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Newsflash: Companies (Amendment) Bill 2017

THE POWER OF BEING UNDERSTOOD



The Companies (Amendment) Bill, 2016, (Old Bill) was introduced in Lok Sabha on 16 March, 2016. It was then referred to the Standing Committee on Finance on April 12, 2016. The Committee submitted its report on 30th November, 2016 and then finally the Government after considering the suggestions of the Committee and also of the representatives of the Chambers of Commerce and Industry as well as professional bodies, introduced the revised Companies (Amendment) Bill, 2017(New Bill) in the Lok Sabha. The Lok Sabha has passed the Companies (Amendment) Bill, 2017 on July 27, 2017 and now only the **approval of Rajya Sabha along with the President's Assent is pending to give it the stature of Companies (Amendment) Act, 2017.**

The major amendments proposed in the New Bill include clarity on definitions for identifying associate companies, holding & subsidiary companies, related parties etc; aligning disclosure requirements in the prospectus with the regulations made by SEBI, providing for maintenance of register of significant beneficial owners and filing of returns in this regard with the ROC, simplification of the private placement procedure, removal of requirement for annual ratification of auditor, rationalization of provisions related to loan to directors, omission of provisions relating to forward dealing and insider trading and doing away with the requirement of approval of the Central Government for managerial remuneration above prescribed limits.

The major changes from the Old Bill subsequently introduced in revised New Bill include continuing with the earlier provisions relating to segregation of the object clause in the memorandum of association of the Company into Main & Other objects, making offence for contravention of provisions relating to deposits as non-compoundable, requiring attaching of financial statement of associate companies, stringent additional fees of Rs 100 per day in case of delay in filing of annual return and financial statement, continuing with restrictions on layers of investment subsidiaries, etc.

We hope you will find the same useful.

Happy reading!



Abbreviations

ROC	Registrar Of Companies
LLP	Limited Liability Partnership
KMP	Key Managerial Personnel
P/L	Profit & Loss
CG	Central Government
DRR	Debenture Redemption Reserve
AGM	Annual General Meeting
CA	Chartered Accountant
NCLAT	National Company Law Appellate Tribunal
NFRA	National Financial Reporting Authority
CSR	Corporate Social Responsibility
ID	Independent Director
DIN	Director Identification Number
VC	Video Conferencing
NRC	Nomination & Remuneration Committee
LODR	SEBI (Listing Obligation & Disclosure Regulations) 2015
MCA	Ministry Of Corporate Affairs
SEBI	Securities and Exchange Board Of India

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
1.	2 (6)	Definition of “Associate Company”	<p>The amendment has now altered the criteria for determining significant influence by replacing “total share capital” with “total voting capital” and has brought it in line with the definition as in the Accounting Standards which uses ‘voting power’ as a criteria to determine ‘control’. Preference share capital with no voting rights is thus made redundant by this provision.</p> <p>The meaning of joint venture has also been specified in the definition of associates for the first time and hence there will be no ambiguity in determining the same.</p>
2.	2 (28)	Definition of “cost accountant”	<p>Post amendment the cost accountant is required to hold a valid certificate of practice under sub-section (1) of section 6 of Cost and Works Accountants Act, 1959.</p> <p>After amendment, the definition will be in line with the definition of chartered accountants as provided under Section 2 (17)</p>
3.	2 (30)	Definition of “debenture”	The definition of debentures has been amended to exclude certain instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and other instrument, as may be prescribed by the Central Government in consultation with Reserve Bank of India.
4.	2 (41)	Definition of “financial year”	Now an associate company of a company incorporated outside India can also apply to the Tribunal for a different financial year
5.	2 (46)	Definition of “holding company”	<p>According to the explanation, the scope of the word ‘company’ has now become wider and includes a body corporate.</p> <p>Earlier, the term ‘Company’ used to cover only a company incorporated under the Companies Act, 2013 or under any previous company law.</p> <p>Now, foreign companies can also be the holding company of a company. Even an LLP can become a holding company of a company since LLP is a body corporate under the LLP Act.</p>

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6.	2 (49)	Definition of “interested director”	The definition of the term ‘Interested director’ is deleted.
7.	2 (51)	Definition of “key managerial personnel”	The scope of the definition of key managerial personnel (KMP) has been widened to include functional heads not more than one level below the directors who is in whole time employment and if they have been so designated by the Board.
8.	2 (57)	Definition of “net worth”	The amendment seeks to include both the debit and credit balance of P/L account while calculating network.
9.	2 (71)	Definition of “public company”	The insertion of the word ‘and’ makes it clear that both the conditions are required to be satisfied for a company to be a ‘Public Company’
10.	2 (76)(vii)	Definition of “related party”,	<p>Instead of only a company, any body-corporate which is holding, subsidiary or an associate company of such company or a subsidiary of a holding company shall be considered as a related party.</p> <p>Further, a new sub-clause has been inserted in the definition of related party to include any investing company or the venturer of a company.</p> <p>The definition of investing company and venturer of the Company has also been provided</p>
11.	2 (85)	Definition of “small	The maximum limit upto which the CG can increase the paid up capital limit cap for defining a small company has been increased from 5 crores rupees to 10 crore rupees.

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		company”	Further, the maximum limit upto which the CG can increase the annual turnover limit for defining a small company has been increased from 20 crore rupees to 100 crore rupees.
12.	2 (87)	Definition of “subsidiary company”	<p>A company will be treated as subsidiary in case the holding company exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies. Currently the Act provides for exercise or control of more than half of the total share capital (which includes equity + preference share capital)</p> <p>It would remove all the practical difficulties faced by companies as holding status would be based on ownership of the company (i.e. equity holding only).</p> <p>Also, during consolidation, the Accounting standards don’t recognize preference shareholders as the owners of the Company and hence the equity shareholder would show it as its subsidiary in its books of account and thus the change in definition is a welcome move.</p>
13.	2 (91)	Definition of “turnover”	<p>The definition of turnover has been tweaked to mean the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.</p> <p>The definition has now been aligned with financial reporting standards as the earlier definition of “turnover” was quite unclear and was being interpreted to mean gross receipts.</p>
14.	3	Members	Section 45 of the old Companies Act 1956, prescribed the consequences of reduction in

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		severally liable in certain cases	<p>the number of members below statutory minimum. However, no corresponding provision was there under the Companies Act, 2013.</p> <p>The proposed insertion seeks to provide for liability of members when the minimum number of members falls below the statutory minimum (seven or two in case of public or private company respectively) and such a situation continues for a period exceeding six months.</p>
15.	4(5)(i)	Reservation of name of the Company	<p>The validity period for the reservation of name of a proposed new company has been reduced to 20 days from the earlier validity period of 60 days.</p> <p>However, the period of validity of the proposed new name, while changing the name of an existing company continues to be 60 days.</p>
16.	7 (1)	Subscribers to the MOA	<p>At the time of incorporation of the company, declaration by each subscriber will be required to be attached instead of an affidavit, as currently provided</p> <p>This would reduce the procedural formalities in incorporation.</p>
17.	12 (1)	Registered Office	<p>The company shall within 30 of its incorporation have registered office instead of current requirement to have registered office on and from the fifteenth day of its incorporation.</p> <p>Companies will have more time to decide on the registered office address.</p>
18.	12 (4)	Notice of every change of the situation of the registered office	<p>Notice of every change of the situation of the registered office, shall be given to the Registrar within 30 days instead of 15 days, as currently provided</p> <p>Companies will have more time to file the requisite E-form with the ROC for changing its registered office.</p>
19.	21	Authentication of	Post this amendment any employee of the Company can also be authorized to undertake the

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		documents, proceedings and contracts	procedural formalities on behalf of the Company through a resolution of its Board of Directors.
20.	26 (1)	Matters to be stated in Prospectus	<p>Instead of detailed list of contents in the Prospectus, it is proposed that the Prospectus shall state such information and set out such reports on financial information as may be specified by SEBI in consultation with the Central Government.</p> <p>This amendment would help to reduce the duplication of disclosures to be made in the Prospectus.</p>
21.	35 (2)	Civil liability for Mis-statements in prospectus	<p>This amendment would provide a sigh of relief to the persons specified in section 35(1) and who have given their consent/declarations depending on any expert opinion.</p> <p>Now the Director, promoter etc. would be relived from any civil liability if such person(s) has relied on a misleading statement made by an expert and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required and had not withdrawn it.</p>
22.	42	Private placement	<p>The use of the money has been linked with filing of a return with ROC.</p> <p>The bar on the time limit before which the money raised through private placement cannot be utilized has now been extended up to the time, the return of allotment has been filed with the Registrar of Companies.</p>

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			<p>Further, the Private Placement offer letter shall not contain any right of renunciation</p> <p>Time limit for filing return of allotment with the ROC for private placement is also reduced to 15 days from 30 days.</p> <p>Restriction to not use the proceeds of private placement till the time allotment is done and return is filed with the ROC seems to be for safeguarding against round tripping of share application money without their being actual allotment of shares.</p> <p>The only relief in the private placement provisions seems to be that the amount of penalty for contravention has been limited to Rs 2 crores, which was earlier extending to the entire amount raised by private placement.</p>
23.	47 (1)	Voting rights	<p>Section 188 prohibits a member, who is related party to a particular transaction, to vote on a resolution to be passed under section 188 of the Companies Act 2013.</p> <p>The amendment clarifies that the right of every member holding equity shares to vote on all resolutions placed before the meeting would be subject to sub-section (1) of section 188 of the Act</p> <p>Hence ,this amendment is in line with the provision of section 188(Related Party Transactions)</p>
24.	53 (2)	Prohibition on issue of shares at discount	<p>The substitution of the word discounted price with discount is to remove the interpretational difficulties.</p> <p>The amendment proposes to permit conversion of loans into equity at less than the par value.</p>

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			The insertion of subsection 53(2A), which allows issuing of shares by a company at a discount, to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India will make a significant impact, as the bar in the Companies Act, 2013 against issuing shares at a discount forced bankers to convert the loans at least at par value of the equity
25.	54 (1)	Issue of Sweat Equity Shares	<p>Currently sweat equity shares can be issued only after expiry of one year from the date of commencement of business</p> <p>The amendment allows a newly incorporated Company to issue sweat equity shares of a class of shares already issued at any time post its registration. This would invariably help a lot of start up companies</p>
26.	62(1)(c)	Further issue of share capital	<p>Now it has been specifically provided that Preferential allotment will have to follow the provisions relating Rights Issue (Sec 42) as well.</p> <p>Currently the applicability of section 42 in case of Preferential issue, is provided in the rules.</p>
27.	62 (2)	Notice of offer	Now the notice of rights issue can be given via any mode which can provide proof/ acknowledgement of the delivery.
28.	73 (2)	Prohibition on	Earlier the minimum amount to be deposited in DRR was 15% of the amount of deposits

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		acceptance of deposits from public	<p>maturing during a financial year and the financial year next following, which has been now modified to include 20% of the amount of deposits maturing during the following financial year only.</p> <p>Further 30th April is specified as the due date on or before which amount to be kept in a scheduled bank in a separate bank account each year.</p> <p>Further the requirement of providing of deposit insurance is done away with.</p> <p>In clause (e) of the section 73(2), permission has been given to the Companies, who made default and made good the default and a period of five years had lapsed since the date of making good the default, to accept deposits from its members,</p>
29.	74(1)(b)	Repayment of deposits, etc., accepted before commencement of this Act.	<p>The Amendment proposes to provide a period of THREE YEARS to companies to repay deposits accepted before commencement of the Companies Act, 2013.</p> <p>However, this amendment is redundant as the period of 3 years from the commencement of Act has already expired on 1st April, 2016.</p>
30.	76A	Punishment for contravention of section 73 or section 76	<p>The amendment seeks to restrict the fine payable by the Company for failure in repayment of deposits and interest thereon to rupees one crore or twice the amount of deposit accepted, whichever is lower.</p> <p>Further, every officer of the company who is in default would be punishable with imprisonment which may extend to seven years and with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees. The offence has thus been made, non-compoundable.</p>
31.	77	Duty to register charges	The amendment has exempted the requirement to register certain charges which the RBI may suggest.

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32.	78	Application for registration of charge	It is provided that the person in whose favour the charge has been created can file the charge on the expiry of 30 days from creation of charge where a company fails to file so. Currently the charge holder can register the charge only in case the company fails to do within the period specified under section 77, which is 300 days.
33.	82	Company to report satisfaction of charge	The amendment provides company an option to make an application to Registrar of Companies to provide time upto THREE HUNDRED DAYS to file form for intimation of Satisfaction of Charge with additional fees
34.	89(6) & 89(7)	Declaration in respect of beneficial interest in any share.	<p>This amendment seeks to explain what constitutes “beneficial interest in a share”.</p> <p>As per the current law, return of beneficial interest declaration can also be filed on payment of additional fee within 270 days from the date by which it should have been filed. Post the additional 270 days the Company shall apply for condonation of delay with the ROC</p> <p>It is proposed to do away with the time limit of 270 days and the return can be filed at any time on payment of prescribed additional fee.</p> <p>Further, the requirement for condoning the delay as per the provisions of section 403 in cases of late fillings has been done away with.</p>

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35.	90	Investigation of significant beneficial ownership of shares in certain cases	<p>A declaration is to be given to the company by every individual acting alone or together or through one or more persons including a trust and persons resident outside India, who holds beneficial interest of not less than twenty-five per cent or other prescribed percentage in shares of a company or the right to exercise or the actual exercising of significant influence or control under clause (27) of section 2 of the Act (to be called as significant beneficial owner).</p> <p>Further the significant beneficial owner shall while making the declaration specify the nature of interest and other particulars in prescribed manner and time to the company.</p> <p>The company shall maintain and keep available for inspection, by any member of the company, a register of significant beneficial owners.</p> <p>The company shall file a return of significant beneficial owners of the company and changes therein with the Registrar.</p> <p>This clause also provides that company may give notice to any person whom the company knows or believes to be a significant beneficial owner of the company or who has knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge or who has been a significant beneficial owner of the company at any time during the immediately preceding three years.</p> <p>Further, if the person fails to give information required by the notice, the company shall apply to the Tribunal within a period of fifteen days for an order. The Tribunal may make an order restricting the rights attached with the shares in question. If any person fails to make a declaration, he shall be punishable with fine.</p> <p>Similarly, where a company fails to maintain the register or file the return, the company and</p>

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			every officer of the company in default shall be punishable with fine.
36.	92	Annual return	<p>The amendment omits the requirement of sub-section (3) with respect to extract of annual return forming part of Board's report. However, it provides for disclosure of the web address/web-link of the annual return in Board's report.</p> <p>It also seeks to omit requirement of clause (c) of sub-section (1) regarding disclosure of indebtedness, and modifies clause (j) of that sub-section regarding disclosure of names, addresses, countries of incorporation, registration and percentage of shareholding of Foreign Institutional Investors.</p> <p>Further it also seeks to insert a new proviso in sub-section (1) to provide that Central Government may provide abridged form of Annual Return for one person companies and small companies</p> <p>Time limit of 270 days within which annual return could be filed on payment of additional fee has been done away with. It is proposed that a company can file the annual return with ROC at any time on payment of prescribed additional fee</p> <p>However, one has to be careful about directors incurring disqualification by virtue of non-filing of Annual Return for three consecutive years.</p>
37.	93	Return to be filed with Registrar in case promoters' stake changes	The amendment omits the requirement of section 93 relating to return to be filed with respect to change in promoters' and top 10 shareholders' stake.

