation, monitoring,** and evaluation of a **particular** CSR project or programme.

"**Net profit**" means net profit of a company **as per its FS**, but shall **not include** the following, namely:

- (i) **profit** arising from **overseas branch(es)** of co., whether operated as separate co. or not; and
- (ii) any **dividend** received from **other** companies in India, which are covered under and complying with prov. of sec 135 of the Act.

"Ongoing Project" means a **multi-year project** undertaken **in fulfilment** of its CSR obligation having timelines ≤ 3 years excluding FY in which it was **commenced**, and shall include such project that was **initially not approved** as a multi-year project but whose duration has been **extended beyond one year** by the board based on reasonable justification.



Rule 3: Applicability:

Every **co.** including its holding, or subsidiary and a **foreign company u/s 2(42)** having **branch office** or project office in India which fulfils criteria u/s 135(1) shall comply with section 135.

Provided that net worth, turnover and net profit of a foreign co. shall be computed as per Balance sheet and P&L prepared as per Section 381 and 198 of the Act

Provided further that a co. having any amount in its unspent CSR account u/s 135(6) shall constitute CSR committee and comply with CSR Provisions [**Amendment**]



Rule 4. CSR Implementation

1. Board shall ensure that CSR activities are **undertaken** by the company **itself** or **through**:
 - (a) **Sec 8** company, or a registered **public trust** or a registered **society**:
 - established by the **co.**, under Income Tax Act, either singly or along with other co., or
 - established by **CG** or State **Government**; or
 - having an established track record of **at least 3 years** in undertaking similar activities
 - (b) **any** entity established under an **Act** of Parliament or a State legislature; or
2. Every **entity**, covered above, who **intends** to undertake any CSR activity, shall **register** itself with the **CG** by filing **form CSR-1** with **Registrar**.

Form CSR-1 shall be **signed** and submitted **electronically** and shall be **verified digitally** by CA, CS or CMA in practice.

On submission thereof, a **unique CSR Registration Number** shall be generated automatically.

3. A company may engage international organisations for designing, etc. of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.
4. A company may also **collaborate with other companies** for undertaking projects in such a manner that CSR committees of respective cos. are in a **position to report separately** on such project.

5. Board shall **satisfy** itself that **funds so disbursed** have been **utilised** for purposes **as approved and CFO** (or person responsible for fin. mgt.) shall **certify** to the effect.
6. In case of **ongoing project**, Board shall **monitor** the implementation of the project w.r.t. the **approved timelines** and year wise allocation and shall be **competent** to make **modifications**, if any, for smooth implementation of the project within the overall permissible time period.

Note - International organisation can also be engaged for CSR implementation.



Rule 5: CSR committee:

CSR Committee shall formulate and recommend to the Board, an **annual action plan** in pursuance of its CSR Policy, which shall **include** the following, namely:

- (a) the **list** of **CSR projects** that are **approved** to be undertaken in areas specified in Sch VII;
 - (b) the **manner** of execution of such projects;
 - (c) the **modalities** of utilisation of funds and implementation schedules for the project;
 - (d) **monitoring** and reporting mechanism for the projects; and
 - (e) details of need and **impact assessment**, if any, for the projects undertaken by the company:
- Provided that **Board may alter** such plan at any time during FY, **on recommendation** of its CSR Committee, based on the **reasonable justification** to that effect.



Rule 7: CSR Expenditure:

1. Board shall ensure that **admin overheads** shall **not exceed 5%** of **total CSR** expense for the FY.
2. Any **surplus** arising out of CSR activities shall:
 - **not form part** of **business profit** of a co. and
 - shall be **ploughed back** into same project or
 - **trf.** to **Unspent CSR Account** and spent as per CSR policy and **annual action plan** or
 - **trf.** to a **Fund** specified in Sch VII, **within 6 months** of expiry of the FY.
3. Covered above.
4. CSR amount may be spent for creation or acquisition of a **capital asset**, which shall be held by:
 - (a) **section 8** company, or a Registered Public Trust or Registered Society, having **charitable objects** and CSR Registration Number; or
 - (b) **beneficiaries** of said CSR project, in the form of **self-help groups**, collectives, entities; or
 - (c) a public authority:

Provided that any capital asset created prior to commencement of this Rule, shall within **180 days** (may seek further 90 days) comply with this provision.



