

### **FIDUCIARY DUTIES OF THE BOARD:**

Fiduciary duties are based on the concept of good faith, and are owed to the company as a result of the control that directors exercise over the Company. It is the duty of directors to act in the best interest of the Company. Fiduciary duties are a Legal obligation and cannot be waived in any manner or form.

The Fiduciary Duties of the Directors towards Corporate Governance can be categorised into:

1. Loyalty: To act in the Interest of the Company
2. Care: Duty to pay attention and take due care
3. Disclosure: Disclose all material information
4. Extra care: Careful scrutiny of decisions

The Delhi High Court in its interim order (Rajeev Saumitra vs. Neetu Singh & Ors), held that a director is liable to pay to the company any undue gains realized from breach of duties prescribed by Section 166 of the Act.

Below are the consequential aspects of some of the key areas of Corporate Governance.

| Sr. No | Particulars   | Companies Act, 2013/<br>SEBI(LODR) Regulation, 2015 | Section                   | Provisions  |
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| 1      | Conflict of Interest                                      | The Companies Act, 2013                             | Sec 188(1)(b)             | <b>Related party transactions:</b><br>the expression —arm’s length transaction means a transaction between two related parties that is conducted as if they were unrelated, so that there is no <b>conflict of interest</b> .   |
|        |   | The Companies Act, 2013                             | Sec 166 (4)               | A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.   |
|        |   | SEBI(LODR) Regulation, 2015                         | Chp II Reg 4 (f)(iii)(8)  | <b>Responsibilities of the board of directors:</b> The board of directors shall consider assigning a sufficient number of non-executive members of the board of directors capable of exercising independent judgement to tasks where there is a potential for <b>conflict of interest</b> .   |
|        |   | SEBI(LODR) Regulation, 2015                         | Reg 26                    | <b>Obligations with respect to employees including senior management, key managerial persons, directors and promoters:</b><br>Senior management shall make disclosures to the board of directors relating to all material, financial and commercial transactions, where they have personal interest that may have a potential conflict with the interest of the listed entity at large.<br>Explanation.- For the purpose of this sub-regulation, <b>conflict of interest</b> relates to dealing in the shares of listed entity, commercial dealings with bodies, which have shareholding of management and their relatives etc. |
| 2      | Composition of the Board (Independent and Woman Director) | The Companies Act, 2013                             | Sec 134(3)(d)             | <b>Financial statement, Board’s report, etc:</b><br>There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include a statement on declaration given by <b>independent directors</b> under sub-section (6) of section 149:  |
|        |   | The Companies Act, 2013                             | Sec 149(1) (4) to 149(13) | Every listed company and every other public company having -<br>(a) paid-up share capital of one hundred crore rupees or more; or<br>(b) turnover of three hundred crore rupees or more; shall have at least one woman director.<br><b>Composition of Independent Directors:</b><br>(4) Every listed public company shall have at least one-third of the total number of directors as independent directors and the Central Government may prescribe the minimum number of  |

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|  |  |                         |                      | <p>independent directors in case of any class or classes of public companies.</p> <p>Explanation.—For the purposes of this sub-section, any fraction contained in such one-third number shall be rounded off as one.</p> <p>(5) Every company existing on or before the date of commencement of this Act shall, within one year from such commencement or from the date of notification of the rules in this regard as may be applicable, comply with the requirements of the provisions of sub-section (4).</p> <p>(7) Every independent director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section (6).</p> <p>(12) Notwithstanding anything contained in this Act,—</p> <p>(i) an independent director;]&amp;</p> <p>(ii) a non-executive director not being promoter or key managerial personnel, shall be held liable, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.</p> |
|  |  | The Companies Act, 2013 | Sec 150(2) to 150(4) | <p><b>Manner of selection of independent directors and maintenance of databank of independent Directors:</b></p> <p>(2) The appointment of independent director shall be approved by the company in general meeting as provided in sub-section (2) of section 152 and the explanatory statement annexed to the notice of the general meeting called to consider the said appointment shall indicate the justification for choosing the appointee for appointment as independent director.</p> <p>(3) The data bank referred to in sub-section (1), shall create and maintain data of persons willing to act as independent director in accordance with such rules as may be prescribed.</p> <p>(4) The Central Government may prescribe the manner and procedure of selection of independent directors who fulfil the qualifications and requirements specified under section 149.</p>  |
|  |  | The Companies Act, 2013 | Schedule IV          | <p><b>CODE FOR INDEPENDENT DIRECTORS:</b></p> <p>It is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.</p> <p>I. Guidelines of professional conduct</p>  |

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|   |                            |                         |         | <ul style="list-style-type: none"> <li>II. Role and functions</li> <li>III. Duties</li> <li>IV. Manner of appointment</li> <li>V. Re-appointment</li> <li>VI. Resignation or removal</li> <li>VII. Separate meetings</li> </ul> <p>Evaluation mechanism</p>  |
|   |                            |                         | Reg 25  | <p><b>Obligations with respect to Independent Directors:</b></p> <p>25. (1) A person shall not serve as an independent director in more than seven listed entities: Provided that any person who is serving as a whole time director in any listed entity shall serve as an independent director in not more than three listed entities.</p> <p>(2) The maximum tenure of independent directors shall be in accordance with the Companies Act, 2013 and rules made thereunder, in this regard, from time to time.</p> <p>(3) The independent directors of the listed entity shall hold at least one meeting in a year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting.</p> <p>(7) The listed entity shall familiarise the independent directors through various programmes about the listed entity, including the following:</p> <ul style="list-style-type: none"> <li>(a) nature of the industry in which the listed entity operates;</li> <li>(b) business model of the listed entity;</li> <li>(c) roles, rights, responsibilities of independent directors; and</li> <li>(d) any other relevant information.</li> </ul> |
| 3 | Related Party Transactions | The Companies Act, 2013 | Sec 188 | <p><b>Related Party Transactions:</b></p> <p>188. (1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—</p> <ul style="list-style-type: none"> <li>(a) sale, purchase or supply of any goods or materials;</li> <li>(b) selling or otherwise disposing of, or buying, property of any kind;</li> <li>(c) leasing of property of any kind;</li> <li>(d) availing or rendering of any services;</li> <li>(e) appointment of any agent for purchase or sale of goods, materials, services or property;</li> <li>(f) such related party's appointment to any office or place of profit in the company, its subsidiary</li> </ul>  |