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38.	94	Place of keeping and inspection of registers, returns, etc.	<p>The amendment restricts inspection of certain personal information, which would be prescribed through Rules, in the register of members.</p> <p>It also seeks to do away with filing of special resolution in advance with Registrar of Companies for keeping of the registers and returns at a place other than the registered office of the company.</p>
39.	96	Annual general meeting	The amendments permits an unlisted company(both public and private) to hold its AGM at any place in India if consent is given by all the members in advance
40.	100(1)	Calling of extraordinary general meeting.	<p>The amendment allows the wholly owned subsidiaries of companies incorporated outside India to hold its extra ordinary general meeting outside India.</p> <p>Other companies to hold it in India.</p>
41.	101(1)	Notice of meeting.	<p>Post the amendment, general meeting may be held at a shorter notice</p> <ul style="list-style-type: none"> - if in case of an Annual General Meeting consent is given by not less than ninety-five percent. of the members entitled to vote and - in case of other general meetings consent is given by members holding not less than 95% of the total voting power exercisable at that meeting.

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42.	110	Postal ballot.	The amendment permits the company to transact an item at a general meeting also, which hitherto was mandatorily required to be transacted through postal ballot, if the facility of electronic voting is provided by the company at such general meeting.
43.	117	Resolutions and agreements to be filed with MCA.	<p>The amendment reduces the minimum fine that can be imposed for non-compliance with the provisions of the section.</p> <p>It also seeks to provide exemption to banking companies from filing resolutions with respect to grant of loans, giving of guarantee or providing of security in respect of loans in the ordinary course of its business.</p> <p>Time limit of 270 days within which resolutions and agreements could be filed on payment of additional fee has been done away with. It is proposed that a company can file the resolutions and agreements with ROC at any time on payment of prescribed additional fee</p>
44.	121	Report on annual general meeting .	Time limit of 270 days within which report on annual general meeting could be filed on payment of additional fee has been done away with. It is proposed that a company can file the report on annual general meeting with ROC at any time on payment of prescribed additional fee
45.	123(1)	calculating the amount of profits which can be distributed as dividend.	Clarity has been provided on calculating the amount of profits which can be distributed as dividend.

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46.	123(3)	Declaration of dividend .	<p>This amendment is to correct an anomaly which was earlier prevalent due to use of the word “and” instead of “or”: i.e. , to allow declaration of interim dividend for a financial year from the profits of the said year or from brought forward surplus in the profit and loss account.</p> <p>It also provides clarity that interim dividend can be declared during the period from closure of financial year till date of Annual General Meeting and in such case in addition to profits referred above, the profit generated upto quarter prior to declaration of dividend may be used. However, in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years</p>
47.	129(3)	Financial Statement.	This amendment provides that a company having subsidiary (ies) and/or Associate companies shall prepare Consolidated Financial Statements in the same form and manner as that of its own in accordance with applicable accounting standards.
48.	130	Re-opening of accounts .	Re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year has been provided for in place of three financial years, earlier.
49.	132(4) 132(5) 132(6) 132(7) 132(8) 132(9) (yet to be notified)	Constitution of National Financial Reporting Authority	<p>The minimum fine in respect of professional or other misconduct by a CA, has been reduced from ten lakh rupees to five lakh rupees</p> <p>Further, sub-sections pertaining to constitution of a separate Appellate Authority have been removed since NCLAT is already constituted and by virtue of section 410 of this Act NCLAT would be the Appellate Tribunal for NFRA.</p>

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50.	134(1)	Financial Statement, Board's report, etc.	<p>The amendment to sub-section 1 of section 134 provides that the Chief Executive Officer of the Company shall sign financial statements irrespective of whether he is a director or not.</p> <p>In case of Board report, it is proposed that disclosures which have been provided in the financial statement shall not be required to be reproduced in the report again.</p> <p>In place of extract of the annual return, only the web address, if any, where annual return has been placed shall be mentioned</p> <p>Instead of exact text of the policies, key feature of policies along with its web link shall be disclosed in Board report.</p> <p>In respect to performance evaluation, it is proposed to omit the responsibility of the Board for carrying the performance evaluation of Board, Directors and committee. It is now required to be included in the Board's report of listed companies and other prescribed public companies that annual evaluation of the performance of the Board, its Committees and of individual directors has been done.</p> <p>It also seeks to empower Central Government to prescribe abridged Board's report for small company and one person company.</p>
51.	135	Corporate Social Responsibility	<p>Eligibility criteria for the purpose of constituting the CSR committee and incurring expenditure towards CSR is to be calculated based on the figures of the immediately preceding financial year.</p> <p>Currently this eligibility is decided based on preceding three financial years.</p>

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			<p>This is a welcome move for the Companies since loss in the preceding financial year but profits in the two years preceding the last financial year, made it mandatory for companies to incur CSR expenditure.</p> <p>The amendment also allows composition of CSR committee with two or more directors in case the company is not required to appoint independent director under section 149.</p> <p>Further it also seeks to empower the Central Government to prescribe sums which shall not be included for calculating 'net profit' of a company under section 135.</p> <p>It also seeks to modify sub-section (3) of the section to refer to " areas or subjects" in Schedule VII in which CSR activities could be taken up by an eligible company.</p>
52.	136	Right of member to copies of audited financial statement	Copies of financial statement, may with approval of the requisite number of members, be sent less than 21 days before the date of the meeting.
53.	137	Copy of Financial Statement to be filed with Registrar	<p>It is proposed to allow the filing of unaudited financial statements of foreign subsidiary which is not required to get its accounts audited provided a declaration to that effect is given therewith.</p> <p>Time limit of 270 days within which financial statement could be filed on payment of additional fee has been done away with under all the sub-sections. It is proposed that a company can file the financial statement with ROC at any time on payment of prescribed additional fee</p>

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			However non filing of financial statements for a period of three consecutive financial years, might lead to the directors of the company incurring disqualification.
54.	139	Appointment of Auditors	The requirement of annual ratification by members at the AGM, with respect to appointment of auditors has been done away with.
55.	140(3)	Removal, Resignation of Auditor and giving of special notice	The amendment seeks to reduce the penalty with respect to failure by auditor to file resignation (Form ADT-3), to fifty thousand rupees or the remuneration of auditors, whichever is less.
56.	141(3)	Eligibility, Qualification and Disqualifications of Auditors	It seeks to amend clause (i) of sub-section (3) for harmonizing it with section 144 in respect of providing of certain non-audit services to the company or its holding company or its subsidiary company by the auditor.
57.	143(1)	Powers and duties of auditors and auditing standards	Associate companies are now covered along with subsidiary companies with respect to right of auditors to have access to accounts and records. It also seeks to provide that auditors shall report on internal financial control systems with reference to financial statements only and not in respect of internal financial control systems of the Company.

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			It also seeks to amend sub-section (14) to replace cost accountant in practice with a cost accountant.
58.	147 (2)	Punishment for contravention - quantum of fine	<p>The quantum of fine has been revised.</p> <p>The maximum fine which can be imposed on an auditor has been revised from rupees five lakh to rupees five lakh or four times the remuneration of the auditor, whichever is less. If the auditor has contravened provisions knowingly or willfully with the intention to deceive the company etc., the amount of fine has been reduced to minimum of fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less</p>
59.	147 (3)	Punishment for contravention - liability of auditor	<p>It restricts the liability of auditor for damages to the shareholders or creditors of the company instead of the world at large.</p> <p>Currently the Auditor is liable to pay damages to any person concerned.</p>
60.	147 (5)	Punishment for contravention - criminal liability of any audit firm	<p>It seeks that in case of criminal liability of any audit firm the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable.</p> <p>Section 147(5) provided that where an audit is conducted by an audit firm, and it is proved that the partner or partners of the audit firm have acted in a fraudulent manner or abetted or colluded in any fraud, the liability, whether civil or criminal for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.</p> <p>Whereas, Rule 9 of the Companies (Audit and Auditors) Rules, 2014, provided that in case of criminal liability of any audit firm, the liability other than fine shall devolve only on the concerned partners, who acted in a fraudulent manner or abetted or colluded in any fraud.</p>

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
			Hence this amendment intends to harmonize the provisions of the Companies Act 2013 & the rules made thereunder
61.	148 (3)	Central Government to specify audit of items of Cost in respect of Certain Companies	The words 'cost accountant in practice' has been replaced with the words 'cost accountant' and also the words 'Institute of Cost and Works Accountants of India' has been substituted with the words 'Institute of Cost Accountants of India'.
62.	149 (3)	Resident director	The period of 182 days for determining whether a director is resident in India shall be computed with reference to the financial year. Currently it is calculated with reference to previous calendar year Clarity is also given for resident director in case of newly incorporated companies.
63.	149(6)(c)	Independent Director	Earlier the Independent Director of the Company was disallowed from having any kind of pecuniary relationship with the Company. Now, the Independent Director can accept remuneration as a director or enter into transaction (not exceeding 10% of his total income or such amount as may be prescribed) with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;
64.	149(6)(d)	Pecuniary relationships	It also seeks to specify restriction on pecuniary relationship entered into by a relative of the independent director.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
65.	149(6)(e)	Relatives of ID	In case of relatives of ID, their employment with the Company for the three preceding financial years is to be considered.
66.	152 (3) and (4)	Appointment of directors	In addition to DIN, a director may hold any other identification as may be prescribed by the Central Government under section 153. Thus DIN monopoly to be broken.
67.	153	Application for allotment of Director Identification Number	Flexibility shall be provided with this insertion, by doing away with the statutory requirement of DIN and providing some other universally accepted identification number as may be prescribed by the Government.
68.	157	Company to inform Director Identification Number to Registrar	In addition to DIN, a director may hold any other identification as may be prescribed by the Central Government under section 153
69.	160 (1)	Right of persons other than retiring directors to stand for	In case of appointment of Independent Directors and Directors recommended by the Nomination and Remuneration Committee or a director recommended by the Board of Directors of the Company (in the case of a company not required to constitute Nomination and Remuneration Committee), the requirement of deposit money of Rs. 1 lakh has been dispensed with.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
		directorship	
70.	161 (2)	Appointment of Additional director, Alternate director and Nominee director	The Existing Director can't be appointed as an alternate director for any other director of the same Company.
71.	161 (4)	causal vacancy	All companies including a private company may fill up the causal vacancy by the board and casual vacancy filled by the Board shall be subsequently approved in the immediate next general meeting.
72.	164 (2)	Disqualifications for appointment of director	<p>The disqualification for appointment of director, with respect to non-filing of financial statements or annual return or failure to repay the deposit by a company in which he is to be appointed, shall not apply for a period of six months from the date of his appointment.</p> <p>Thus it seems that the law makers feel that six months is a good time to make good the violations.</p>
73.	164 (3)	Disqualifications for appointment of director	The amendment proposes to modify proviso to sub-section (3) regarding certain disqualifications to continue to apply even if appeal or petition is filed.
74.	165 (1)	Number of Directorships	The amendment excludes directorship in dormant companies from the limit of directorships of twenty companies.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
75.	167(1)(a)	Vacation of office of director	<p>In case a director incurs any of disqualifications under section 164 (2), he shall vacate office in companies other than the company which is in default.</p> <p>This means that the director can continue as a Director in the Company which has defaulted.</p> <p>This is to enable the Company to rectify the default with the help of its existing directors.</p>
76.	167(1)(f)	Vacation of office of director - When appeal is made against conviction order	<p>It seeks to amend section 167 with respect to appeal against conviction order.</p> <p>The director will not vacate office in certain cases where an appeal is preferred.</p>
77.	168 (1)	Resignation of director	<p>The requirement for forwarding of copy of resignation by the resigning director in e-form DIR 11 to the Registrar has been made optional.</p> <p>This is a welcome change for those companies where the resignation is with mutual consent. Whereas, where there are management disputes, the directors still have an option to file DIR 11.</p>
78.	173 (2)	Meetings of Board	<p>This is only clarificatory in nature. It clarifies that Directors can attend any meeting through VC even on restricted items provided there is physical quorum at the venue of such meeting.</p>
79.	177 (1)	Audit Committee by Private limited Companies	<p>This brings ease and relief to those Private limited Companies who had their debt instruments listed on the stock exchanges from constituting an Audit Committee</p> <p>The requirement of the committee has now been restricted to only public companies which are</p>

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
			listed.
80.	177 (4) (iv)	Audit Committee	<p>These amendments brings clarity on the scope of audit committee to approve transactions not governed by the provisions of sec 188 but nevertheless are transactions with related parties.</p> <p>This clause also seeks to insert a proviso to provide for ratification by audit committee of transactions involving amount not exceeding one crore rupees within 3 months of transaction, consequences of non-ratification, exemption from approval of audit committee to related party transactions between holding company and its wholly owned subsidiary, other than those covered under Section 188. .</p>
81.	178 (1)	Formation of Nomination and remuneration Committee and Stakeholders Relationship Committee by Private limited Companies	<p>This brings ease and relief to those Private limited Companies who had their debt instruments listed on the stock exchanges from constituting an NRC Committee</p> <p>The requirement of the committee has now been restricted to only public companies which are listed</p>
82.	178 (2)	Performance evaluation	<p>Sub-section (2) required the NRC to evaluate the performance of the directors.</p> <p>However it is now proposed that the NRC will only specify the manner of evaluation of directors, board and its committees which can be evaluated by the board, NRC or IDs.</p>

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			The Listing Regulations also provide that NRC shall formulate criteria for evaluation. Hence this amendment is to align the Companies Act with the LODR.
83.	178 (4)(c)	Remuneration policy	Now the company is required to place the remuneration policy on its website and it shall disclose only the salient features of such policy with web address in the Board's report, etc.
84.	180 (1) (c)	Restrictions on powers of board	Securities premium has been included along with paid-up share capital and free reserves for calculation of upper limits on borrowing powers of the Board.
85.	184 (4)	penalty on inability of Directors to disclose their interest	This amendment omits the cap of minimum penalty with respect to failure by directors to disclose interest
86.	184 (5)(b)	Disclosure of interest by directors	<p>Post this amendment body corporates are included under the ambit of sub-section (5) in certain cases for determining the interest of Directors.</p> <p>Bodies corporate would include companies incorporated outside India but does not seem to include LLPs since there is no share capital in LLPs.</p>
87.	185	Loan to directors, etc.	<p>The amendment retains the prohibition on loans advances, etc., only on the directors of the company or its holding company or any partner of such director or any firm in which such director or relative is a partner.</p> <p>It however, allows a company to give loan or guarantee or provide security to any person in whom any of the director is interested subject to passing of special resolution by the company</p>