Rule 8: CSR Reporting

1. **Board Report** pertaining to any FY shall **include** an **"Annual report on CSR"**
2. In case of a **foreign co.**, the **Balance Sheet** u/s 381 of the Act, shall **contain** annual report on CSR

**** Annual Report on CSR** containing particulars specified in Annexure I or II, as applicable.

3. Impact assessment:

- (a) Every co. having avg CSR obligation \geq Rs. 10 crores in 3 immediately preceding FYs, shall:
- undertake impact assessment,
 - through an independent agency,
 - of their CSR projects having outlays \geq Rs. 1 crore, and
 - which have been completed not less than 1 year before undertaking the impact study.
- (b) Impact assessment reports - Place before BoD & annexed to the annual report on CSR.
- (c) Co. undertaking impact assessment may book expense towards CSR for that FY, not exceeding higher of [Amendment]:
- 2% of total CSR exp. for that FY or
 - Rs. 50 lakhs

**Rule 12: [Amendment]**

Every co. covered under Sec 135(1) shall furnish a CSR report in Form CSR-2 to Registrar for the preceding FY (2020-21) and onwards as an addendum to Form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS), as the case may be.

Provided that for the preceding FY (2020-21), Form CSR-2 shall be filed separately on or before 31st March June 2022, after filing Form AOC-4, etc.

Additional clarifications on CSR:

1. Read Sch VII from ICAI Module Pg. 9.44 (not imp. from exam point of view. Just read casually)
2. Entries in Sch VII is to be interpreted liberally.
3. CSR activity should be taken up as a project. One-off events such as marathon won't qualify
4. Expense incurred by foreign holding co. for CSR activities in India will qualify as CSR spend of the Indian subsidiary if, it is routed through Indian subsy.

**COVID related clarifications:**

1. Following spendings are eligible CSR activity:
 - COVID-19 related activities
 - Creating health infrastructure for COVID Care
 - Establishment of medical oxygen generation and storage plants
 - Manufacturing and supply of Oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19
 - COVID- 19 vaccination for persons other than the employees and their families
 - Carrying out awareness campaigns or public outreach campaigns on COVID vaccination program.
 - Setting up makeshift hospitals and temporary COVID Care facilities
 - For the activities related to "Harr Ghar Tiranga" campaign, such as mass scale production and supply of the National Flag, outreach and amplification efforts and other related activities
2. Companies including Government co. may undertake the activities or projects or programmes using CSR funds, directly by themselves or in collaboration as shared responsibility with other cos.



Section 136: Right of member to copies of audited financial statement.

1. A copy of following documents laid before GM:

FS

CFS, if any

auditor's report

every other doc. required to be attached to FS

shall be sent to every:

member

trustee for DH

all other entitled person

not less than 21 days before the date of the meeting.

Provided that if copies of docs are sent less than 21 days before date of meeting, it shall be deemed to have been duly sent if it is so agreed by members:

If company has share capital:

Majority in numbers + 95% of PUSC

If company has no SC:

95% of total VP

Provided further that, in case of listed co., this sub-section shall be deemed to be complied with if:

- copies of documents are made available for inspection at RO during working hours for 21 days before date of meeting.
- statement containing salient features of such docs or copies thereof is sent to member, DT of DH in Form AOC-3 not less than 21 days before date of meeting unless SH ask for full FS. 📎

Note - Cos. which are reqd to comply with Cos (Ind AS) Rules, 2015 shall send in Form AOC - 3A 📎

Mode of sending FS: In case of all:

listed companies and

such public companies having:

- NW of more than Rs. 1 crore and
- Turnover of more than Rs. 10 crore

the financial statements may be sent:

Shareholding is in:	Mode
Demat form + Email IDs registered with depository	E-mode
Otherwise than demat form but members have positively consented in writing to e-mode	E-mode
In all other cases	Dispatch of physical copies through any recognised mode of delivery u/s 20

Provided - Listed co. shall also place its FS including CFS, and other docs on its website

Provided also that every listed company having subsidiary(ies) shall place separate audited accounts w.r.t. each of subsidiary on its website, if any.