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|  |  |  | <p>company or associate company; and</p> <p>(g) underwriting the subscription of any securities or derivatives thereof, of the company:</p> <p>Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a resolution</p> <p>Provided further that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party</p> <p>Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis.</p> <p>Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.</p> <p>The expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.</p> <p>(2) Every contract or arrangement entered into under sub-section (1) shall be referred to in the Board's report to the shareholders along with the justification for entering into such contract or arrangement.</p> <p>(3) Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a resolution in the general meeting under sub-section</p> <p>(1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the company against any loss incurred by it.</p> <p>(4) Without prejudice to anything contained in sub-section (3), it shall be open to the company to proceed against a director or any other employee who had entered into such contract or arrangement in contravention of the provisions of this section for recovery of any loss sustained by it as a result of such contract or arrangement.</p> |
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|   |                | SEBI(LODR) Regulation, 2015 | Reg 23   | <b>Related Party Transactions:</b><br>(1)The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions: Explanation.- A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.<br>(2) All related party transactions shall require prior approval of the audit committee.<br>(3) Audit committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to the following conditions, namely-<br>(a) the audit committee shall lay down the criteria for granting the omnibus approval in line with the policy on related party transactions of the listed entity and such approval shall be applicable in respect of transactions which are repetitive in nature;<br>(b) the audit committee shall satisfy itself regarding the need for such omnibus approval and that such approval is in the interest of the listed entity;<br>(d) the audit committee shall review, atleast on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approvals given. (e) Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year:<br>(4) All material related party transactions shall require approval of the shareholders through resolution and the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not.<br>(5) The provisions of sub-regulations (2), (3) and (4) shall not be applicable in the following cases: (a) transactions entered into between two government companies;<br>(b) transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval. Explanation.-For the purpose of clause (a), "government company(ies)" means Government company as defined in sub-section (45) of section 2 of the Companies Act, 2013.<br>(6) The provisions of this regulation shall be applicable to all prospective transactions. |
| 4 | Oversight Duty | Companies Act, 2013         | Sec 166. | <b>Duties of Directors</b><br>1. Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.   |

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|   |   |                     |  | <p>2. A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.</p> <p>3. A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.</p> <p>4. A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, <b>or possibly may conflict, with the interest of the company.</b></p> <p>5. A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.</p> <p>A director of a company shall not assign his office and any assignment so made shall be void.</p>  |
| 5 | Committees / Financial Controls/ Compliance | Companies Act, 2013 | Sec 177 and Reg 18 and Part C of Schedule II | <p><b>Audit Committee:</b></p> <p>(1) The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.</p> <p>(2) The Audit Committee shall consist of a minimum of three directors 2[with independent directors forming a majority]:</p> <p>Provided that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.</p> <p><b>Audit Committee</b></p> <p>(1) Every listed entity shall constitute a qualified and independent audit committee in accordance with the terms of reference, subject to the following:</p> <p>(a)The audit committee shall have minimum three directors as members.</p> <p>(b)Two-thirds of the members of audit committee shall be independent directors.</p> <p>(c)All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.</p> <p>(d)The chairperson of the audit committee shall be an independent director and he shall be present at Annual general meeting to answer shareholder queries.</p> <p>(e)The Company Secretary shall act as the secretary to the audit committee.</p> <p>(f) The audit committee at its discretion shall invite the finance director or head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives to be present at the meetings of the committee:</p> <p>Provided that occasionally the audit committee may meet without the presence of any executives of</p> |

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|  |  |                     |         | <p>the listed entity.</p> <p>(2) The listed entity shall conduct the meetings of the audit committee in the following manner:</p> <p>(a) The audit committee shall meet at least four times in a year and not more than one hundred and twenty days shall elapse between two meetings.</p> <p>(b) The quorum for audit committee meeting shall either be two members or one third of the members of the audit committee, whichever is greater, with at least two independent directors.</p>  |
|  |  | Companies Act, 2013 | Sec 178 | <p><b>Nomination and Remuneration Committee and Stakeholders Relationship Committee</b></p> <p>(1) The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one-half shall be independent directors:</p> <p>Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.</p> <p>(5) The Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year shall constitute a Stakeholders Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board.</p> <p>(6) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.</p> <p>(7) The chairperson of each of the committees constituted under this section or, in his absence, any other member of the committee authorised by him in this behalf shall attend the general meetings of the company.</p> |
|  |  |                     | Sec 135 | <p><b>Corporate Social Responsibility</b></p> <p>(1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an Independent Director.</p> <p>(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.</p>  |



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|  |                                      | SEBI LODR              | Reg 19 and<br>Schedule II Part D | <b>Nomination and Remuneration Committee</b><br>(1) The board of directors shall constitute the nomination and remuneration committee as follows:<br>(a) the committee shall comprise of at least three directors ;<br>(b) all directors of the committee shall be non-executive directors; and<br>(c) at least fifty percent of the directors shall be independent directors.<br>(2) The Chairperson of the nomination and remuneration committee shall be an independent director:<br>Provided that the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee.  |
|  |                                      | SEBI LODR              | Reg 20 and<br>Schedule II Part D | <b>Stakeholders Relationship Committee</b><br>(1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into the mechanism of redressal of grievances of shareholders, debenture holders and other security holders.<br>(2) The chairperson of this committee shall be a non-executive director.<br>(3) The board of directors shall decide other members of this committee.<br>(4) The role of the Stakeholders Relationship Committee shall be as specified as in Part D of the Schedule II.   |
|  |                                      | SEBI LODR              | Reg 21                           | (1) The board of directors shall constitute a Risk Management Committee.<br>(2) The majority of members of Risk Management Committee shall consist of members of the board of directors.<br>(3) The Chairperson of the Risk management committee shall be a member of the board of directors and senior executives of the listed entity may be members of the committee.   |
|  | Financial<br>Controls/<br>Compliance | Companies<br>Act, 2013 | Sec 129                          | <b>Financial Statements:</b><br>(1) The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III:<br>Provided that the items contained in such financial statements shall be in accordance with the accounting standards:<br>(2) At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.<br>(3) Where a company has one or more subsidiaries, it shall, in addition to financial statements |

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|  |  |                              |                    | <p>provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):</p> <p>Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in such form as may be prescribed:</p> <p>Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed.</p> <p>(4) The provisions of this Act applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, apply to the consolidated financial statements referred to in sub-section (3).</p> <p>(5) Without prejudice to sub-section (1), where the financial statements of a company do not comply with the accounting standards referred to in sub-section (1), the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.</p> |
|  |  | SEBI (LODR) Regulation, 2015 | Reg 4(2)(f)        | Ensure the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.   |
|  |  | SEBI (LODR) Regulation, 2015 | Schedule II Part B | <p>The following compliance certificate shall be furnished by chief executive officer and chief financial officer:</p> <p>C. They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control systems of the listed entity pertaining to financial reporting and they have disclosed to the auditors and the audit committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.</p> <p>D. They have indicated to the auditors and the Audit committee (1) significant changes in internal control over financial reporting during the year; (2) significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and (3) instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the listed entity's internal control system over financial reporting.</p> <p>Ensure the integrity of the listed entity's accounting and financial</p>   |