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
			and utilization of loans by the borrowing company for its principal business activities. This is a very welcome change and should open lending between group companies with common directors across the group.
88.	186 (2)	Inter corporate loans and investments.	Giving of loans to employees has now been specifically excluded from the ambit of the provisions of the sec 186, which was already clarified by MCA in one of its earlier notifications.
89.	186 (3)	Inter corporate loans and investments	This amendment provides for clarity on aggregation of loan and investments so far made and guarantees so far provided, for the purpose of calculating the limits of loans and investments. Further it also seeks to provide that requirement of passing a special resolution at general meeting shall not be necessary where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company of the securities of its wholly owned subsidiary company. This was nevertheless already provided in the rules.
90.	186 (11)	Inter corporate loans and investments	It seeks to clarify when the company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities.
91.	188 (1)	Vote on a Related party transaction	The restriction on the eligibility of a related party to vote on a Related party transaction (in which they are interested) shall not be applicable in cases wherein 90% or more members, in number, are relatives of Promoters or are related parties.
92.	188 (3)	Related party transaction	This sub-section has now provided that non-ratification of transaction shall be voidable at the option of not only the Board but also at the option of the shareholders , as the case may be.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
93.	194	Prohibition on Forward dealings in securities of company by director or Key Managerial Personnel	Considering the fact that SEBI regulations connected with forward dealings for listed companies are comprehensive in nature, such prohibitions are removed from the Companies Act 2013 to avoid duplication.
94.	195	Prohibition on Insider trading of securities	Considering the fact that SEBI regulations on prohibition of insider trading are comprehensive in nature, such prohibitions are removed from the Companies Act 2013 to avoid duplication.
95.	196(3)	Appointment of Managing Director, Whole-time director or Manager	It is proposed that a person beyond the age of seventy years can be appointed as managing director or whole time director or manager even when such appointment has not been approved by special resolution provided that the resolution for such appointment is passed with votes cast in favor of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made
96.	196 (4)	Appointment of Managing Director, Whole-time director or Manager – CG	This amendment clarifies that in respect of appointment of managing director, whole time director or manager, the approval of Central Government shall only be required in case the appointment is not in accordance with the matters specified in Part I of Schedule V.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
		approval	
97.	197 (1)	Overall maximum managerial remuneration	<p>The amendment does away with requirement of obtaining approval of Central Government in case the total managerial remuneration exceeds 11% of the net profits of that company.</p> <p>Further, post the amendment, the Company needs to pass a special resolution for payment of managerial remuneration in excess of prescribed individual limits.</p> <p>It also seeks to provide that, before approval of shareholders prior approval of bank or public financial institution or non-convertible debenture holder or secured creditor shall be obtained where any term loan is subsisting.</p>
98.	197(3)	Managerial remuneration in cases of inadequate profits	The requirement of obtaining prior approval of the Central Government in case of absence or inadequate profits has been done away with.
99.	197(9)	Refund of excess remuneration taken by Directors	It specifies a time limit of 2 years within which the excess remuneration needs to be refunded by the Director to the Company.
100.	197(10)	waiver of the recovery of any sum refundable to Company by	A big relief to Companies since Central Government approval of waiver of the recovery of any sum refundable to Company by the Director has been done away with and now only a special resolution passed within 2 years from the date the sum becomes refundable, is required for such waiver.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
		the Director	Further, prior approval of bank or public financial institution or non-convertible debenture holder or secured creditor shall be obtained where any term loan is subsisting.
101.	197(11)	Schedule V	CG approval done away with in cases where Schedule V is applicable on grounds of no profits or inadequate profits
102.	197(15)	Declaration by auditors on managerial remuneration	It requires auditors of the company in their report under section 143 to make a statement as to whether the remuneration paid by the company is accordance with the provisions of section 197. All existing applications to the CG shall abate and the Company shall have to get the members' approval within a year of the Amendment Act coming into force.
103.	198(3)	Calculation of profits	While computing the net profits u/s 198, only Investment Companies shall give credit to profits, by way of premium on shares or debentures of the company, which are issued or sold by the company
104.	236(4) 236(5) 236(6)	Purchase of Minority Shareholding	Clarificatory in nature as the majority shareholders will have to deposit the money for the minority buy out in the bank account which shall be operated by the Company whose shares are being transferred, i.e., by the company in which the minority shareholders were holding their shares and not by the Company who is buying out the shares.
105.	247(2) (yet to be notified)	Valuation by Registered Valuers	Restriction placed on Registered Valuer to not undertake valuation of an asset in which he has a direct or indirect interest or becomes so interested during a period of three years prior to appointment as valuer or three years after valuation of assets.
106.	366(2)	Companies capable of being registered	This provides for conversion of LLPs with minimum two partners, into a company under the companies Act, 2013. With the earlier restriction of seven members, LLPs with only two members, could not convert into a company under this section.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
107.	374	Obligations of companies registering under this Part	Provides for automatic dissolution of LLP under the LLP Act, in case it is converted into a company under the Companies Act, 2013.
108.	379	Application of Act to foreign companies	It specifies that Sections 380 to 386 (both inclusive) and sections 392 and 393 shall apply to all foreign companies
109.	384(2)	Debentures, Annual Return, Registration of charges, books of account and their Inspection	The provisions relating to CSR have been made applicable to Foreign Companies as well.
110.	403	Fee for Filings, etc.	<p>It brings more clarity with respect to late filings of documents under sections 89, 92, 117, 121, 137 and 157 and defaults in filings, consequences, etc.</p> <p>Document, fact or information required to be submitted under section 92 (Annual Return) or 137 (Copy of financial statement to be filed with registrar) may be submitted, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed which shall not be less than Rs. 100 per day and different amounts may be prescribed for different classes of companies.</p>
111.	410	Constitution of Appellate Tribunal	Clarified that NCLAT shall be the appellate tribunal for NFRA.

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Sr. No	Section/ Rule No. (Click on section no. to read further)	Particulars	Impact Analysis
112.	441	Compounding of certain offences	Clarified that offences where imprisonment could be invoked would not be compoundable offence.
113.	446A	Special Courts	New insertion pertaining to Special Courts.
114.	447	Punishment for Fraud	Punishment for frauds have been classified in two thresholds, i.e. frauds involving amount of less than Rs. 10 lakh or 1% of the Company's turnover and frauds involving amount of more than Rs. 10 lakh or 1% of the Company's turnover.

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
1.	2 (6)	“Associate Company” definition-Explanation to section 2 (6) states: For the purposes of this clause, “significant influence” means control of at least twenty per cent. of total share capital, or of business decisions under an agreement;	<p>Explanation to section 2 (6) shall be substituted to be read as:</p> <p>‘Explanation.- For the purpose of this clause- (a) the expression “significant influence” means control of at least twenty per cent. of total voting power, or control of or participation in business decisions under an agreement;</p> <p>(b) the expression “joint venture” means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.</p>	<p>The amendment has now altered the criteria for determining significant influence by replacing “total share capital” with “total voting capital” and has brought it in line with the definition as in the Accounting Standards which uses ‘voting power’ as a criteria to determine ‘control’. Preference share capital with no voting rights is thus made redundant by this provision.</p> <p>The meaning of joint venture has also been specified in the definition of associates for the first time and hence there will be no ambiguity in determining the same.</p>
2.	2 (28)	“cost accountant” means a cost accountant as defined in clause (b) of sub- section (1) of section 2 of the Cost and	For clause (28), the following clause shall be substituted, namely: — "Cost Accountant" means a	Post amendment the cost accountant is required to hold a valid certificate of practice under sub- section (1) of section 6 of Cost and Works Accountants Act, 1959.

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		Works Accountants Act, 1959	cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who holds a valid certificate of practice under sub- section (1) of section 6 of that Act;	After amendment, the definition will be in line with the definition of chartered accountants as provided under Section 2 (17)
3.	2 (30)	“debenture” includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not	In clause (30), the Following proviso shall be inserted, namely: -- "Provided that.— (a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and (b) such other instrument, as may be prescribed by the Central Government in consultation with Reserve Bank of India, issued by a company, shall not be treated as debenture;"	The definition of debentures has been amended to exclude certain instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and other instrument, as may be prescribed by the Central Government in consultation with Reserve Bank of India.
4.	2 (41)	“financial year”, in relation to any company or body corporate, means the period ending on the 31st day of	In clause (41), in the first proviso, after the word "subsidiary", the words "or	Now an associate company of a company incorporated outside India can also apply to the Tribunal for a different financial year

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		<p>March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up:</p> <p>Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the [Tribunal] may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:</p> <p>Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such</p>	<p>associate company" shall be inserted-</p>	

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		commencement, align its financial year as per the provisions of this clause.		
5.	2 (46)	“holding company”, in relation to one or more other companies, means a company of which such companies are subsidiary companies	In clause (46), the following Explanation shall be inserted, namely:— ‘Explanation.— For the purposes of this clause, the expression "company" includes any body corporate;’	According to the explanation, the scope of the word ‘company’ has now become wider and includes a body corporate. Earlier, the term ‘Company’ used to cover only a company incorporated under the Companies Act, 2013 or under any previous company law. Now, foreign companies can also be the holding company of a company. Even an LLP can become a holding company of a company since LLP is a body corporate under the LLP Act.
6.	2 (49)	“interested director” means a director who is in any way, whether by himself or through any of his relatives or firm, body corporate or other association of individuals in which he or any of his relatives is a partner, director or a member, interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into by or on behalf of a company;	clause (49) shall be omitted;	The definition of the term ‘Interested director’ is deleted.

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
7.	2 (51)	<p>“key managerial personnel”, in relation to a company, means—</p> <p>(i) the Chief Executive Officer or the managing director or the manager;</p> <p>(ii) the company secretary;</p> <p>(iii) the whole-time director;</p> <p>(iv) the Chief Financial Officer; and</p> <p>(v) such other officer as may be prescribed;</p>	<p>In clause (51),—</p> <p>(a) in sub-clause (iv), the word "and" shall be omitted;</p> <p>(b) for sub-clause (v), the following sub-clauses shall be substituted, namely:—</p> <p><u>The amended definition reads as under:</u></p> <p><i>“key managerial personnel”, in relation to a company, means—</i></p> <p><i>i. the Chief Executive Officer or the managing director or the manager;</i></p> <p><i>ii. the company secretary;</i></p> <p><i>iii.)the whole-time director;</i></p> <p><i>iv. the Chief Financial Officer;</i></p> <p><i>v. such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and</i></p> <p><i>vi. such other officer as may be prescribed;”</i></p>	<p>The scope of the definition of key managerial personnel (KMP) has been widened to include functional heads not more than one level below the directors who is in whole time employment and if they have been so designated by the Board.</p>

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
8.	2 (57)	“net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;	<p>In clause (57), for the words "and securities premium account", the words ", securities premium account and debit or credit balance of profit and loss account," shall be substituted.</p> <p><u>The amended definition reads as under:</u></p> <p><i>“net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous Expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.</i></p>	The amendment seeks to include both the debit and credit balance of P/L account while calculating network.

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
9.	2 (71)	<p>“public company” means a company which—</p> <p>(a) is not a private company;</p> <p>(b) has a minimum paid-up share capital as may be prescribed:</p> <p>Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles ;</p>	<p>In clause (71), in sub-clause (a), after the word "company;" , the word "and" shall be inserted.</p> <p><u>The amended definition reads as under:</u></p> <p><i>“public company” means a company which—</i></p> <p><i>(a) is not a private company; and</i></p> <p><i>(b) has a minimum paid-up share capital as may be prescribed:</i></p> <p><i>Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles</i></p>	<p>The insertion of the word ‘and’ makes it clear that both the conditions are required to be satisfied for a company to be a ‘Public Company’</p>
10.	2 (76)(viii)	<p>“related party”, with reference to a company, means—</p>	<p>in clause (76), for sub-clause (viii), the following sub-clause shall be substituted, namely:— "(viii)</p>	<p>Instead of only a company, any body-corporate which is holding, subsidiary or an associate company of such company or a subsidiary of a holding company shall be considered as a</p>

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		<p>(viii) any company which is—</p> <p>(A) A holding, subsidiary or an associate company of such company; or</p> <p>(B) a subsidiary of a holding company to which it is also a subsidiary;</p> <p>(In case of private company - Sub-clause (viii) of clause 76 of Section 2, Shall not apply with respect to section 188 . - Notification dated 5th June, 2015.)</p>	<p>any body corporate which is—</p> <p>(A) a holding, subsidiary or an associate company of such company;</p> <p>(B) a subsidiary of a holding company to which it is also a subsidiary</p> <p>Or</p> <p>(C)an investing company or the venturer of a company;"</p> <p><i>Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.</i></p> <p><u>The amended definition reads as under:</u></p> <p><i>“related party”, with reference to a company, means—</i></p> <p><i>(vii) any body-corporate</i></p>	<p>related party.</p> <p>Further, a new sub-clause has been inserted in the definition of related party to include any investing company or the venturer of a company.</p> <p>The definition of investing company and venturer of the Company has also been provided</p>

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			<p><i>which is—</i></p> <p><i>(A) a holding, subsidiary or an associate company of such company;</i></p> <p><i>(B) a subsidiary of a holding company to which it is also a subsidiary; or</i></p> <p>(C) an investing company or the venturer of a company;"</p> <p><i>Explanation.—For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.</i></p>	
11.	2 (85)	<p>“small company” means a company, other than a public company whose,—</p> <p>(i) paid-up share capital of which does not exceed fifty</p>	<p>in clause (85)</p> <p>(a) in sub-clause (i), for the words "five crore rupees", the words "ten crore rupees" shall be substituted;</p> <p>(b) in sub-clause (ii),— (A)</p>	<p>The maximum limit upto which the CG can increase the paid up capital limit cap for defining a small company has been increased from 5 crores rupees to 10 crore rupees.</p> <p>Further, the maximum limit upto which the CG</p>

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		<p>lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; and</p> <p>(ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:</p> <p>Provided that nothing in this clause shall apply to—</p> <p>(A) a holding company or a subsidiary company;</p> <p>(B) a company registered under section 8; or</p> <p>(C) a company or body corporate governed by any special Act;</p>	<p>for the words "as per its last profit and loss account", the words "as per profit and loss account for the immediately preceding financial year" shall be substituted.</p> <p>(B) for the words "twenty crore rupees", the words "one hundred crore rupees" shall be substituted;</p> <p><u>The amended definition reads as under:</u></p> <p><i>"small company" means a company, other than a public company,—</i></p> <p><i>(i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees; or and</i></p> <p><i>(ii) turnover of which as per profit and loss account for the immediately preceding financial year does not</i></p>	<p>can increase the annual turnover limit for defining a small company has been increased from 20 crore rupees to 100 crore rupees.</p>