Provided also that a **listed company** which has a **subsidiary incorporated outside India** (herein referred to as "**foreign subsidiary (F-sub)**"):

where such F-sub is statutorily required to prepared CFS under law of the country of incorporation - this proviso is complied with if such CFS is placed on website of listed co.

where F-sub is not required to get FS audited and hence does not get FS audited - holding Indian listed co. may place unaudited FS on website**

Where FS is in language other than English, place a **translated copy in English on the website.

2. Co. shall allow members/DT to **inspect** the documents stated u/ss (1) at its **RO** during **biz. hours**.

Provided that **every co.** having suby shall **provide** a copy of **separate audited or unaudited FS**, as prepared in respect of each of its subsidiary to **any member** of the company who asks for it.

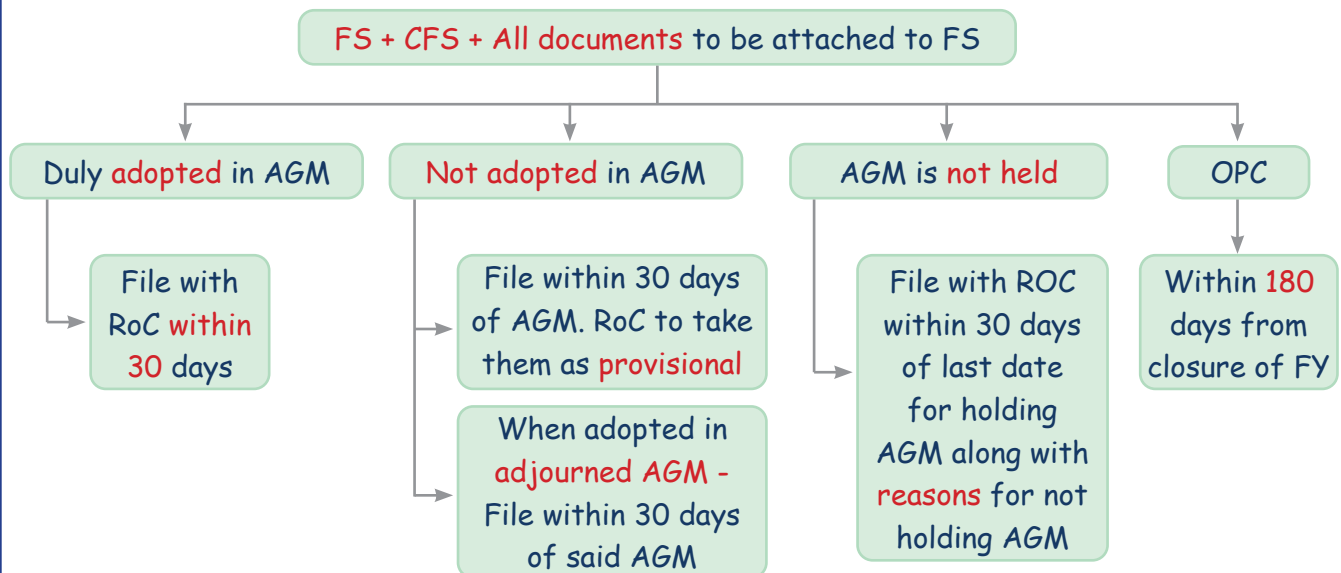
3. Default in complying with this section:

Co. - Liable to penalty of Rs. **25,000** ; OID - Liable to penalty of Rs. **5,000**



Section 137: Copy of FS to be filed with RoC:

16-20



1. Filing FS with ROC:

- A copy of **FS**, including CFS, along with all docs required to be attached to FS,
- **duly adopted** at AGM shall be
- filed with **RoC** within **30 days** of date of AGM
- in the following forms:

AOC 4	Financial Statement and other documents
AOC 4 CFS	Consolidated Financial Statement
AOC-4-NBFC (Ind AS)	NBFCs to file FS and other documents with the Registrar
AOC-4 CFS NBFC (Ind AS)	NBFCs to file CFS with the Registrar

Note - Along with such FS, co. shall **attach accounts** of its **subsy** which have been **incorporated outside India** and which have **not established** their place of business in India.