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|   |                      |                         |   | reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.   |
| 6 | Mandated Disclosures | The Companies Act, 2013 | Sec 102   | <p>(1) A statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting, namely:—</p> <p>(a) the nature of concern or interest, financial or otherwise, if any, in respect of each items of—</p> <p>(i) every director and the manager, if any;</p> <p>(ii) every other key managerial personnel; and</p> <p>(iii) relatives of the persons mentioned in sub-clauses (i) and (ii);</p> <p>(b) any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon. And such other disclosures as specified in Section 102 of the Companies Act, 2013.</p> <p>Section 102 (4) Where as a result of the non-disclosure or insufficient disclosure in any statement referred to in sub-section (1), being made by a promoter, director, manager, if any, or other key managerial personnel, any benefit which accrues to such promoter, director, manager or other key managerial personnel or their relatives, either directly or indirectly, the promoter, director, manager or other key managerial personnel, as the case may be, shall hold such benefit in trust for the company, and shall, without prejudice to any other action being taken against him under this Act or under any other law for the time being in force, be liable to compensate the company to the extent of the benefit received by him.</p> |
|   |                      | SEBI LODR               | Reg 30 (6), Reg 7(3), Reg 40 (9), Reg 55A of SEBI (Depositories and Participants) Regulations, 1996, Reg 33, Reg 31, Reg 27 (2), Reg 13(3), Reg 34, Reg 43A | <p>Within 24 hours:</p> <p>Material Events:</p> <p>The listed entity shall first disclose to stock exchange(s) of all events, as specified in Part A of Schedule III pertaining to disclosures of events or information of specified securities, or information as soon as reasonably possible and not later than twenty four hours from the occurrence of event or information:</p> <p>Provided that in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for delay:</p> <p>Provided further that disclosure with respect to events specified in sub-Para 4 of Para A of Part A of Schedule III shall be made within thirty minutes of the conclusion of the board meeting.</p> <p>Half Yearly:</p>   |

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|  |  |  | <p>1. Within 1 month of end of each half of the financial year.<br/>Regulation: 7(3)<br/>Compliance Certificate certifying maintaining physical &amp; electronic transfer facility. The listed entity shall submit a compliance certificate to the exchange, duly signed by both that is by the compliance officer of the listed entity and the authorized representative of the share transfer agent, wherever applicable, within one month of end of each half of the financial year, certifying maintaining physical &amp; electronic transfer facility either in house or RTA as applicable.</p> <p>2. Within 1 month of the end of each half of the financial year<br/>Regulation: 40(9) Transfer or transmission or transposition of securities.<br/>Certificate from Practicing Company Secretary<br/>The listed entity shall ensure that the share transfer agent and/or the in-house share transfer facility, as the case may be, produces a certificate from a practicing company secretary within one month of the end of each half of the financial year, certifying that all certificates have been issued within thirty days of the date of lodgment for transfer, sub-division, consolidation, renewal, exchange or endorsement of calls/allotment monies.</p> <p>Quarterly:<br/>1. Within 30 days from quarter end<br/>Regulation 55A of SEBI (Depositories and Participants) Regulations, 1996.<br/>Reconciliation of Share Capital Audit<br/>Listed entities are required to submit Reconciliation of Share Capital Audit Report on a quarterly basis to the stock exchanges audited by a qualified chartered accountant or a practicing company secretary for the purpose of reconciliation of share capital held in depositories and in physical form with the issued / listed capital. The Reconciliation of Share Capital Audit Report is required to be submitted to the stock Exchange within 30 days from the end of the Quarter under regulation 55A of the SEBI (Depositories and Participants) Regulations, 1996.</p> <p>2. Within 45 days from quarter end and in case of Annual Financial Result, within 60 days from end of Financial Year.<br/>Regulation 33<br/>Financial Results<br/>The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange within forty-five days of end of each quarter, (other than last quarter) along with Limited</p> |
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|  |  |  |  | <p>Review Report or Audit Report as applicable.</p> <p>The listed entity shall submit Annual Audited standalone Financial results for the financial year, within sixty days from the end of the financial year along with the audit report and either with Statement on Impact of Audit Qualifications ( applicable for audit report with modified opinion(s) ) or declaration (applicable for audit reports with unmodified opinion(s) ).</p> <p>Provided that if the listed entity has subsidiaries, it shall, while submitting annual audited standalone financial results also submit annual audited consolidated financial results along with the audit report and Statement on Impact of Audit Qualifications ( applicable for audit report with modified opinion). Provided further that, in case of audit reports with unmodified opinion(s), the listed entity shall furnish a declaration to that effect to the Stock Exchange(s) along with the annual audited financial results.</p> <p>For the purpose of this Financial Result regulations , any reference to "quarterly/quarter" in case of listed entity which has listed their specified securities on SME Exchange shall be respectively read as "half yearly/half year"</p> <p>3. Within 21 days from quarter end.</p> <p>Regulation 31</p> <p>Shareholding Pattern</p> <p>(1) The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by the Board from time to time within the following timelines –</p> <ul style="list-style-type: none"> <li>• one day prior to listing of its securities on the stock exchange(s);</li> <li>• on a quarterly basis, within twenty one days from the end of each quarter;</li> <li>• within ten days of any capital restructuring of the listed entity resulting in a change exceeding two per cent of the total paid-up share capital</li> </ul> <p>4. Within 15 days from Quarter end</p> <p>Regulation 27(2)</p> <p>Corporate Governance</p> <p>The listed entity shall submit a quarterly compliance report on corporate governance within fifteen days from close of the quarter. Further it may be noted that it shall not apply, in respect of - (a) the listed entity having paid up equity share capital not exceeding rupees ten crore and net worth not exceeding rupees twenty five crore, as on the last day of the previous financial year: Provided that where the provisions of the regulations specified in this regulation becomes applicable to a listed</p> |
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|   |          |                         |  | <p>entity at a later date, such listed entity shall comply with the requirements those regulations within six months from the date on which the provisions became applicable to the listed entity. (b) the listed entity which has listed its specified securities on the SME Exchange.</p> <p>5. Within 21 days from the end of each quarter</p> <p>Regulation 13(3)</p> <p>Statement of Investor complaints.</p> <p>The listed entity shall file with the recognised stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.</p> <p>Yearly:</p> <p>Within 21 working days of it being approved and adopted in the annual general meeting</p> <p>Regulation 34</p> <p>Annual Report</p> <p>The listed entity shall submit the annual report to the stock exchange within twenty one working days of it being approved and adopted in the annual general meeting as per the provisions of the Companies Act, 2013.</p> <p>In case of top 500 listed entities based on market capitalization (calculated as on March 31 of every financial year), Business responsibility report is required to include in Annual Report is compulsory as per prescribed Format. However in case of other than top 500 listed companies based on market capitalization and listed entities which have listed their specified securities on SME Exchange, may include these Business responsibility reports on a voluntary basis</p> <p>Further as per Regulation 43A.</p> <p>The top five hundred listed entities based on market capitalization (calculated as on March 31 of every financial year) shall formulate a dividend distribution policy which shall be required to disclosed in their annual reports and on their websites. However the listed entities other than top five hundred listed entities based on market capitalization may disclose their dividend distribution policies on a voluntary basis in their annual reports and on their websites.</p> |
| 7 | Policies | The Companies Act, 2013 | Sec 135(3)A, Regulation 21, Regulation 23, | <p>List of Statutory Policies under Companies Act 2013 &amp; LODR</p> <ol style="list-style-type: none"> <li>1. Corporate Social Responsibility Policy</li> <li>2. Risk Management Policy</li> </ol>   |