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			<p><i>exceed two crore rupees or such higher amount as may be prescribed which shall not be more than hundred crore rupees:</i></p> <p><i>Provided that nothing in this clause shall apply to—</i></p> <p><i>(A) a holding company or a subsidiary company;</i></p> <p><i>(B) a company registered under section 8; or</i></p> <p><i>(C) a company or body corporate governed by any special Act;</i></p>	
12.	2 (87)	<p>“subsidiary company” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which the holding company—</p> <p>(i) controls the composition of the Board of Directors; or</p> <p>(ii) exercises or controls more than one-half of the total share capital either at its own</p>	<p>In clause (87),—</p> <p>(a) in sub-clause (ii), for the words “total share capital”, the words “ total voting power” shall be substituted;</p> <p><u>The amended definition reads as under:</u></p> <p><i>“subsidiary company” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which</i></p>	<p>A company will be treated as subsidiary in case the holding company exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies. Currently the Act provides for exercise or control of more than half of the total share capital (which includes equity + preference share capital)</p> <p>It would remove all the practical difficulties faced by companies as holding status would be based on ownership of the company (i.e. equity holding only).</p>

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		<p>or together with one or more of its subsidiary companies:</p> <p>Explanation.—For the purposes of this clause,—</p> <p>(a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;</p> <p>(b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;</p> <p>(c) the expression "company" includes anybody corporate;</p> <p>(d) "layer" in relation to a</p>	<p><i>the holding company—</i></p> <p><i>(i) controls the composition of the Board of Directors; or</i></p> <p><i>(ii) exercises or controls more than one- half of the total voting power either at its own or together with one or more of its subsidiary companies:</i></p>	<p>Also, during consolidation, the Accounting standards don't recognize preference shareholders as the owners of the Company and hence the equity shareholder would show it as its subsidiary in its books of account and thus the change in definition is a welcome move.</p>

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		holding company means its subsidiary or subsidiaries;		
13.	2 (91)	“turnover” means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year;	for clause (91), the following clause shall be substituted, namely:— "turnover" means the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year	<p>The definition of turnover has been tweaked to mean the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.</p> <p>The definition has now been aligned with financial reporting standards as the earlier definition of “turnover” was quite unclear and was being interpreted to mean gross receipts.</p>
14.	3	<p>(1) A company may be formed for any lawful purpose by—</p> <p>(a) seven or more persons, where the company to be formed is to be a public company;</p> <p>(b) two or more persons, where the company to be formed is to be a private company; or</p> <p>(c) one person, where the</p>	<p>After section 3 of the principal Act, the following section shall be inserted, namely:—</p> <p>"3A. If at any time the number of members of a company is reduced, in the case of a public company, below seven, in the case of a private company, below two, and the company carries on business for more than six months while the number of members is so reduced, every person who is</p>	<p>Section 45 of the old Companies Act 1956, prescribed the consequences of reduction in the number of members below statutory minimum. However, no corresponding provision was there under the Companies Act, 2013.</p> <p>The proposed insertion seeks to provide for liability of members when the minimum number of members falls below the statutory minimum (seven or two in case of public or private company respectively) and such a situation continues for a period exceeding six months.</p>

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		<p>company to be formed is to be One Person Company that is to say, a private company,</p> <p>by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration:</p> <p>Provided that the memorandum of One Person Company shall indicate the name of the other person, with his prior written consent in the prescribed form, who shall, in the event of the subscriber's death or his incapacity to contract become the member of the company and the written consent of such person shall also be filed with the Registrar at the time of incorporation of the One Person Company along with its memorandum and articles:</p> <p>Provided further that such other person may withdraw his consent in such manner</p>	<p>a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with less than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.</p>	

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		<p>as may be prescribed:</p> <p>Provided also that the member of One Person Company may at any time change the name of such other person by giving notice in such manner as may be prescribed:</p> <p>Provided also that it shall be the duty of the member of One Person Company to intimate the company the change, if any, in the name of the other person nominated by him by indicating in the memorandum or otherwise within such time and in such manner as may be prescribed, and the company shall intimate the Registrar any such change within such time and in such manner as may be prescribed:</p> <p>Provided also that any such change in the name of the person shall not be deemed to be an alteration of the</p>		

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		<p>memorandum.</p> <p>(2) A company formed under sub-section (1) may be either—</p> <p>(a) a company limited by shares; or</p> <p>(b) a company limited by guarantee; or</p> <p>(c) an unlimited company.</p>		
15.	4(5)(i)	<p>(5)(i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of sixty days from the date of the application.</p>	<p>In section 4 of the principal Act, in sub- section (5), for clause (i), the following shall be substituted, namely:—</p> <p>"(i) Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of twenty days from the date of approval or such other period as may be prescribed:</p> <p>Provided that in case of an application for reservation of name or for change of its name by an existing</p>	<p>The validity period for the reservation of name of a proposed new company has been reduced to 20 days from the earlier validity period of 60 days.</p> <p>However, the period of validity of the proposed new name, while changing the name of an existing company continues to be 60 days.</p>

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			company, the Registrar may reserve the name for a period of sixty days from the date of approval.".	
16.	7 (1)	<p>(1) There shall be filed with the Registrar within whose jurisdiction the registered office of a company is proposed to be situated, the following documents and information for registration, namely:—</p> <p>(a) ** (b) **</p> <p>(c) an affidavit from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with</p>	<p>In section 7 of the principal Act, in sub- section (1), in item (c), for the words "an affidavit", the words "a declaration" shall be substituted.</p> <p><u>The amended clause reads as under:</u></p> <p>(c) a declaration from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five</p>	<p>At the time of incorporation of the company, declaration by each subscriber will be required to be attached instead of an affidavit, as currently provided</p> <p>This would reduce the procedural formalities in incorporation.</p>

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		the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;	years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;	
17.	12 (1)	(1) A company shall, on and from the fifteenth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.	<p>In section 12 of the principal Act,— (i) in sub-section (1), for the words "on and from the fifteenth day of its incorporation", the words "within thirty days of its incorporation" shall be substituted.</p> <p><u>The amended clause reads as under:</u></p> <p>(1) A company shall, within thirty days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.</p>	<p>The company shall within 30 of its incorporation have registered office instead of current requirement to have registered office on and from the fifteenth day of its incorporation.</p> <p>Companies will have more time to decide on the registered office address.</p>

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18.	12 (4)	(4) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within fifteen days of the change, who shall record the same.	<p>(ii) in sub-section (4), for the words "within fifteen days", the words "within thirty days" shall be substituted.</p> <p><u>The amended clause reads as under:</u></p> <p>(4) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within thirty days of the change, who shall record the same.</p>	<p>Notice of every change of the situation of the registered office, shall be given to the Registrar within 30 days instead of 15 days, as currently provided</p> <p>Companies will have more time to file the requisite E-form with the ROC for changing its registered office.</p>
19.	21	<p>Save as otherwise provided in this Act,—</p> <p>(a) a document or proceeding requiring authentication by a company; or</p> <p>(b) contracts made by or on behalf of a company, may be signed by any key managerial</p>	<p>In section 21 of the principal Act, for the words "an officer of the company", the words "an officer or employee of the company" shall be substituted.</p> <p><u>The amended clause reads as under:</u></p> <p>Save as otherwise provided</p>	<p>Post this amendment any employee of the Company can also be authorized to undertake the procedural formalities on behalf of the Company through a resolution of its Board of Directors.</p>

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		personnel or an officer of the company duly authorised by the Board in this behalf.	in this Act,— a) a document or proceeding requiring authentication by a company; or (b) contracts made by or on behalf of a company, may be signed by any key managerial personnel or an officer or employee of the company duly authorised by the Board in this behalf.	
20.	26 (1)	Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall— (a) state the following information, namely:— (i) names and addresses of the registered office of the company,	In section 26 of the principal Act, in sub-section (1),— (i) after the words "signed and shall", the following shall be inserted, namely:— "state such information and set out such reports on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government: Provided that until the Securities and Exchange Board specifies the	Instead of detailed list of contents in the Prospectus, it is proposed that the Prospectus shall state such information and set out such reports on financial information as may be specified by SEBI in consultation with the Central Government. This amendment would help to reduce the duplication of disclosures to be made in the Prospectus.

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		<p>company secretary, Chief Financial Officer, auditors, legal advisers, bankers, trustees, if any, underwriters and such other persons as may be prescribed;</p> <p>(ii) dates of the opening and closing of the issue, and declaration about the issue of allotment letters and refunds within the prescribed time;</p> <p>(iii) a statement by the Board of Directors about the separate bank account where all monies received out of the issue are to be transferred and disclosure of details of all monies including utilised and unutilised monies out of the previous issue in the prescribed manner;</p> <p>(iv) details about underwriting of the issue;</p> <p>(v) consent of the directors, auditors, bankers to the issue, expert's opinion, if</p>	<p>information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, in respect of such financial information or reports on financial information shall apply."</p> <p>(ii) the clauses (a), (b) and (d) shall be omitted</p> <p><u>The amended clause reads as under:</u></p> <p>Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall state such information and set out such reports on financial</p>	

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		<p>any, and of such other persons, as may be prescribed;</p> <p>vi) the authority for the issue and the details of the resolution passed therefor;</p> <p>(vii) procedure and time schedule for allotment and issue of securities;</p> <p>(viii) capital structure of the company in the prescribed manner;</p> <p>(ix) main objects of public offer, terms of the present issue and such other particulars as may be prescribed;</p> <p>(x) main objects and present business of the company and its location, schedule of implementation of the project;</p> <p>(xi) particulars relating to—</p> <p>(A) management</p>	<p>information as may be specified by the Securities and Exchange Board in consultation with the Central Government:</p> <p>Provided that until the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, in respect of such financial information or reports on financial information shall apply—</p> <p>(a) omitted (b) omitted</p> <p>(c) make a declaration about the compliance of the provisions of this Act and a statement to the effect that nothing in the prospectus is contrary to the provisions of this Act, the Securities</p>	

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		<p>perception of risk factors specific to the project;</p> <p>(B) gestation period of the project;</p> <p>(C) extent of progress made in the project;</p> <p>(D) deadlines for completion of the project; and</p> <p>(E) any litigation or legal action pending or taken by a Government Department or a statutory body during the last five years immediately preceding the year of the issue of prospectus against the promoter of the company;</p> <p>(xii) minimum subscription, amount payable by way of premium, issue of shares otherwise than on cash;</p> <p>(xiii) details of directors including their appointments and remuneration, and such particulars of the nature and extent of their interests in the</p>	<p>Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 and the rules and regulations made thereunder; and</p> <p>(d) omitted</p>	

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		<p>company as may be prescribed; and</p> <p>(xiv) disclosures in such manner as may be prescribed about sources of promoter's contribution;</p> <p>(b) set out the following reports for the purposes of the financial information, namely:—</p> <p>(i) reports by the auditors of the company with respect to its profits and losses and assets and liabilities and such other matters as may be prescribed;</p> <p>(ii) reports relating to profits and losses for each of the five financial years immediately preceding the financial year of the issue of prospectus including such reports of its subsidiaries and in such manner as may be prescribed:</p> <p>Provided that in case of a company with respect to</p>		

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		<p>which a period of five years has not elapsed from the date of incorporation, the prospectus shall set out in such manner as may be prescribed, the reports relating to profits and losses for each of the financial years immediately preceding the financial year of the issue of prospectus including such reports of its subsidiaries;</p> <p>(iii) reports made in the prescribed manner by the auditors upon the profits and losses of the business of the company for each of the five financial years immediately preceding issue and assets and liabilities of its business on the last date to which the accounts of the business were made up, being a date not more than one hundred and eighty days before the issue of the prospectus:</p> <p>Provided that in case of a company with respect to which a period of five years has not elapsed from the date</p>		

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		<p>of incorporation, the prospectus shall set out in the prescribed manner, the reports made by the auditors upon the profits and losses of the business of the company for all financial years from the date of its incorporation, and assets and liabilities of its business on the last date before the issue of prospectus; and</p> <p>(iv) reports about the business or transaction to which the proceeds of the securities are to be applied directly or indirectly;</p> <p>(c) make a declaration about the compliance of the provisions of this Act and a statement to the effect that nothing in the prospectus is contrary to the provisions of this Act, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act,</p>		

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		1992 and the rules and regulations made thereunder; and (d) state such other matters and set out such other reports, as may be prescribed.		
21.	35 (2)	<p>No person shall be liable under sub-section (1), if he proves—</p> <p>(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or</p> <p>(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.</p>	<p>In section 35 of the principal Act, in sub- section (2), after clause (b), the following clause shall be inserted, namely:—</p> <p>"(c) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation ; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and</p>	<p>This amendment would provide a sigh of relief to the persons specified in section 35(1) and who have given their consent/declarations depending on any expert opinion.</p> <p>Now the Director, promoter etc. would be relived from any civil liability if such person(s) has relied on a misleading statement made by an expert and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required and had not withdrawn it.</p>

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			<p>that the said person had given the consent required by sub-section (5) of section 26 to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder."</p> <p><u>The amended clause reads as under:</u></p> <p>No person shall be liable under sub-section (1), if he proves—</p> <p>(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or</p> <p>(b) that the prospectus was issued without his knowledge or</p>	

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			<p>consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.</p> <p>(c) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required by sub-section (5) of section 26 to the issue of</p>	

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			the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder.	
22.	42	42. (1) Without prejudice to the provisions of section 26, a company may, subject to the provisions of this section, make private placement through issue of a private placement offer letter. (2) Subject to sub-section (1), the offer of securities or invitation to subscribe securities, shall be made to such number of persons not exceeding fifty or such higher number as may be prescribed, [excluding qualified institutional buyers and employees of the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62], in a financial year and	For section 42 of the principal Act, the following section shall be substituted, namely:— '42. (1) A company may, subject to the provisions of this section, make a private placement of securities. (2) A private placement shall be made only to a select group of persons who have been identified by the Board (herein referred to as "identified persons"), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered	The use of the money has been linked with filing of a return with ROC. The bar on the time limit before which the money raised through private placement cannot be utilized has now been extended up to the time, the return of allotment has been filed with the Registrar of Companies. Further, the Private Placement offer letter shall not contain any right of renunciation Time limit for filing return of allotment with the ROC for private placement is also reduced to 15 days from 30 days. Restriction to not use the proceeds of private placement till the time allotment is done and return is filed with the ROC seems to be for safeguarding against round tripping of share application money without their being actual

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		<p>on such conditions (including the form and manner of private placement) as may be prescribed.</p> <p>Explanation I.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognized stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.</p> <p>Explanation II. — For the purposes of this section, the expression—</p> <p>(i) "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India</p>	<p>securities under a scheme of employees stock option in terms of provisions of clause (b) of sub- section (1) of section 62], in a financial year subject to such conditions as may be prescribed.</p> <p>(3) A company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed:</p> <p>Provided that the private placement offer and application shall not carry any right of renunciation.</p> <p>Explanation I.— "private placement" means any offer or invitation to subscribe or issue of securities to a select group of persons</p>	<p>allotment of shares.</p> <p>The only relief in the private placement provisions seems to be that the amount of penalty for contravention has been limited to Rs 2 crores, which was earlier extending to the entire amount raised by private placement.</p>