Where FS is not adopted in AGM or adjourned AGM:

- Such **unadopted** FS shall be **filed** with RoC within 30 days of date of AGM.
- RoC to take it in records as **provisional** till FS are filed after adoption in the adjourned AGM

Where FS gets adopted in adjourned AGM - File with RoC within 30 days of such adjourned AGM

In case of OPC:

File copy of FS duly adopted by its member **within 180 days** from closure of **FY**

In case of foreign subsidiary not having audited FS - Send unaudited FS to RoC

In case of a subdy incorporated o/s India (foreign subsidiary) which is not required to get FS audited under law of such country and does not get it audited - Holding Indian company to file **unaudited FS + declaration** to such effect to **ROC**

Where such FS is in language other than English - **translated copy** to be sent.

2. Where AGM is not held, FS + Documents duly signed shall be filed with RoC within 30 days of last date before which AGM should have been held.
3. Co. fails to file copy of FS:
 - Co. - Liable to penalty of Rs. 10,000 + Rs. 100/days - Max. Rs. 2 lakhs
 - Person responsible - Liable to penalty of Rs. 10,000 + Rs. 100/days - Max. Rs. 50,000

Person responsible -

- MD and CFO, or
- in absence of MD and CFO - any other director charged with such responsibility
- in absence of any such director - all directors.

Additional Points:

1. Following class of companies shall file FS and other documents in e-form AOC-4 XBRL: 

co. **listed** in India and
their **Indian subdy**

Co. having
PUSC \geq 5 cr.

Co. having
turnover \geq 100 cr.

Cos. required to prepare
FS as per **Ind AS**

Note - Once you come in purview of above limit, continue to file AOC-4 XBRL.

- 15-2. **NBFCs, housing finance** cos. engaged in business of banking or **insurance** sector - exempted from complying with XBRL requirement.



Section 138: Internal Audit

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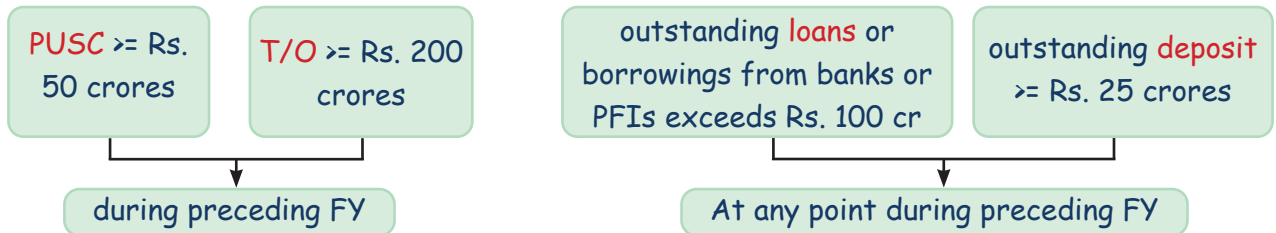
Prescribed class of cos. shall **appoint internal auditor** (CA or cost accountant, or such other professional as may be decided by the Board) to **conduct internal audit** of co's functions and activities



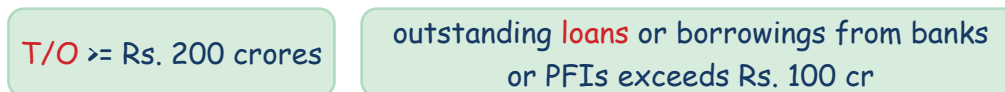
Rule 13: Companies required to appoint Internal Auditor:

Following companies shall be required to appoint an internal auditor (who can be **either individual** or **partnership firm** or **BC**), namely:

- (a) every **listed** company;
- (b) every **unlisted** public company having:



- (c) every **private** company having:



Who shall become an internal auditor - Either individual or partnership firm or body corporate - CA or cost accountant, ~~or CS~~ or such professional as may be decided by the Board to **conduct internal audit**

What is his role? - To conduct internal audit of the functions and activities of the company

Note - An internal auditor may or may not be an **employee**.

Concept clarity check:

If an unlisted co. has outstanding loan of Rs. 100 crores exactly, in such case, the provision of internal auditor shall not apply as the law says - outstanding loan and borrowings from banks or financial institution exceeding Rs. 100 crores. So exact 100 crore will not be covered here.

—→... The End ...←—