|  |  |                  |   |  |
|--|--|------------------|---|--|
|  |  | and SEBI<br>LODR | Regulation 4(d)(iv),<br>Rule 13 of the<br>Sexual Harassment<br>of Women at<br>Workplace<br>(Prevention,<br>Prohibition and<br>Redressal) Rules,<br>2013, Clause (p) of<br>sub-section (3) of<br>Section 134,<br>Regulation 16(1) C,<br>Section 178,<br>Regulation 9,<br>Regulation 30(4)(ii),<br>Regulation 9,<br>Regulation 43A,<br>Schedule II Part<br>D(A), Regulation<br>17(5)A | <p>3. Policy on materiality of Related party Transactions</p> <p>4. Whistle Blower Policy</p> <p>5. Policy on prevention of Sexual harassment</p> <p>6. Policy for formal annual evaluation by the Board of its own performance, that of its committees and individual directors.</p> <p>7. Policy for determining material subsidiaries of the Company</p> <p>8. Policy on director's appointment and remuneration of the directors, key managerial personnel and other employees including criteria for determining Qualifications, positive attributes, independence of a director and other matters.</p> <p>9. Policy for preservation of documents</p> <p>10. Policy for determination of materiality of events</p> <p>11. Archival policy</p> <p>12. Dividend Distribution Policy</p> <p>13. Policy on diversity of board of directors</p> <p>14. Company's code of conduct or ethics policy</p> |
|--|--|------------------|---|--|



### **Suzlon Energy Limited- Case Study: Disclosure of material information:**

- A total fine of Rs 1.1 Crore, including Rs 5 Lakh on an official, was imposed as the Company failed to disclose price sensitive information as required under the listing regulations on more than one occasion.
- Hemal Kanuga, Company Secretary and Compliance Officer of the Company was fined Rs 5 Lakh.
- The order pertains to the failure to make certain corporate announcements to Stock Exchanges about orders received by the Company. SEBI overruled the corporate announcements made during the period from April 1, 2006 to March 31, 2009.
- Suzlon had announced to the Stock Exchanges the cancellation of orders by their Clients namely Edison and Horizon as Price sensitive. However, the cancellation of delivery order from Reliance Energy, P R China and DLF Home Developers was not announced to the Stock Exchanges.
- SEBI in its order said that "all the three clients are big names in their own rights. Timely disclosure of the cancellation may have had an impact on the price of the scrip".
- SEBI further said that "Under the clause 36 of the Listing Agreement, a Company is required to keep the Stock Exchange informed about any price sensitive information and Suzlon Energy "admittedly failed" to disclose the truncation of orders on three occasions".
- SEBI order also noted that Suzlon Energy violated PIT (Prohibition of Insider Trading) Regulations, which directs a company to give price sensitive information to stock exchanges on a continuous and immediate basis.

### **STATUTORY AND REGULATORY LANDSCAPE:**

The Duties of Directors can be classified into:

1. Governance duties: Ensuring that organizational activities are aligned in a way that supports the organization's business goals. Schedule II of SEBI (Listing Obligations and Disclosure Requirement) Regulations, 2015 pertains to Corporate Governance.
2. Risk duties: Making sure that any risk (or opportunity) associated with organizational activities is identified and addressed in a way that supports the organization's business goals. These activities may be delegated to the Audit and the Risk Committee.
3. Compliance duties: Making sure that organizational activities are operated in a way that meets the laws and regulations impacting those systems. The Board has to ensure that proper systems are in place to ensure compliance with all the applicable laws and regulations.

The duties of the Board are prescribed in the Companies Act, 2013 and the Rules, in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the Secretarial Standards prescribe the Procedural aspects of the duties of Directors.

The Directors' Responsibility Statement referred to in clause (c) of sub-section (3) of Section 134 shall state that—

- a) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;  
It is the duty of the Auditor to include in the Auditor's Report whether, in his opinion, the financial statements comply with the accounting standards



- b) the 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 the financial year and of the profit and loss of the company for that period;

It is the duty of the Auditor to include in the Auditor's Report, whether the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year

- c) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;
- d) the directors had prepared the annual accounts on a going concern basis; and
- e) the directors, 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.

Pursuant to Rule 10A of the Companies (Audit and Auditors) Rules, 2014 for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of Internal Financial Controls with reference to financial statements and its operating effectiveness.

- f) 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.

#### **DUTIES AND RESPONSIBILITIES INDIVIDUAL DIRECTORS:**

Section 166: Duties:

1. Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.
2. A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.
3. A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.
4. A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.
5. A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.
6. A director of a company shall not assign his office and any assignment so made shall be void.

SEBI (LODR)

4(2)(f): The board of directors of the listed entity shall have the following responsibilities:

(i) Disclosure of information:

- (1) Members of board of directors and key managerial personnel shall disclose to the board of directors whether they, directly, indirectly, or on behalf of third parties, have a material interest in any transaction or matter directly affecting the listed entity.



(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.