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		<p>(Issue of Capital and Disclosure Requirements) Regulations, 2009 as amended from time to time.</p> <p>(ii) "private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section.</p> <p>(3) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.</p> <p>(4) Any offer or invitation not in compliance with the provisions of this section shall be treated as a public offer and all provisions of this Act, and the Securities Contracts (Regulation) Act, 1956 and</p>	<p>by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section.</p> <p>Explanation II.— "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992.</p> <p>Explanation III.—If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received</p>	

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		<p>the Securities and Exchange Board of India Act, 1992 shall be required to be complied with.</p> <p>(5) All monies payable towards subscription of securities under this section shall be paid through cheque or demand draft or other banking channels but not by cash.</p> <p>(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the date of completion of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of</p>	<p>or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter.</p> <p>(4) Every identified person willing to subscribe to the private placement issue shall apply in the private placement and application issued to such person along with subscription money paid either by cheque or demand draft or other banking channel and not by cash:</p> <p>Provided that a company shall not utilize monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar in accordance with sub-section (8).</p>	

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		<p>the sixtieth day: Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilized for any purpose other than—</p> <p>(a) for adjustment against allotment of securities; or (b) for the repayment of monies where the company is unable to allot securities. (7) All offers covered under this section shall be made only to such persons whose names are recorded by the company prior to the invitation to subscribe, and that such persons shall receive the offer by name, and that a complete record of such offers shall be kept by the company in such manner as may be prescribed and complete information about such offer shall be filed with the Registrar within a period of thirty days of circulation of relevant private</p>	<p>(5) No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company:</p> <p>Provided that, subject to the maximum number of identified persons under sub- section (2), a company may, at any time, make more than one issue of securities to such class of identified persons as may be prescribed.</p> <p>(6) A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that</p>	

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		<p>placement offer letter.</p> <p>(8) No company offering securities under this section shall release any public advertisements or utilize any media, marketing or distribution channels or agents to inform the public at large about such an offer.</p> <p>(9) Whenever a company makes any allotment of securities under this section, it shall file with the Registrar a return of allotment in such manner as may be prescribed, including the complete list of all security-holders, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.</p> <p>(10) If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount involved</p>	<p>period, it shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per annum from the expiry of the sixtieth day:</p> <p>Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilized for any purpose other than—</p> <p>(a) for adjustment against allotment of securities; or</p> <p>(b) for the repayment of monies where the company is unable to allot securities.</p> <p>(7) No company issuing securities under this section shall release any public advertisements or utilise any</p>	

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		in the offer or invitation or two crore rupees, whichever is higher, and the company shall also refund all monies to subscribers within a period of thirty days of the order imposing the penalty.	<p>media, marketing or distribution channels or agents to inform the public at large about such an issue.</p> <p>(8)A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed.</p> <p>(9) If a company defaults in filing the return of allotment within the period prescribed under sub- section(8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand</p>	

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			<p>rupees for each day during which such default continues but not exceeding twenty-five lakh rupees</p> <p>(10) Subject to sub- section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub- section (6) to subscribers within a period of thirty days of the order imposing the penalty.</p> <p>(11) Notwithstanding anything contained in sub- section (9) and sub- section (10), any private placement issue not made in compliance of the provisions</p>	

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			of the sub- section (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 and Securities and Exchange Board of India Act, 1992 shall be applicable.	
23.	47 (1)	<p>(1) Subject to the provisions of section 43 and sub-section (2) of section 50,—</p> <p>(a) every member of a company limited by shares and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and</p> <p>(b) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.</p> <p>In case of private company - Section 47 shall not apply where memorandum or articles of association of the private company so provides.</p> <p>Notification dated 5th june,</p>	<p>In section 47, in sub-section (1), for the words, figures and brackets "provisions of section 43 and sub- section (2) of section 50", the words, figures and brackets "provisions of section 43, sub- section (2) of section 50 and sub-section (1) of section 188" shall be substituted.</p> <p><u>The amended clause reads as under:</u></p> <p>Subject to the provisions of section 43 and sub-section (2) of section 50 and sub-section (1) of section 188—</p> <p>(a) every member of a company limited by shares</p>	<p>Section 188 prohibits a member, who is related party to a particular transaction, to vote on a resolution to be passed under section 188 of the Companies Act 2013.</p> <p>The amendment clarifies that the right of every member holding equity shares to vote on all resolutions placed before the meeting would be subject to sub-section (1) of section 188 of the Act</p> <p>Hence ,this amendment is in line with the provision of section 188(Related Party Transactions)</p>

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		2015.	<p>and holding equity share capital therein, shall have a right to vote on every resolution placed before the company; and</p> <p>(b) his voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.</p>	
24.	53 (2)	Any share issued by a company at a discounted price shall be void	<p>In section 53 of the principal Act,—</p> <p>(i) in sub-section (2), for the words "discounted price", the word "discount" shall be substituted;</p> <p>Any share issued by a company at a discount shall be void</p> <p>(ii) after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>"(2A) Notwithstanding anything contained in sub-</p>	<p>The substitution of the word discounted price with discount is to remove the interpretational difficulties.</p> <p>The amendment proposes to permit conversion of loans into equity at less than the par value.</p> <p>The insertion of subsection 53(2A), which allows issuing of shares by a company at a discount, to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India will make a significant impact, as the bar in the Companies Act, 2013 against issuing shares at a discount forced bankers to convert the loans at least at par value of the equity</p>

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			sections (1) and (2), a company may issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India under the Reserve Bank of India Act, 1934 or the Banking (Regulation) Act, 1949."	
25.	54 (1)	<p>(1) Notwithstanding anything contained in section 53, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely:—</p> <p>(a) the issue is authorised by a special resolution passed by the company;</p> <p>(b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of</p>	<p>In section 54, in sub-section (1), clause (c) shall be omitted.</p> <p><u>The amended clause reads as under:</u></p> <p>(1) Notwithstanding anything contained in section 53, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely:—</p> <p>(a) the issue is authorised</p>	<p>Currently sweat equity shares can be issued only after expiry of one year from the date of commencement of business</p> <p>The amendment allows a newly incorporated Company to issue sweat equity shares of a class of shares already issued at any time post its registration. This would invariably help a lot of startup companies</p>

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		<p>directors or employees to whom such equity shares are to be issued;</p> <p>(c) not less than one year has, at the date of such issue, elapsed since the date on which the company had commenced business; and</p> <p>(d) where the equity shares of the company are listed on a recognized stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed.</p>	<p>by a special resolution passed by the company;</p> <p>(b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;</p> <p>(c) omitted</p> <p>(d) where the equity shares of the company are listed on a recognized stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed.</p>	
26.	62(1)(c)	(1)Where at any time, a company having a share capital proposes to increase	In section 62 of the principal Act,— (i) in sub-section (1),	Now it has been specifically provided that Preferential allotment will have to follow the provisions relating Rights Issue(Sec 42) as

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		<p>its subscribed capital by the issue of further shares, such shares shall be offered—</p> <p>(a) **</p> <p>(b) **, or</p> <p>(c) to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer subject to such conditions as may be prescribed.</p>	<p>in clause (c), for the words "of a registered valuer subject to such conditions as may be prescribed", the words and figures "of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed" shall be substituted.</p> <p><u>The amended clause reads as under:</u></p> <p>(1)Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such Shares shall be offered—</p> <p>(a) **</p> <p>(b) **, or</p> <p>(c) to any persons, if it is authorised by a special resolution, whether or not those persons include the</p>	<p>well.</p> <p>Currently the applicability of section 42 in case of Preferential issue, is provided in the rules.</p>

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			persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed.	
27.	62 (2)	<p>The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode to all the existing shareholders at least three days before the opening of the issue.</p> <p>In case of private company- In Sub-clause (i) of clause (a) of Sub-section (1) and Sub-section (2) of Section 62 the following proviso shall be inserted:</p> <p>Provided that notwithstanding anything contained in this</p>	<p>(ii) for sub-section (2), the following sub-section shall be substituted, namely:—</p> <p>(2) The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue.</p>	Now the notice of rights issue can be given via any mode which can provide proof/ acknowledgement of the delivery.

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		sub-clause and sub-section (2) of this section, in case ninety percent, of the members of a private company have given their consent in writing or in electronic mode, the periods lesser than those specified in the said sub- clause or sub-section shall apply. - Inserted by notification dated 5th june, 2015.		
28.	73 (2)	(2) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfillment of the following conditions,	In section 73 of the principal Act, in sub- section (2),— (i) for clause (c), the following clause shall be substituted, namely:— "(c) depositing, on or before the 30th day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to	Earlier the minimum amount to be deposited in DRR was 15% of the amount of deposits maturing during a financial year and the financial year next following, which has been now modified to include 20% of the amount of deposits maturing during the following financial year only. Further 30th April is specified as the due date on or before which amount to be kept in a scheduled bank in a separate bank account each year. Further the requirement of providing of deposit insurance is done away with. In clause (e) of the section 73(2), permission

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		<p>namely:—</p> <p>(a) **, (b) **;</p> <p>(c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;</p> <p>(d) providing such deposit insurance in such manner and to such extent as may be prescribed;</p> <p>(e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and</p> <p>(f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on</p>	<p>be called deposit repayment reserve account;";</p> <p>(ii) clause (d) shall be omitted;</p> <p>(iii) in clause (e), for the words "such deposits;", the following shall be substituted, namely:—</p> <p>"such deposits and where a default had occurred, the company made good the default and a period of five years had lapsed since the date of making good the default;"</p> <p><u>The amended clause reads as under:</u></p> <p>(2) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security if any, or for the repayment of such deposits with interest,</p>	<p>has been given to the Companies, who made default and made good the default and a period of five years had lapsed since the date of making good the default, to accept deposits from its members,</p>

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		<p>the property or assets of the company: Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as “unsecured deposits” and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.</p> <ul style="list-style-type: none"> In case of private company - Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies which accepts from its members monies not exceeding one hundred per cent, of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such 	<p>as may be agreed upon between the company and its members, subject to the fulfillment of the following conditions, namely:—</p> <p>(a) **, (b) **, (c) depositing, on or before the 30th day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account;</p> <p>(d) omitted</p> <p>e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits and where a default had occurred, the</p>	

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		<p>manner as may be specified. - Notification dated 5th june, 2015.</p> <ul style="list-style-type: none"> In case of private company - Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies - Notification Dated 13th June, 2017. Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies which accepts from its members monies not exceeding one hundred per cent, of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be 	<p>company made good the default and a period of five years had lapsed since the date of making good the default; and</p> <p>(f)Providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company. Provided that in case where a company does not secure the deposits or secures such deposits partially then, the deposits shall be termed as “unsecured deposits” and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.</p>	

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		<p>specified) the following entry shall be substituted -</p> <p>(A) which accepts from its members monies not exceeding one hundred per cent. of aggregate of the paid up share capital, free reserves and securities premium account; or</p> <p>(B) which is a start-up, for five years from the date of its incorporation; or</p> <p>(C) which fulfils all of the following conditions, namely:-</p> <p>(a) which is not an associate or a subsidiary company of any other company;</p> <p>(b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and</p>		

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		<p>(c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section:</p> <p>Provided that the company referred to in clauses (A), (B) or (C) shall file the details of monies accepted to the Registrar in such manner as may be specified." -</p> <p>Notification Dated 13th June, 2017</p>		
29.	74(1)(b)	<p>Repayment of deposits, etc., accepted before commencement of this Act.</p> <p>74(1)(b) Repay within one year from such commencement or from the date on which such payments are due, whichever is earlier</p>	<p>In section 74, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—</p> <p>“(b) repay within three years from such commencement or on or before expiry of the period for which the deposits were accepted, whichever is earlier:</p> <p>Provided that renewal of any such deposits shall be done in accordance with the Provisions of Chapter V and</p>	<p>The Amendment proposes to provide a period of THREE YEARS to companies to repay deposits accepted before commencement of the Companies Act, 2013.</p> <p>However, this amendment is redundant as the period of 3 years from the commencement of Act has already expired on 1st April, 2016.</p>

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			the rules made there under."	
30.	76A	<p><u>Punishment for contravention of section 73 or section 76</u></p> <p><i>Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—</i></p> <p>(a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which</p>	<p><i>In section 76A of the principal Act, in clause (a), for the words "one crore rupees", the words "one crore rupees or twice the amount of deposit accepted by the company, whichever is lower" shall be substituted.</i></p> <p><i>in clause (b),—</i></p> <p><i>(i) for the words "seven years or with fine", the words "seven years and with fine" shall be substituted;</i></p> <p><i>(ii) the words "or with both" shall be omitted.</i></p> <p><u>The amended clause reads as under:</u></p> <p><i>Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if</i></p>	<p>The amendment seeks to restrict the fine payable by the Company for failure in repayment of deposits and interest thereon to rupees one crore or twice the amount of deposit accepted, whichever is lower.</p> <p>Further, every officer of the company who is in default would be punishable with imprisonment which may extend to seven years and with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees. The offence has thus been made, non-compoundable.</p>

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		<p>shall not be less than one crore rupees but which may extend to ten crore rupees; and</p> <p>(b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both:</p> <p>Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.</p>	<p><i>a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—</i></p> <p>(a) <i>the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than or twice the amount of deposit accepted by the company, whichever is lower but which may extend to ten crore rupees; and</i></p> <p>(b) <i>every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years and with fine which shall</i></p>	

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			not be less than twenty-five lakh rupees but which may extend to two crore rupees.	
31.	77	<p><u>Duty to register charges</u></p> <p>77. (1) It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation: [Form No. CHG-1 for creation or modification of charge - Form No. CHG-9 for debenture]</p> <p>Provided that the Registrar may, on an application by the company, allow such registration to be made within a period of three hundred days of</p>	<p>In section 77 of the principal Act, in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided also that this section shall not apply to such charges as may be prescribed in consultation with the Reserve Bank of India.".</p>	The amendment has exempted the requirement to register certain charges which the RBI may suggest.