(iii) Other responsibilities:

1. Members of the board of directors shall be able to commit themselves effectively to their responsibilities.
2. The board of directors and senior management shall facilitate the independent directors to perform their role effectively as a member of the Board.
3. Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.

**26** (3) All members of the board of directors and senior management personnel shall affirm compliance with the code of conduct of board of directors and senior management on an annual basis.

#### **DUTIES AND RESPONSIBILITIES OF THE BOARD AS A WHOLE:**

SEBI LODR:

(ii) Key functions of the board of directors-

1. Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestments.
2. Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.
3. Selecting, compensating, monitoring and, when necessary, replacing key managerial personnel and overseeing succession planning.
4. Aligning key managerial personnel and remuneration of board of directors with the longer term interests of the listed entity and its shareholders.
5. Ensuring a transparent nomination process to the board of directors with the diversity of thought, experience, knowledge, perspective and gender in the board of directors.
6. Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.
7. Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.
8. Overseeing the process of disclosure and communications.
9. Monitoring and reviewing board of director's evaluation framework.

(iii) Other responsibilities:

1. In order to fulfil their responsibilities, the board of directors shall have access to accurate, relevant and timely information.



2. The board of directors shall provide strategic guidance to the listed entity, ensure effective monitoring of the management and shall be accountable to the listed entity and the shareholders.
  3. The board of directors shall set a corporate culture and the values by which executives throughout a group shall behave.
  4. The board of directors shall encourage continuing directors training to ensure that the members of board of directors are kept up to date.
  5. Where decisions of the board of directors may affect different shareholder groups differently, the board of directors shall treat all shareholders fairly.
  6. The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders.
  7. The board of directors shall exercise objective independent judgement on corporate affairs.
  8. The board of directors shall consider assigning a sufficient number of nonexecutive members of the board of directors capable of exercising independent judgement to tasks where there is a potential for conflict of interest.
  9. The board of directors shall ensure that, while rightly encouraging positive thinking, these do not result in over-optimism that either leads to significant risks not being recognised or exposes the listed entity to excessive risk.
  10. The board of directors shall have ability to 'step back' to assist executive management by challenging the assumptions underlying: strategy, strategic initiatives (such as acquisitions), risk appetite, exposures and the key areas of the listed entity's focus.
  11. When committees of the board of directors are established, their mandate, composition and working procedures shall be well defined and disclosed by the board of directors.
- 17 (3)** The board of directors shall periodically review compliance reports pertaining to all laws applicable to the listed entity, prepared by the listed entity as well as steps taken by the listed entity to rectify instances of non-compliances.
- (4) The board of directors of the listed entity shall satisfy itself that plans are in place for orderly succession for appointment to the board of directors and senior management.
- (5) (a) The board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity.
- (b) The code of conduct shall suitably incorporate the duties of independent directors as laid down in the Companies Act, 2013.
- (6) (a) The board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting.
- 17 (b)** The board of directors shall be responsible for framing, implementing and monitoring the risk management plan for the listed entity.

**INDEPENDENT DIRECTOR:**



An independent director shall possess appropriate skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business.

#### Schedule IV: Guidelines of professional conduct:

An independent director shall:

1. uphold ethical standards of integrity and probity;
2. act objectively and constructively while exercising his duties;
3. exercise his responsibilities in a bona fide manner in the interest of the company;
4. devote sufficient time and attention to his professional obligations for informed and balanced decision making;
5. not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
6. not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
7. refrain from any action that would lead to loss of his independence;
8. where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;
9. assist the company in implementing the best corporate governance practices.

#### II. Role and functions:

The independent directors shall:

- (1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
- (2) bring an objective view in the evaluation of the performance of board and management;
- (3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- (4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
- (5) safeguard the interests of all stakeholders, particularly the minority shareholders;
- (6) balance the conflicting interest of the stakeholders;
- (7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;
- (8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

#### III. Duties:

The independent directors shall—

- (1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;
- (2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;
- (3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
- (4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;
- (5) strive to attend the general meetings of the company;
- (6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
- (7) keep themselves well informed about the company and the external environment in which it operates;
- (8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
- (9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;
- (10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- (11) report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;
- (12) acting within his authority, assist in protecting the legitimate interests of the company, shareholders and its employees;
- (13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

VII. Separate meetings:

1. The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management;
2. All the independent directors of the company shall strive to be present at such meeting;
3. The meeting shall:
  - a. review the performance of non-independent directors and the Board as a whole;
  - b. review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
  - c. assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

SEBI (LODR) 5(4) The independent directors in the meeting referred in sub-regulation (3) shall, inter alia-



- a) review the performance of non-independent directors and the board of directors as a whole;
- b) review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non-executive directors;
- c) assess the quality, quantity and timeliness of flow of information between the management of the listed entity and the board of directors that is necessary for the board of directors to effectively and reasonably perform their duties.

**CHAIRMAN (Secretarial Standard):**

- 1. It would be the duty of the Chairman to check, with the assistance of Company Secretary, that the Meeting is duly convened and constituted in accordance with the Act or any other applicable guidelines, Rules and Regulations before proceeding to transact business.
- 2. The Chairman shall conduct the Meetings of the Board and shareholders.
- 3. The Chairman shall encourage deliberations and debate and assess the sense of the Meeting.
- 4. The Chairman shall explain the objective and implications of the Resolutions before they are put to vote at the General Meeting
- 5. In case some of the Directors participate through Electronic Mode, the Chairman and the Company Secretary shall safeguard the integrity of the Meeting by ensuring sufficient security and identification procedures.
- 6. Unless otherwise provided in the Articles, in case of an equality of votes, the Chairman shall have a second or casting vote.
- 7. Where a poll is to be taken, the Chairman of the meeting shall appoint such number of persons, as he deems necessary, to scrutinise the poll process and votes given on the poll and to report thereon to him.
- 8. The poll may be taken by the Chairman, on his own motion also.
- 9. The Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken.
- 10. Based on the scrutiniser's report, the Chairman shall declare the result of the poll within two days of the submission of report by the scrutiniser, with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not.
- 11. A declaration by the Chairman of the meeting of the passing of a resolution or otherwise by show of hands and an entry to that effect in the books containing the minutes of the meeting of the company shall be conclusive evidence of the fact of passing of such resolution or otherwise.
- 12. The Chairman shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in sub-section (5) of Section 118. The Chairman has absolute discretion to exclude from the Minutes, matters which in his opinion are or could reasonably be regarded as defamatory of any person, irrelevant or immaterial to the proceedings or which are detrimental to the interests of the company.
- 13. The Chairman shall ensure that the proceedings of the Meeting are correctly recorded.
- 14. Minutes of proceedings of a meeting of the Board, shall be initialled, signed and dated by the chairman of the said meeting.