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		<p><i>such creation on payment of such additional fees as may be prescribed:</i></p> <p><i>Provided further that if registration is not made within a period of three hundred days of such creation, the company shall seek extension of time in accordance with section 87: [Application for extension in Form No. CHG-8]</i></p> <p><i>Provided also that any subsequent registration of a charge shall not prejudice any right acquired in respect of any property before the charge is actually registered.</i></p>		
32.	78	<p><i>Where a company fails to register the charge within the period specified in section 77, without prejudice to its liability in respect of any offence under this Chapter, the person in whose favour the charge is created may apply to the Registrar for registration of the charge along with the instrument created for the charge, within such time and in</i></p>	<p><i>In section 78 of the principal Act, for the words "register the charge within the period specified in section 77", the words "register the charge within the period of thirty days referred to in sub-section (1) of section 77" shall be substituted</i></p>	<p>It is provided that the person in whose favour the charge has been created can file the charge on the expiry of 30 days from creation of charge where a company fails to file so. Currently the charge holder can register the charge only in case the company fails to do within the period specified under section 77, which is 300 days.</p>

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		<p><i>such form and manner as may be prescribed and the Registrar may, on such application, within a period of fourteen days after giving notice to the company, unless the company itself registers the charge or shows sufficient cause why such charge should not be registered, allow such registration on payment of such fees, as may be prescribed.</i></p> <p><i>Provided that where registration is effected on application of the person in whose favour the charge is created, that person shall be entitled to recover from the company the amount of any fees or additional fees paid by him to the Registrar for the purpose of registration of charge.</i></p>		
33.	82	<p>Company to report satisfaction of charge:</p> <p><i>(1) A company shall give intimation to the Registrar in the prescribed form, of the payment or satisfaction in full of any charge registered under this Chapter within a period of thirty</i></p>	<p><i>The words “and the provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section” shall be omitted;</i></p> <p><i>the following proviso shall be</i></p>	<p>The amendment provides company an option to make an application to Registrar of Companies to provide time upto THREE HUNDRED DAYS to file form for intimation of Satisfaction of Charge with additional fees</p>

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		<i>days from the date of such payment or satisfaction and the provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section</i>	<i>inserted, namely:— “Provided that the Registrar may, on an application by the company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of such payment or satisfaction on payment of such additional fees as may be prescribed.”</i>	
34.	89(6) & 89(7)	<p>Declaration in respect of beneficial interest in any share.</p> <p>(6) Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees as may be</p>	<p>in sub-section (6), the words and figures, "within the time specified under section 403" shall be omitted;</p> <p><u>The amended clause reads as under:</u></p> <p><i>(6) Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration</i></p>	<p>This amendment seeks to explain what constitutes “beneficial interest in a share”.</p> <p>As per the current law, return of beneficial interest declaration can also be filed on payment of additional fee within 270 days from the date by which it should have been filed. Post the additional 270 days the Company shall apply for condonation of delay with the ROC</p> <p>It is proposed to do away with the time limit of 270 days and the return can be filed at any time on payment of prescribed additional fee.</p> <p>Further, the requirement for condoning the delay as per the provisions of section 403 in cases of late filings has been done away with.</p>

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		<p>prescribed, within the time specified under section 403.</p> <p>(7) If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified under the first proviso to sub-section (1) of section 403, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</p>	<p>by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees as may be prescribed.</p> <p>(7) If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified therein the company and every officer of the company who is in default shall be punishable with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</p> <p>(ii) in sub-section (7), for the words and figures, "under the first proviso to sub-section (1) of section</p>	

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			<p>403", the word "therein", shall be substituted;</p> <p>In section 89 of the principal Act, after sub-section (9), the following sub-section shall be inserted, namely:—</p> <p>"(10) For the purposes of this section and section 90, beneficial interest in a share includes, directly or indirectly, through any contract, arrangement or otherwise, the right or entitlement of a person alone or together with any other person to—</p> <p>(i) exercise or cause to be exercised any or all of the rights attached to such share; or</p> <p>(ii) Receive or participate in any dividend or other distribution in respect of such share."</p>	

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35.	90	<p>Investigation of beneficial ownership of shares in certain cases</p> <p>Where it appears to the Central Government that there are reasons so to do, it may appoint one or more competent persons to investigate and report as to beneficial ownership with regard to any share or class of shares and the provisions of section 216 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.</p>	<p>For section 90 of the principal Act, the following section shall be substituted, namely:—</p> <p>'90. (1) Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company (herein referred to as "significant beneficial owner"), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change</p>	<p>A declaration is to be given to the company by every individual acting alone or together or through one or more persons including a trust and persons resident outside India, who holds beneficial interest of not less than twenty-five per cent or other prescribed percentage in shares of a company or the right to exercise or the actual exercising of significant influence or control under clause (27) of section 2 of the Act (to be called as significant beneficial owner).</p> <p>Further the significant beneficial owner shall while making the declaration specify the nature of interest and other particulars in prescribed manner and time to the company.</p> <p>The company shall maintain and keep available for inspection, by any member of the company, a register of significant beneficial owners.</p> <p>The company shall file a return of significant beneficial owners of the company and changes therein with the Registrar.</p> <p>This clause also provides that company may give notice to any person whom the company knows or believes to be a significant beneficial owner of the company or who has knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge or who has been a significant beneficial owner</p>

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			<p>thereof, as may be prescribed:</p> <p>Provided that the Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section.</p> <p>(2) Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.</p> <p>(3) The register maintained under sub-section (2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.</p> <p>(4) Every company shall file</p>	<p>of the company at any time during the immediately preceding three years.</p> <p>Further, if the person fails to give information required by the notice, the company shall apply to the Tribunal within a period of fifteen days for an order. The Tribunal may make an order restricting the rights attached with the shares in question. If any person fails to make a declaration, he shall be punishable with fine.</p> <p>Similarly, where a company fails to maintain the register or file the return, the company and every officer of the company in default shall be punishable with fine.</p>

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			<p>a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.</p> <p>(5) A company shall give notice, in the prescribed manner, to any person (whether or not a member of the company) whom the company knows or has reasonable cause to believe—</p> <p>(a) to be a significant beneficial owner of the company;</p> <p>(b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or</p> <p>(c) to have been a significant beneficial owner of the company at any time during the three years immediately</p>	

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			<p>preceding the date on which the notice is issued, and who is not registered as a significant beneficial owner with the company as required under this section.</p> <p>(6) The information required by the notice under sub-section (5) shall be given by the concerned person within a period not exceeding thirty days of the date of the notice.</p> <p>(7) The company shall,—</p> <p>(a) where that person fails to give the company the information required by the notice within the time specified therein; or</p> <p>(b) where the information given is not satisfactory, apply to the Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and</p>	

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			<p>such other matters as may be prescribed.</p> <p>(8) On any application made under sub-section (7), the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.</p> <p>(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).</p> <p>(10) If any person fails to make a declaration as required under sub-section (1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand</p>	

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			<p>rupees for every day after the first during which the failure continues.</p> <p>(11) If a company, required to maintain register under sub-section (2) and file the information under sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</p> <p>(12) If any person willfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under</p>	

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36.	92	Annual return: (1) Every company shall prepare a return (herein after referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding— (a) ***, (b) ***, (c) its indebtedness; (d) ***, (e) ***, (f) ***, (g) ***, remuneration of directors and key managerial personnel; In case of Private Company - Clause(g) of Sub-Section (1) of Section 92 shall apply to private companies namely	section 447.'. In section 92 of the principal Act,— (i) in sub-section (1),— (a) clause (c) shall be omitted; (b) in clause (j), the words “indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them” shall be omitted (c) after the proviso, the following proviso shall be inserted, namely:— “Provided further that the Central Government may prescribe abridged form of annual return for One Person Company and small company.”; (ii) for sub-section (3), the following sub-section shall be substituted, namely:—	<p>The amendment omits the requirement of sub-section (3) with respect to extract of annual return forming part of Board's report. However, it provides for disclosure of the web address/web-link of the annual return in Board's report.</p> <p>It also seeks to omit requirement of clause (c) of sub-section (1) regarding disclosure of indebtedness, and modifies clause (j) of that sub-section regarding disclosure of names, addresses, countries of incorporation, registration and percentage of shareholding of Foreign Institutional Investors.</p> <p>Further it also seeks to insert a new proviso in sub-section (1) to provide that Central Government may provide abridged form of Annual Return for one person companies and small companies</p> <p>Time limit of 270 days within which annual return could be filed on payment of additional fee has been done away with. It is proposed that a company can file the annual return with ROC at any time on payment of prescribed additional fee</p> <p>However, one has to be careful about directors</p>

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		<p>"aggregate amount of remuneration drawn by directors;" - Notification Dated 13th June, 2017</p> <p>(h) ***;</p> <p>(i) ***</p> <p>(j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and</p> <p>(k) ***;</p> <p>and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:</p> <p>Provided that in relation to One Person Company and small</p>	<p>“(3) Every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Board’s report.”</p> <p>(iii) in sub-section (4), the words and figures, "within the time as specified, under section 403" shall be omitted;</p> <p>(iv) in sub-section (5), for the words and figures, "under section 403 with additional fees" the word "therein" shall be substituted.</p> <p>The amended clause reads as under:</p> <p>(1) Every company shall prepare a return (herein after referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding—</p>	<p>incurring disqualification by virtue of non-filing of Annual Return for three consecutive years.</p>

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		<p>company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.</p> <p>In case of Private Company - proviso to sub-section (1) of Section 92 for the proviso the following proviso shall be substituted, nametv:-</p> <p>"Provided that in relation to One Person Company, small company and private company (if such private company is a start-up), the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.".</p> <p>Notification Dated 13th June, 2017</p> <p>(2) ***</p> <p>(3) An extract of the annual return in such form as may be prescribed shall form part of the Board's report</p> <p>(4) Every company shall file</p>	<p>(a) ***;</p> <p>(b) ***;</p> <p>(c) (Omitted);</p> <p>(d) ***;</p> <p>(e) ***;</p> <p>(f) ***;</p> <p>(g) ***;</p> <p>(h) ***;</p> <p>(i) ***</p> <p>(j) details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors; and</p> <p>(k) ***;</p> <p>and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice:</p>	

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		<p>with the Registrar a copy of the annual return, within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403.</p> <p>(5) If a company fails to file its annual return under sub-section (4), before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakhs rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which</p>	<p>Provided that in relation to One Person Company and small company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the company.</p> <p>“Provided further that the Central Government may prescribe abridged form of annual return for One Person Company and small company.”;</p> <p>(2) ***</p> <p>“(3) Every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Board’s report.”</p> <p>(4) Every company shall file with the Registrar a copy of the annual return,</p>	

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		may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.	<p>within sixty days from the date on which the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed.</p> <p>(5) If a company fails to file its annual return under sub-section (4), before the expiry of the period specified therein, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakhs rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend</p>	

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			to five lakh rupees, or with both.	
37.	93	Return to be filed with Registrar in case promoters' stake changes Every listed company shall file a return in the prescribed form with the Registrar with respect to change in the number of shares held by promoters and top ten shareholders of such company, within fifteen days of such change.	Section 93 of the principal Act shall be omitted	The amendment omits the requirement of section 93 relating to return to be filed with respect to change in promoters' and top 10 shareholders' stake.
38.	94	Place of keeping and inspection of registers, returns, etc. (1) The registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company: Provided that such registers or copies of return may also be kept at any other place in India	(i) In sub-section (1), in the first proviso, the words "and the Registrar has been given a copy of the proposed special resolution in advance" shall be omitted; (ii) In sub-section (3), the following proviso shall be inserted, namely:— "Provided that particulars of the register or index or return as may be prescribed shall not be available for inspection	The amendment restricts inspection of certain personal information, which would be prescribed through Rules, in the register of members. It also seeks to do away with filing of special resolution in advance with Registrar of Companies for keeping of the registers and returns at a place other than the registered office of the company.

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		<p>in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company and the Registrar has been given a copy of the proposed special resolution in advance:</p> <p>Provided further that the period for which the registers, returns and records are required to be kept shall be such as may be prescribed.</p> <p>(2) The registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.</p>	<p>under sub-section (2) or for taking extracts or copies under this sub-section.”</p> <p><u>The amended clause reads as under</u></p> <p>(1) The registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company:</p> <p>Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company</p> <p>Provided further that the period for which the registers, returns and records are required to be kept shall be such as may be prescribed.</p>	

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		(3)Any such member, debenture-holder, other security holder or beneficial owner or any other person may—(a) take extracts from any register, or index or return without payment of any fee; or(b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed. -	<p>(2) The registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.</p> <p>(3)Any such member, debenture-holder, other security holder or beneficial owner or any other person may—(a) take extracts from any register, or index or return without payment of any fee; or(b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed. –</p> <p>“Provided that particulars of the register or index or return as may be prescribed shall not be available for</p>	

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			inspection under sub-section (2) or for taking extracts or copies under this sub-section."	
39.	96	<p><u>Annual general meeting</u></p> <p>Every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate:</p> <p>Provided that the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose. -</p>	<p>In section 96 of the principal Act, in sub-section (2), in the proviso, for the words</p> <p>"Provided that", the following shall be substituted, namely:—</p> <p>"Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance."</p>	<p>The amendments permits an unlisted company(both public and private) to hold its AGM at any place in India if consent is given by all the members in advance</p>
40.	100(1)	<p>Calling of extraordinary general meeting</p> <p>(1) The Board may, whenever it deems fit, call an extraordinary general meeting of the company.</p>	<p>In section 100 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—</p> <p>"Provided that an extraordinary general</p>	<p>The amendment allows the wholly owned subsidiaries of companies incorporated outside India to hold its extra ordinary general meeting outside India.</p> <p>Other companies to hold it in India.</p>

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			meeting of the company, other than of the wholly owned subsidiary of a company incorporated outside India, shall be held at a place within India.”	
41.	101(1)	<p>Notice of meeting</p> <p>(1) A general meeting of a company may be called by giving not less than clear twenty-one days’ notice either in writing or through electronic mode in such manner as may be prescribed:</p> <p>Provided that a general meeting may be called after giving a shorter notice if consent is given in writing or by electronic mode by not less than ninety-five per cent of the members entitled to vote at such meeting.</p> <p>In case of private company - Section 101 shall apply, unless otherwise specified in respective sections or the articles of the company provide otherwise. - Notification</p>	<p>In section 101 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted namely:—</p> <p>“Provided that a general meeting may be called after giving shorter notice than that specified in this sub-section if consent, in writing or by electronic mode, is accorded thereto—</p> <p>(i) in the case of an annual general meeting, by not less than ninety – five percent. of the members entitled to vote there at; and</p> <p>(ii) in the case of any other general meeting, by members of the company—</p> <p>(A) holding, if the company has a share capital, not less than ninety-five per cent. of such part of the paid-up share</p>	<p>Post the amendment, general meeting may be held at a shorter notice</p> <ul style="list-style-type: none"> - if in case of an Annual General Meeting consent is given by not less than ninety-five percent. of the members entitled to vote and - in case of other general meetings consent is given by members holding not less than 95% of the total voting power exercisable at that meeting.

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		dated 5th june, 2015.	<p>capital of the company as gives a right to vote at the meeting; or</p> <p>(B) Having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at that meeting.</p> <p>Provided further that where any member of a company is entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for the purposes of this sub-section in respect of the former resolution or resolutions and not in respect of the latter.</p>	
42.	110	<p><u>Postal ballot</u></p> <p>(1) Notwithstanding anything contained in this Act, a company—</p> <p>(a) shall, in respect of such items of business as the Central Government may, by notification, declare to be transacted only by means of</p>	<p>In section 110 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—</p> <p>"Provided that any item of business required to be transacted by means of postal ballot under clause (a), may be transacted at a</p>	The amendment permits the company to transact an item at a general meeting also, which hitherto was mandatorily required to be transacted through postal ballot, if the facility of electronic voting is provided by the company at such general meeting.