**DELEGATION OF POWERS OF THE BOARD (Provisions under the Act and SEBI (Listing Obligations and Disclosure Requirements), 2015):**

Pursuant to Section 179(1), the Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do.

While exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in the:

- a) Act
- b) Memorandum and Articles of the Company
- c) Rules/Regulations, not inconsistent therewith and duly made thereunder, including regulations made by the Company in General Meeting.

Pursuant to Section 179(3) the Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely:—

- a. to make calls on shareholders in respect of money unpaid on their shares;
- b. to authorise buy-back of securities under section 68;
- c. to issue securities, including debentures, whether in or outside India;
- d. to borrow monies;
- e. to invest the funds of the company;
- f. to grant loans or give guarantee or provide security in respect of loans;
- g. to approve financial statement and the Board's report;
- h. to diversify the business of the company;
- i. to approve amalgamation, merger or reconstruction;
- j. to take over a company or acquire a controlling or substantial stake in another company;
- k. to make political contributions;
- l. to appoint or remove key managerial personnel (KMP);
- m. to appoint internal auditors and secretarial auditor;

The above powers of the Board cannot be delegated.

However, pursuant to the first proviso of Section 179(3), the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the Managing Director, the Manager or any other principal officer of the Company or in the case of a branch office of the Company, the principal officer of the branch office, the following powers on such conditions as it may specify:

- a) to borrow monies;
- b) to invest the funds of the company;
- c) to grant loans or give guarantee or provide security in respect of loans
- d) Vide circular 19/2014 dated 12 June, 2014 the Ministry of Corporate Affairs has clarified that the powers of the Board under rule 6(2)(a) of Companies ( Share Capital and Debentures) Rules, 2014 read with section 46 of the Act, with regard to issuance of duplicate shares can be exercised by a committee of Directors. The committee of directors may exercise such powers subject to any regulations imposed by the Board in this regard.

Further pursuant to Secretarial Standard 1, which pertains to Meetings of the Board, the below items of business shall not be passed by circulation and shall be placed before the Board at its





Meeting (These Items may be delegated to the Committees of the Board, however the final approval/noting shall be given by the Board):

General Business Items:

- Noting Minutes of Meetings of Audit Committee and other Committees.
- Approving financial statements and the Board's Report.
- Considering the Compliance Certificate to ensure compliance with the provisions of all the laws applicable to the company.
- Specifying list of laws applicable specifically to the company.
- Appointment of Secretarial Auditors and Internal Auditors.

Specific Items:

- Making political contributions.
- Making calls on shareholders in respect of money unpaid on their shares.
- Approving Remuneration of Managing Director, Whole-time Director and Manager.
- Appointment or Removal of Key Managerial Personnel.
- Appointment of a person as a Managing Director / Manager in more than one company.
- In case of a public company, the appointment of Director(s) in casual vacancy subject to the provisions in the Articles of the company.
- According sanction for related party transactions which are not in the ordinary course of business or which are not on arm's length basis.
- Sale of subsidiaries.
- Purchase and Sale of material tangible/intangible assets not in the ordinary course of business.
- Approve payment to Director for loss of office.
- Items arising out of separate Meeting of the Independent Directors if so decided by the Independent Directors.

Corporate Actions:

- Authorise Buy-Back of securities.
- Issue of securities, including debentures, whether in or outside India.
- Approving amalgamation, merger or reconstruction.
- Diversify the business.
- Takeover another company or acquiring controlling or substantial stake in another company.

Additional list of items in case of Listed companies:

- Approving Annual operating plans and budgets.
- Capital budgets and any updates.
- Information on remuneration of Key Managerial Personnel.
- Show cause, demand, prosecution notices and penalty notices which are materially important.
- Fatal or serious accidents, dangerous occurrences, any material effluent or pollution problems.
- Any material default in financial obligations to and by the company, or substantial non-payment for goods sold by the company.

- Any issue, which involves possible public or product liability claims of substantial nature, including any judgement or order which, may have passed strictures on the conduct of the company or taken an adverse view regarding another enterprise that can have negative implications on the company.
- Details of any joint venture or collaboration agreement.
- Transactions that involve substantial payment towards goodwill, brand equity, or intellectual property.
- Significant labour problems and their proposed solutions. Any significant development in Human Resources/ Industrial Relations front like signing of wage agreement, implementation of Voluntary Retirement Scheme etc.
- Quarterly details of foreign exchange exposures and the steps taken by management to limit the risks of adverse exchange rate movement, if material.
- Non-compliance of any regulatory, statutory or listing requirements and shareholder services such as non-payment of dividend, delay in share transfer etc.

The Board shall not exercise any power or do any act or thing which is directed or required, whether under the Act or by the Memorandum or Articles of the Company or otherwise, to be exercised or done by the Company in General Meeting.

Pursuant to Regulation 40(2) of SEBI (Listing Obligations and Disclosure Requirements), 2015 the board of directors of a listed entity may delegate the power of transfer of securities to a committee or to compliance officer or to the registrar to an issue and/or share transfer agent(s). Provided that the Board of Directors and/or the delegated authority shall attend to the formalities pertaining to transfer of securities at least once in a fortnight and the delegated authority shall report on transfer of securities to the Board of Directors in each meeting.

A Board can either delegate some of its powers to the committee, enabling it to act directly, or can require the recommendations of the committee to be approved by the Board. However, the Committee cannot further delegate any of its powers to a subcommittee or to a member of the Committee, unless authorised to do so. The Board will normally depend heavily on the findings and recommendations of its committees, although final decisions to accept or reject these recommendations will be made by the Board. Committees thus have an important role to play in company governance. The Terms of reference of each committee have to be approved by the Board.

The following are the powers delegated to the Committees of the Board under various provisions of the Act and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015:

#### **ROLES AND RESPONSIBILITIES OF THE COMMITTEES:**

##### **Nomination and Remuneration Committee:**

178.

(2) The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and shall carry out evaluation of every director's performance.



(3) The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees.

(4) The Nomination and Remuneration Committee shall, while formulating the policy under subsection (3) ensure that—

- a. the level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully;
- b. relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and
- c. remuneration to directors, key managerial personnel and senior management involves a balance between fixed and incentive pay reflecting short and long-term performance objectives appropriate to the working of the company and its goals:

SEBI LODR Part D

A. Role of Nomination and Remuneration Committee:

1. formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the board of directors a policy relating to, the remuneration of the directors, key managerial personnel and other employees;
2. formulation of criteria for evaluation of performance of independent directors and the board of directors;
3. devising a policy on diversity of board of directors;
4. identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the board of directors their appointment and removal.
5. whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors.

**Stakeholders Relationship Committee:**

178 (6) The Stakeholders Relationship Committee shall consider and resolve the grievances of security holders of the company.

SEBI (LODR) Part D: B. Stakeholders Relationship Committee: The Committee shall consider and resolve the grievances of the security holders of the listed entity including complaints related to transfer of shares, non-receipt of annual report and non-receipt of declared dividends.

**Audit Committee:**

177 (4) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include, —

- a. the recommendation for appointment, remuneration and terms of appointment of auditors of the company;]
- b. review and monitor the auditor's independence and performance, and effectiveness of audit process;



- c. examination of the financial statement and the auditors' report thereon;
- d. approval or any subsequent modification of transactions of the company with related parties;

Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;

- e. scrutiny of inter-corporate loans and investments;
- f. valuation of undertakings or assets of the company, wherever it is necessary;
- g. evaluation of internal financial controls and risk management systems;
- h. monitoring the end use of funds raised through public offers and related matters.

(5) The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.

(6) The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.

The Companies (Meetings of Board and its Powers) Rules, 2014 Rule 7:

Audit committee shall oversee the vigil mechanism through the committee and if any of the members of the committee have a conflict of interest in a given case, they should recuse themselves and the others on the committee would deal with the matter on hand.

SEBI (LODR):

23 (3) (d) the audit committee shall review, atleast on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approvals given.

The Audit Committee shall have powers to investigate any activity within its terms of reference, seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.

Schedule II Part C:

A. The role of the audit committee shall include the following:

- (1) oversight of the listed entity's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible;
- (2) recommendation for appointment, remuneration and terms of appointment of auditors of the listed entity;
- (3) approval of payment to statutory auditors for any other services rendered by the statutory auditors;

(4) reviewing, with the management, the annual financial statements and auditor's report thereon before submission to the board for approval, with particular reference to:

- a. matters required to be included in the director's responsibility statement to be included in the board's report in terms of clause (c) of sub-section (3) of Section 134 of the Companies Act, 2013;
- b. changes, if any, in accounting policies and practices and reasons for the same;
- c. major accounting entries involving estimates based on the exercise of judgment by management;
- d. significant adjustments made in the financial statements arising out of audit findings;
- e. compliance with listing and other legal requirements relating to financial statements;
- f. disclosure of any related party transactions;
- g. modified opinion(s) in the draft audit report;

(5) reviewing, with the management, the quarterly financial statements before submission to the board for approval;

(6) reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document / prospectus / notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public or rights issue, and making appropriate recommendations to the board to take up steps in this matter;

(7) reviewing and monitoring the auditor's independence and performance, and effectiveness of audit process;

(8) approval or any subsequent modification of transactions of the listed entity with related parties;

(9) scrutiny of inter-corporate loans and investments;

(10) valuation of undertakings or assets of the listed entity, wherever it is necessary;

(11) evaluation of internal financial controls and risk management systems;

(12) reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems;

(13) reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit;

(14) discussion with internal auditors of any significant findings and follow up there on;

(15) reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board;

(16) discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern;



(17) to look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non-payment of declared dividends) and creditors;

(18) to review the functioning of the whistle blower mechanism;

(19) approval of appointment of chief financial officer after assessing the qualifications, experience and background, etc. of the candidate;

(20) Carrying out any other function as is mentioned in the terms of reference of the audit committee.

B. The audit committee shall mandatorily review the following information:

(1) management discussion and analysis of financial condition and results of operations;

(2) statement of significant related party transactions (as defined by the audit committee), submitted by management;

(3) management letters / letters of internal control weaknesses issued by the statutory auditors;

(4) internal audit reports relating to internal control weaknesses; and

(5) the appointment, removal and terms of remuneration of the chief internal auditor shall be subject to review by the audit committee.

(6) statement of deviations:

- a. quarterly statement of deviation(s) including report of monitoring agency, if applicable, submitted to stock exchange(s) in terms of Regulation 32(1).
- b. annual statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice in terms of Regulation 32(7).

#### **CSR Committee:**

135. 3) The Corporate Social Responsibility Committee shall, —

- a. formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in 1,2 Schedule VII;
- b. recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
- c. monitor the Corporate Social Responsibility Policy of the company from time to time.

#### **Risk Management Committee:**

SEBI (LODR):

The board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit.



Please note: Constituting Risk Management Committee shall be applicable to top 100 listed entities, determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

**Section 134 (5): Director's Responsibility Statement:**

The Directors' Responsibility Statement shall state that—

- (a) in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;
- (b) the 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 the financial year and of the profit and loss of the company for that period;
- (c) the directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;
- (d) the directors had prepared the annual accounts on a going concern basis; and
- (e) the directors, 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.

Explanation.—For the purposes of this clause, the term “internal financial controls” 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;

- (f) 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.



### ANNUAL FILING FEES AS PRESCRIBED IN SECTION 403 OF COMPANIES ACT 2013

| Section     | Existing Provision  | Revised Provision  | Explanation   |
|-------------|---|--|---|
| Section 403 | <p>Provisos Section 403(1)-<br/>Provided that any document, fact or information may be submitted, filed, registered or recorded, after the time specified in relevant provision for such submission, filing, registering or recording, within a period of two hundred and seventy days from the date by which it should have been submitted, filed, registered or recorded, as the case may be, on payment of such additional fee as may be prescribed.</p> <p>Provided further that any such document, fact or information may, without prejudice to any other legal action or liability</p> | <p>Revised Provisos to Section 403(1)-</p> <p>Provided that where any document, fact or information required to be submitted, filed, registered or recorded, as the case may be, under section 92 or 137 is not submitted, filed, registered or recorded, as the case may be, within the period provided in those sections, without prejudice to any other legal action or liability under this Act, it may be submitted, filed, registered or recorded, as the case may be, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed, <b>which shall not be less than one hundred rupees per day and different amounts may be prescribed for different classes of companies.</b></p> <p>Provided further that where the document, fact or information, as the case may be, in cases other than referred to in the first proviso, is not submitted, filed, registered or recorded, as the case may be, within the period provided in the relevant section, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded as the case may be, on payment of such additional fee as may be prescribed and different fees may be prescribed for different classes of companies.</p> <p>Provided also that where there is default on two or more occasions in submitting, filing, registering or recording of the</p> | <p>The objective to ensure enhancing the filings by providing for condonation of delay, payment of higher fees was not really helping, so in order to make the compliance requirement less onerous with the reasonable time period for all companies and to avoid strict penalties, section 403 has been amended. Delayed filing fees will vary depending on number of defaults and nature of form to be filed. <b>FS &amp; Annual Return can be filed with delayed filing fees of Rs. 100/- per day (after prescribed 30/60 days), different amount may be specified for different classes of companies.</b> For other forms – additional fees will be prescribed; different amount may be specified for different classes of companies. In case of subsequent 2 or more defaults in submission of forms, higher fees may be prescribed.</p> |