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		<p>postal ballot; and</p> <p>(b) may, in respect of any item of business, other than ordinary business and any business in respect of which directors or auditors have a right to be heard at any meeting, transact by means of postal ballot, in such manner as may be prescribed, instead of transacting such business at a general meeting.</p> <p>(2) If a resolution is assented to by the requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been duly passed at a general meeting convened in that behalf.</p>	<p>general meeting by a company which is required to provide the facility to members to vote by electronic means under section 108, in the manner provided in that section.".</p>	
43.	117	<p>Resolutions and agreements to be filed with MCA</p> <p>117. (1) A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement under section 102, if any, annexed to the notice calling the meeting in which the</p>	<p>In section 117 of the principal Act—</p> <p>(i) in sub-section (1), the words and figures “within the time specified under section 403” shall be omitted;</p> <p>(ii) in sub-section (2),—</p> <p>(a) for the words and figures “under section 403 with additional fees”, the</p>	<p>The amendment reduces the minimum fine that can be imposed for non-compliance with the provisions of the section.</p> <p>It also seeks to provide exemption to banking companies from filing resolutions with respect to grant of loans, giving of guarantee or providing of security in respect of loans in the ordinary course of its business.</p>

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		<p>resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed within the time specified under section 403:</p> <p>Provided that the copy of every resolution which has the effect of altering the articles and the copy of every agreement referred to in sub-section (3) shall be embodied in or annexed to every copy of the articles issued after passing of the resolution or making of the agreement</p> <p>(2) If a company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default,</p>	<p>word “therein” shall be substituted</p> <p>(b) for the words “not be less than five lakh rupees”, the words “not be less than one lakh rupees” shall be substituted;</p> <p>(c) for the words “one lakh rupees”, the words “fifty thousand rupees” shall be substituted;</p> <p>(ii) in sub-section (3),—</p> <p>(a) clause (e) shall be omitted;</p> <p>(b) in clause (g), in the proviso, the word “and” shall be omitted and the following proviso shall be inserted, namely:—</p> <p>“Provided further that nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business; and”</p>	<p>Time limit of 270 days within which resolutions and agreements could be filed on payment of additional fee has been done away with. It is proposed that a company can file the resolutions and agreements with ROC at any time on payment of prescribed additional fee</p>

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		<p>including liquidator of the company, if any, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p> <p>(3) The provisions of this section shall apply to—</p> <p>(a) special resolutions</p> <p>(b) ***</p> <p>(c) ***</p> <p>(d) ***</p> <p>(e) resolutions passed by a company according consent to the exercise by its Board of Directors of any of the powers under clause (a) and clause (c) of sub-section (1) of section 180</p> <p>(f) ***</p> <p>(g) resolutions passed in pursuance of sub-section (3) of section 179;</p> <p>Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions; and]</p>	<p><u>The amended clause reads as under</u></p> <p>117. (1) A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement under section 102, if any, annexed to the notice calling the meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed:</p> <p>Provided that the copy of every resolution which has the effect of altering the articles and the copy of every agreement referred to in sub-section (3) shall be embodied in or annexed to every copy of the articles issued after passing of the resolution or making of the agreement</p> <p>(2) If a company fails to file the resolution or the agreement</p>	

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		<p>(h) any other resolution or agreement as may be prescribed and placed in the public domain.</p> <p>In case of private company - clause (g) of Sub-section 3 of Section 117 shall not apply . - Notification dated 5th june, 2015.</p>	<p>under sub-section (1) before the expiry of the period specified therein with additional fee, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.</p> <p>(3) The provisions of this section shall apply to—</p> <p>(a) special resolutions</p> <p>(b) ***</p> <p>(c) ***</p> <p>(d) ***</p> <p>(e) omitted</p> <p>(f) ***</p> <p>(g) resolutions passed in pursuance of sub-section (3) of section 179;</p>	

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			<p>Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions;</p> <p>“Provided further that nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business; and”</p> <p>(h) any other resolution or agreement as may be prescribed and placed in the public domain.</p>	
44.	121	121. (1) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act	<p>In section 121 of the principal Act,—</p> <p>(i) in sub-section (2), the words and figures “within the time as specified, under section 403” shall be omitted;</p> <p>(ii) in sub-section (3), for the words and figures “under</p>	Time limit of 270 days within which report on annual general meeting could be filed on payment of additional fee has been done away with. It is proposed that a company can file the report on annual general meeting with ROC at any time on payment of prescribed additional fee

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		<p>and the rules made thereunder.</p> <p>(2) The company shall file with the Registrar a copy of the report referred to in sub-section (1) within thirty days of the conclusion of the annual general meeting with such fees as may be prescribed, or with such additional fees as may be prescribed, within the time as specified, under section 403.</p> <p>(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.</p>	<p>section 403 with additional fees”, the word “therein” shall be substituted.</p> <p>The amended clause reads as under</p> <p>121. (1) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act and the rules made thereunder.</p> <p>(2) The company shall file with the Registrar a copy of the report referred to in sub-section (1) within thirty days of the conclusion of the annual general meeting with such fees as may be prescribed, or with such additional fees as may be prescribed.</p> <p>(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified therein with additional fee, the company</p>	

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			shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.	
45.	123(1)	<p>123. (1) No dividend shall be declared or paid by a company for any financial year except—</p> <p>(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of both; or</p> <p>(b) out of money provided by the Central Government or a</p>	<p>In section 123 of the principal Act,—</p> <p>(a) in sub-section (1),—</p> <p>(i) in clause (a),—</p> <p>(A) for the words "both; or", the word "both:" shall be substituted;</p> <p>(B) the following proviso shall be inserted, namely:—</p> <p>"Provided that in computing profits any amount representing unrealised gains, national gains or revaluation of assets and any changes in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair values shall be excluded; and";</p>	Clarity has been provided on calculating the amount of profits which can be distributed as dividend.

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		<p>State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government:</p> <p>Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company:</p> <p>Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall not be made except in accordance with such rules <u>as may be prescribed</u> in this behalf:</p> <p>Provided also that no dividend shall be declared or paid by a company from its reserves</p>	<p>(ii) in the second provision, for the words "transferred by the company to the reserves", the words "transferred by the company to the free reserves" shall be substituted</p> <p><u>The amended clause reads as under</u></p> <p>123. (1) No dividend shall be declared or paid by a company for any financial year except—</p> <p>(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of both;</p> <p>Provided that in computing profits any amount representing unrealized</p>	

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		<p>other than free reserves.</p> <p>Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.</p>	<p>gains, national gains or revaluation of assets and any changes in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded; and</p> <p>(b) out of money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government:</p> <p>Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company:</p> <p>Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years</p>	

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			<p>and transferred by the company to the free reserves, such declaration of dividend shall not be made except in accordance with such rules as may be prescribed in this behalf:</p> <p>Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves.</p> <p>Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.</p>	
46.	123(3)	<p>(3) The Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared:</p> <p>Provided that in case the company has incurred loss</p>	<p>In section 123 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—</p> <p>"(3) The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of</p>	<p>This amendment is to correct an anomaly which was earlier prevalent due to use of the word "and" instead of "or": i.e. , to allow declaration of interim dividend for a financial year from the profits of the said year or from brought forward surplus in the profit and loss account.</p> <p>It also provides clarity that interim dividend can be declared during the period from closure of financial year till date of Annual General Meeting and in such case in addition to profits referred</p>

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		during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.	the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend: Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years."	above, the profit generated upto quarter prior to declaration of dividend may be used. However, in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years
47.	129(3)	(3) Where a company has one or more subsidiaries, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the	In section 129 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:— "(3) Where a company has one or more subsidiaries or	This amendment provides that a company having subsidiary (ies) and/or Associate companies shall prepare Consolidated Financial Statements in the same form and manner as that of its own in accordance with applicable accounting standards.

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		<p>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: [Form AOC-1]</p> <p>Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed. Explanation.—For the purposes of this sub-section, the word “subsidiary” shall include associate company and joint venture.</p>	<p>associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, 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</p>	

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
			manner as may be prescribed.”	
48.	130	<p>130. (1) A company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory regulatory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to the effect that—</p> <p>(i) the relevant earlier accounts were prepared in a fraudulent manner; or</p> <p>(ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:</p> <p>Provided that the court or the Tribunal, as the case may be,</p>	<p>In section 130 of the principal Act,—</p> <p>(i) in sub-section (1), in the proviso,—</p> <p>(a) after the words "regulatory body or authorities concerned", the words "or any other person concerned" shall be inserted;</p> <p>(b) after the words "the body or authority concerned", the words "or the other person concerned" shall be inserted;</p> <p>(ii) after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>"(3) No order shall be made under sub-section (1) in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current</p>	<p>Re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year has been provided for in place of three financial years, earlier.</p>

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		<p>shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body or authority concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned before passing any order under this section.</p> <p>(2) Without prejudice to the provisions contained in this Act the accounts so revised or re-cast under sub-section (1) shall be final.</p>	<p>financial year:</p> <p>Provided that where a direction has been issued by the Central Government under the proviso to sub-section (5) of section 128 for keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened within such longer period."</p> <p><u>The amended clause reads as under</u></p> <p>130. (1) A company shall not re-open its books of account and not recast its financial statements, unless an application in this regard is made by the Central Government, the Income-tax authorities, the Securities and Exchange Board, any other statutory regulatory body or authority or any person concerned and an order is made by a court of competent jurisdiction or the Tribunal to</p>	

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
			<p>the effect that—</p> <p>(i) the relevant earlier accounts were prepared in a fraudulent manner; or</p> <p>(ii) the affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements:</p> <p>Provided that the court or the Tribunal, as the case may be, shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body or authority concerned or any other person concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned or other person concerned before passing any order under this section.</p> <p>(2) Without prejudice to the provisions contained in this Act the accounts so revised or re-</p>	

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
			<p>cast under sub-section (1) shall be final</p> <p>(3) No order shall be made under sub-section (1) in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year:</p> <p>Provided that where a direction has been issued by the Central Government under the proviso to sub-section (5) of section 128 for keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened within such longer period.</p>	
49.	<p>132(4)</p> <p>132(5)</p> <p>132(6)</p>	(4) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—	<p>In section 132 of the principal Act,—</p> <p>(i) in sub-section (4), in clause (c), in sub-clause (A), in item (II), for the words "ten lakh rupees", the words "five lakh</p>	<p>The minimum fine in respect of professional or other misconduct by a CA, has been reduced from ten lakh rupees to five lakh rupees</p> <p>Further, sub-sections pertaining to constitution of a separate Appellate Authority have been</p>

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
	132(7) 132(8) 132(9)	<p>(a) ***</p> <p>(b) ***</p> <p>(c) where professional or other misconduct is proved, have the power to make order for—</p> <p>(A) imposing penalty of—</p> <p>(I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and</p> <p>(II) not less than ten lakh rupees, but which may extend to ten times of the fees received, in case of firms;</p> <p>(B) debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India referred to in clause (e) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting</p>	<p>rupees" shall be substituted;</p> <p>(ii) in sub-section (5), for the words, brackets and figure "the Appellate Authority constituted under sub-section (6) in such manner as may be prescribed", the words "the Appellate Tribunal in such manner and on payment of such fee as may be prescribed" shall be substituted;</p> <p>(iii) sub-sections (6), (7), (8) and (9) shall be omitted.</p> <p><u>The amended clause reads as under</u></p> <p>(4) Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—</p> <p>(a) ***</p> <p>(b) ***</p> <p>(c) where professional or other misconduct is proved, have</p>	<p>removed since NCLAT is already constituted and by virtue of section 410 of this Act NCLAT would be the Appellate Tribunal for NFRA.</p>

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		<p>Authority.</p> <p>Explanation.—For the purposes of his sub-section, the expression "professional or other misconduct" shall have the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949.</p> <p>(5) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (c) of sub-section (4), may prefer an appeal before the Appellate Authority constituted under sub-section (6) in such manner as may be prescribed.</p> <p>(6) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Appellate Authority consisting of a chairperson and not more than two other members, to be appointed by the Central Government, for hearing appeals arising out of the orders of the National Financial</p>	<p>the power to make order for—</p> <p>(A) imposing penalty of— (I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and (II) not less than five lakh rupees, but which may extend to ten times of the fees received, in case of firms;</p> <p>(B) debarring the member or the firm from engaging himself or itself from practice as member of the Institute of Chartered Accountant of India referred to in clause (e) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority.</p> <p>Explanation.—For the purposes of his sub-section, the expression "professional or other misconduct" shall have</p>	

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		<p>Reporting Authority.</p> <p>(7) The qualifications for appointment of the chairperson and members of the Appellate Authority, the manner of selection, the terms and conditions of their service and the requirement of the supporting staff and procedure (including places of hearing the appeals, form and manner in which the appeals shall be filed) to be followed by the Appellate Authority shall be such as may be prescribed.</p> <p>(8) The fee for filing the appeal shall be such as may be prescribed.</p> <p>(9) The officer authorised by the Appellate Authority shall prepare in such form and at such time as may be prescribed its annual report giving a full account of its activities and forward a copy thereof to the Central Government and the Central Government shall cause the annual report to be laid before each House of</p>	<p>the same meaning assigned to it under section 22 of the Chartered Accountants Act, 1949.</p> <p>(5) Any person aggrieved by any order of the National Financial Reporting Authority issued under clause (c) of sub-section (4), may prefer an appeal before the Appellate Tribunal in such manner and on payment of such fee as may be prescribed constituted under sub-section (6) in such manner as may be prescribed.</p> <p>(6) omitted.</p> <p>(7) omitted.</p> <p>(8) omitted.</p> <p>(9) omitted.</p>	

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Sr. No	Section/ Rule No.	Companies Act, 2013	Companies (Amendment) Bill, 2017	Impact Analysis
		Parliament.		
50.	134(1)	<p>(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon.</p> <p>(3) There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—</p>	<p>In section 134 of the principal Act,—</p> <p>(a) for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>"(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.";</p>	<p>The amendment to sub-section 1 of section 134 provides that the Chief Executive Officer of the Company shall sign financial statements irrespective of whether he is a director or not.</p> <p>In case of Board report, it is proposed that disclosures which have been provided in the financial statement shall not be required to be reproduced in the report again.</p> <p>In place of extract of the annual return, only the web address, if any, where annual return has been placed shall be mentioned</p> <p>Instead of exact text of the policies, key feature of policies along with its web link shall be disclosed in Board report.</p> <p>In respect to performance evaluation, it is proposed to omit the responsibility of the Board for carrying the performance evaluation of Board, Directors and committee. It is now required to be included in the Board's report of listed companies and other prescribed public companies that annual evaluation of the performance of the</p>