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|  | under the Act, be also submitted, filed, registered or recorded after the first time specified in first proviso on payment of fee and additional fee specified under this section. | document, fact or information, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, as the case may be, on payment of a higher additional fee, as may be prescribed and which shall not be lesser than twice the additional fee provided under the first or the second proviso as applicable. |  |
|--|--|--|--|

Form AOC-4 is required to be filed within 30 days of Annual General Meeting.

Form MGT-7 is required to be filed within 60 days of Annual General Meeting.

**MCA Notifies the Companies (Registration Offices and Fees) Second Amendment Rules 2018.**

The Companies (Registration Offices and Fees) Second Amendment Rules 2018 has been notified on 7th May 2018. Accordingly, in case the due date of filings under Section 92 (Annual Return) or 137 (Annual Financial Statement) of the Companies Act, 2013 expires after 30/06/2018, the additional fee @Rs.100 per day shall become payable in respect of MGT-7, AoC-4, AoC-4 XBRL and AoC-4 CFS.

In all other cases where the belated annual returns or balance sheet/financial statement which were due to be filed whether under the Companies Act, 1956 (23AC, 23ACA, 23AC XBRL, 23ACA XBRL, 20B, 21A) or the Companies Act, 2013 (MGT-7, AoC-4, AoC-4 XBRL and AoC-4 CFS) additional fee as per the applicable slab for the period of delay up to 30th June 2018 plus @Rs.100 per day w.e.f 1st July 2018 shall become payable.

### **ENHANCING BOARD EFFECTIVENESS:**

Board performance is vital to the success of an organisation. To ensure the Board is a strategic asset, it must have the right mix of skills and knowledge as well as the ability to work effectively as a team. A Board should monitor the effectiveness of its performance by regularly reviewing its composition, governance relations and internal processes. Additionally, it should ensure that directors have access to relevant training and development.

### **Provisions under the Companies Act, 2013 (“Act”) and the Rules made thereunder, pertaining to providing training to the Directors:**

1. Schedule IV of the Act:

Para III which pertains to duties of Independent Directors states that:

The Independent Directors shall—

- undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the Company;
- seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the Company;
- keep themselves well informed about the Company and the external environment in which it operates;

2. The Companies (Appointment and Qualification of Directors) Rules, 2014:

Rule 5 which pertains to qualifications of Independent Director states that:

An Independent Director shall possess appropriate skills, experience and knowledge in one or more fields of Finance, Law, Management, Sales, Marketing, Administration, Research, Corporate Governance, Technical Operations or other disciplines related to the Company's business.

### **Relevant provisions under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 pertaining to providing training to the Directors:**

1. Regulation 25 pertaining to obligations with respect to Independent Directors states that:

The Listed Entity shall familiarise the Independent Directors through various programmes about the Listed Entity, including the following:

- (a) nature of the industry in which the Listed Entity operates;
- (b) business model of the Listed Entity;
- (c) roles, rights, responsibilities of Independent Directors; and
- (d) any other relevant information.

2. In Regulation 4 Clause (f) which relates to Responsibilities of the Board of Directors, other Responsibilities of the Director include:



- Encourage continuing Directors training to ensure that the Members of Board of Directors are kept up to date.

#### **Board Evaluation provisions:**

Board Evaluation is the most effective way to ensure Board members understand their duties and to adopt effective good governance practices. To be effective, boardroom appraisals need to have specific, clearly defined steps and practices, and a special commitment from the Board.

The Evaluation of the Board and its committees has become mandatory pursuant to the following sections of the Companies Act, 2013:

Currently pursuant to Section 134(3)(p) of the Companies Act 2013, **every listed company and other Public company with paid up capital of 25 crore Rupees or more** calculated at the end of the preceding Financial year shall indicate the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual Directors in the Board's Report.

Code for Independent Directors & Evaluation Mechanism: Pursuant to Section 149(8) & Schedule IV, the independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and this meeting shall-

- Review the performance of non-independent directors and the Board as a whole
- Review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
- Assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties

The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated. On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

Evaluation by Nomination and Remuneration Committee: Pursuant to Section 178 the Nomination and Remuneration Committee shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency and review its implementation and compliance.

The above Section 149(8) & Schedule IV and Section 178 of the Companies Act, 2013 shall mandatorily apply to the following companies:

#### **Every Listed Public Company and the following companies:**

1. **Public companies having Paid up Share Capital of Ten crore Rupees or more;**
2. **Public companies having Turnover of One Hundred crore Rupees or more; or**
3. **Public companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding fifty crore rupees;**



Main provisions under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 with respect to Board Evaluation, which is **applicable to all listed companies**:

CHAPTER II:

4(2)(f)(ii): Key functions of the board of directors- (9) Monitoring and reviewing board of director's evaluation framework.

Chapter IV:

17(10): The performance evaluation of independent directors shall be done by the entire board of directors: Provided that in the above evaluation the directors who are subject to evaluation shall not participate.

25: (3) The independent directors of the listed entity shall hold at least one meeting in a year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting.

(4) The independent directors in the meeting referred in sub-regulation (3) shall, inter-alia- (a) review the performance of non-independent directors and the board of directors as a whole; (b) review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non-executive directors; (c) assess the quality, quantity and timeliness of flow of information between the management of the listed entity and the board of directors that is necessary for the board of directors to effectively and reasonably perform their duties.

Schedule II (PART D)

(A) ROLE OF NOMINATION AND REMUNERATION COMMITTEE:

Role of committee shall, inter-alia, include the following:

(2) formulation of criteria for evaluation of performance of independent directors and the board of directors;

(4) identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the board of directors their appointment and removal.

(5) whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors.

Schedule V: Corporate Governance Report.

The following disclosures shall be made in the section on the corporate governance of the annual report.

(4) Nomination and Remuneration Committee: (d) performance evaluation criteria for independent directors.