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		<p>(a) the extract of the annual return as provided under sub-section (3) of section 92;</p> <p>(o) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;</p> <p>(p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating 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;</p> <p>(q) such other matters as may be prescribed.</p>	<p>(b) in sub-section (3),—</p> <p>(i) for clause (a), the following clause shall be substituted, namely:— "(a) the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed;";</p> <p>(ii) in clause (p), for the words "annual evaluation has been made by the Board of its own performance and that of its committees and individual directors", the words "annual evaluation of the performance of the Board, its Committees and of individual directors has been made" shall be substituted;</p> <p>(iii) after clause (q), the following provisos shall be inserted, namely:— "Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of</p>	<p>Board, its Committees and of individual directors has been done.</p> <p>It also seeks to empower Central Government to prescribe abridged Board's report for small company and one person company.</p>
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			<p>being repeated in the Board's report:</p> <p>Provided further that where the policy referred to in clause (e) or clause (o) is 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.";</p> <p>(c) after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(3A) The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by a One Person Company or small company."</p>	
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51.	135	<p>135. (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. (2) ***.</p> <p>(3) The Corporate Social Responsibility Committee shall,—</p> <p>(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 Schedule VII;</p>	<p>In section 135 of the principal Act,—</p> <p>(i) in sub-section (1),—</p> <p>(a) for the words "any financial year", the words "the immediately preceding financial year" shall be substituted;</p> <p>(b) the following proviso shall be inserted, namely:—</p> <p>"Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.";</p> <p>(ii) in sub-section (3), in clause (a), for the words and figures "as specified in Schedule VII", the words and figures "in areas or subject, specified in Schedule VII" shall be substituted;</p> <p>(iii) in sub-section (5), for the Explanation, the following Explanation shall be</p>	<p>Eligibility criteria for the purpose of constituting the CSR committee and incurring expenditure towards CSR is to be calculated based on the figures of the immediately preceding financial year.</p> <p>Currently this eligibility is decided based on preceding three financial years. This is a welcome move for the Companies since loss in the preceding financial year but profits in the two years preceding the last financial year, made it mandatory for companies to incur CSR expenditure.</p> <p>The amendment also allows composition of CSR committee with two or more directors in case the company is not required to appoint independent director under section 149.</p> <p>Further it also seeks to empower the Central Government to prescribe sums which shall not be included for calculating 'net profit' of a company under section 135.</p> <p>It also seeks to modify sub-section (3) of the section to refer to "areas or subjects" in Schedule</p>

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		<p>b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and</p> <p>c) monitor the Corporate Social Responsibility Policy of the company from time to time.</p> <p>(4) ***</p> <p>(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:</p> <p>Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:</p> <p>Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause</p>	<p>substituted, namely:—</p> <p>'Explanation.—For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.'</p>	<p>VII in which CSR activities could be taken up by an eligible company.</p>
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		(o) of sub-section (3) of section 134, specify the reasons for not spending the amount. Explanation.—For the purposes of this section “average net profit” shall be calculated in accordance with the provisions of section 198.		
52.	136	(1) Without prejudice to the provisions of section 101 , a copy of the financial statements, including consolidated financial statements, if any, auditor’s report and every other document required by law to be annexed or attached to the financial statements, which are to be laid before a company in its general meeting, shall be sent to every member of the company, to every trustee for the debenture-holder of any debentures issued by the company, and to all persons other than such member or trustee, being the person so entitled, not less than twenty-one days before the date of the meeting: Provided that in the case of	In section 136 of the principal Act,— (i) in sub-section (1),— (a) the words and figures "Without prejudice to the provisions of section 101," shall be omitted; (b) in the first proviso, for the words "Provided that", the following shall be substituted, namely:— "Provided that if the copies of the documents are sent less than twenty-one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by members— (a) holding, if the company has a share capital, majority in number entitled to vote and who	Copies of financial statement, may with approval of the requisite number of members, be sent less than 21 days before the date of the meeting.

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		<p>a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting unless the shareholders ask for full financial statements:[Form AOC-3]</p> <p>Provided further that the Central Government may prescribe the manner of circulation of financial statements of companies</p>	<p>represent not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or (b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at the meeting:</p> <p>Provided further that"; (c) in the second proviso, for the words "Provided further", the words, "Provided also" be substituted; (d) for the fourth proviso, the following provisos shall be substituted, namely:— Provided also that every listed company having a subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any:</p> <p>Provided also that a listed company which has a subsidiary incorporated outside India (herein referred to as "foreign subsidiary")— (a) where such foreign subsidiary</p>	
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		<p>having such net worth and turnover as may be prescribed:</p> <p>Provided also that a listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto, on its website, which is maintained by or on behalf of the company:</p> <p>Provided also that every company having a subsidiary or subsidiaries shall,—</p> <p>(a) place separate audited accounts in respect of each of its subsidiary on its website, if any;</p> <p>(b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.</p> <p>(2) A company shall allow every member or trustee of the holder of any debentures issued by the company to</p>	<p>is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company;</p> <p>(b) where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.";</p> <p>(ii) in sub-section (2), the following proviso shall be inserted, namely:—</p> <p>"Provided that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited financial statements, as the case</p>	
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		inspect the documents stated under sub-section (1) at its registered office during business hours.	may be, as prepared in respect of each of its subsidiary to any member of the company who asks for it."	
53.	137	<p>137. (1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403: Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed</p>	<p>In section 137 of the principal Act,—</p> <p>(i) in sub-section (1),—</p> <p>(a) the words and figures "within the time specified under section 403" shall be omitted;</p> <p>(b) in the second proviso, the words and figures "within the time specified under section 403" shall be omitted;</p> <p>(c) after the fourth proviso, the following proviso shall be inserted,</p> <p>namely:—</p> <p>'Provided also that in the case of a subsidiary which has been incorporated outside India (herein referred to as "foreign subsidiary"), which is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso</p>	<p>It is proposed to allow the filing of unaudited financial statements of foreign subsidiary which is not required to get its accounts audited provided a declaration to that effect is given therewith.</p> <p>Time limit of 270 days within which financial statement could be filed on payment of additional fee has been done away with under all the sub-sections. It is proposed that a company can file the financial statement with ROC at any time on payment of prescribed additional fee</p> <p>However non filing of financial statements for a period of three consecutive financial years, might lead to the directors of the company incurring disqualification.</p>

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		<p>with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose:</p> <p>Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403:</p> <p>Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the</p>	<p>shall be met if the holding Indian company files such unaudited financial statement along with a declaration to this effect and where such financial statement is in a language other than English, along with a translated copy of the financial statement in English.'.</p> <p>(ii) in sub-section (2), the words and figures “within the time specified, under section 403” shall be omitted;</p> <p>(iii) in sub-section (3), for the words and figures “in section 403”, the word “therein” shall be substituted.</p> <p><u>The amended clause reads as under</u></p> <p>137. (1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual</p>	
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		<p>financial year:</p> <p>Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.</p> <p>(2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.</p>	<p>general meeting in such manner, with such fees or additional fees as may be prescribed.</p> <p>Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose:</p> <p>Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed:</p> <p>Provided also that a One Person Company shall file a copy of the</p>	
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		<p>(3) If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or</p>	<p>financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year:</p> <p>Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the <u>accounts</u> of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.</p> <p>'Provided also that in the case of a subsidiary which has been incorporated outside India (herein referred to as "foreign subsidiary"), which is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso shall be met if the holding Indian company files such unaudited financial statement along with a</p>	
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		with both.	<p>declaration to this effect and where such financial statement is in a language other than English, along with a translated copy of the financial statement in English.'</p> <p>(2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees <u>as may be prescribed</u>.</p> <p>(3) If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified therein, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be</p>	
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			more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.	
54.	139	(1) Subject to the provisions of this Chapter, every company shall, at the first annual general meeting, appoint an individual or a firm as an auditor who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting and the manner and procedure of	In section 139 of the principal Act, in sub-section (1), the first proviso shall be omitted.	The requirement of annual ratification by members at the AGM, with respect to appointment of auditors has been done away with.

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		<p>selection of auditors by the members of the company at such meeting shall be such as may be prescribed:</p> <p>Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting:</p>		
55.	140(3)	<p>If the auditor does not comply with sub-section (2), he or it shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.</p>	<p>In section 140 of the principal Act, in sub- section (3), for the words "fifty thousand rupees", the words "fifty thousand rupees or the remuneration of the auditor, whichever is less," shall be substituted.</p>	<p>The amendment seeks to reduce the penalty with respect to failure by auditor to file resignation (Form ADT-3), to fifty thousand rupees or the remuneration of auditors, whichever is less.</p>
56.	141(3)	<p>The following persons shall not be eligible for appointment as an auditor of a company, namely:—</p> <p>141(3)(d) a person who, or his relative or partner— (i) is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company:</p>	<p>In section 141 of the principal Act, in sub-section (3),—</p> <p>for clause (i), the following clause shall be substituted, namely</p> <p>'(i) a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.</p> <p>Explanation.—For the purposes of this clause, the term "directly</p>	<p>It seeks to amend clause (i) of sub-section (3) for harmonizing it with section 144 in respect of providing of certain non-audit services to the company or its holding company or its subsidiary company by the auditor.</p>

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		<p>Provided that the relative may hold security or interest in the company of face value not exceeding one thousand rupees or such sum as may be prescribed;</p> <p>(ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of such amount as may be prescribed; or</p> <p>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for such amount as may be prescribed;</p> <p>(e) *** (f) *** (g) *** (h) *** (i) any person whose subsidiary or associate</p>	<p>or indirectly" shall have the meaning assigned to it in the Explanation to section 144.'.</p>	
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		company or any other form of entity, is engaged as on the date of appointment in consulting and specialised services as provided in section 144		
57.	143	<p>(1) Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company, whether kept at the registered office of the company or at any other place and shall be entitled to require from the officers of the company such information and explanation as he may consider necessary for the performance of his duties as auditor and amongst other matters inquire into the following matters, namely:—</p> <p>(a) whether loans and</p>	<p>In section 143 of the principal Act, —</p> <p>(i) in sub-section (1), in the proviso, for the words "its subsidiaries", at both the places, the words "its subsidiaries and associate companies" shall be substituted;</p> <p>(ii) in sub-section (3), in clause (i), for the words "internal financial controls system", the words "internal financial controls with reference to financial statements" shall be substituted;</p> <p>(iii) in sub-section (14), in clause (a), for the words "cost accountant in practice", the words "cost accountant" shall</p>	<p>Associate companies are now covered along with subsidiary companies with respect to right of auditors to have access to accounts and records.</p> <p>It also seeks to provide that auditors shall report on internal financial control systems with reference to financial statements only and not in respect of internal financial control systems of the Company.</p> <p>It also seeks to amend sub-section (14) to replace cost accountant in practice with a cost accountant.</p>

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		<p>advances made by the company on the basis of security have been properly secured and whether the terms on which they have been made are prejudicial to the interests of the company or its members;</p> <p>(b) whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company;</p> <p>(c) where the company not being an investment company or a banking company, whether so much of the assets of the company as consist of shares, debentures and other securities have been sold at a price less than that at which they were purchased by the company;</p> <p>(d) whether loans and advances made by the company have been shown as deposits;</p> <p>(e) whether personal expenses have been charged</p>	<p>be substituted.</p>	
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		<p>to revenue account; (f) where it is stated in the books and documents of the company that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading: Provided that the auditor of a company which is a holding company shall also have the right of access to the records of all its subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.</p> <p>(3) The auditor's report shall also state— (i) whether the company has adequate internal financial controls system in place and the operating effectiveness of such</p>		
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		<p>controls</p> <p>(In case of Private Company - Clause (i) of Sub-Section (3) of Section 143 Shall not apply to a private company:-</p> <p>(i) which is a one person company or a small company; or</p> <p>(ii) which has turnover less than rupees fifty crores as per latest audited financial 5[statement and] which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less</p> <p>than rupees twenty five crore." - Notification Dated 13th June, 2017)</p> <p>(14) The provisions of this section shall mutatis mutandis apply to— (a)the cost accountant in practice conducting cost</p>		
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		audit under section 148; or (b) the company secretary in practice conducting secretarial audit under section 204.		
58.	147 (2)	<p>If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees:</p> <p>Provided that if an auditor has contravened such provisions knowingly or will fully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh</p>	<p>Section 147 (2) shall be substituted to read as: If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees or four times the remuneration of the auditor, whichever is less:</p> <p>Provided that if an auditor has contravened such provisions knowingly or will fully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the</p>	<p>The quantum of fine has been revised.</p> <p>The maximum fine which can be imposed on an auditor has been revised from rupees five lakh to rupees five lakh or four times the remuneration of the auditor, whichever is less. If the auditor has contravened provisions knowingly or wilfully with the intention to deceive the company etc., the amount of fine has been reduced to minimum of fifty thousand rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less</p>

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			remuneration of the auditor, whichever is less.	
59.	147 (3)	Where an auditor has been convicted under sub-section (2), he shall be liable to- (i)refund the remuneration received by him to the company; and (ii) pay for damages to the company, statutory bodies or authorities or to any other persons for loss arising out of incorrect or misleading statements of particulars made in his audit report	(3) Where an auditor has been convicted under sub- section (2), he shall be liable to- (i)refund the remuneration received by him to the company; and (ii)pay for damages to the company, statutory bodies or authorities or to members and creditors for loss arising out of incorrect or misleading statements of particulars made in his audit report	It restricts the liability of auditor for damages to the shareholders or creditors of the company instead of the world at large. Currently the Auditor is liable to pay damages to any person concerned.
60.	147 (5)	Where, in case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the	Following proviso shall be inserted in the section: “provided that in case of criminal liability of audit firm, in respect of liability other than firm the concerned partner or partners who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable.”	It seeks that in case of criminal liability of any audit firm the concerned partner or partners, who acted in a fraudulent manner or abetted or, as the case may be, colluded in any fraud shall only be liable. Section 147(5) provided that where an audit is conducted by an audit firm, and it is proved that the partner or partners of the audit firm have acted in a fraudulent manner or abetted or colluded in any fraud, the liability, whether civil or criminal for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally. Whereas, Rule 9 of the Companies (Audit and

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		audit firm and of the firm jointly and severally.		<p>Auditors) Rules, 2014, provided that in case of criminal liability of any audit firm, the liability other than fine shall devolve only on the concerned partners, who acted in a fraudulent manner or abetted or colluded in any fraud.</p> <p>Hence this amendment intends to harmonize the provisions of the Companies Act 2013 & the rules made thereunder</p>
61.	148 (3)	<p>The audit under sub-section (2) shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:</p> <p>Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:</p> <p>Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.</p> <p>Explanation.—For the purposes of this sub-section, the expression “cost auditing</p>	<p>The audit under sub-section (2) shall be conducted by a Cost Accountant who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed:</p> <p>Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records:</p> <p>Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.</p> <p>Explanation.—For the purposes of this sub-section, the expression “cost auditing standards” mean such standards</p>	<p>The words ‘cost accountant in practice’ has been replaced with the words ‘cost accountant’ and also the words ‘Institute of Cost and Works Accountants of India’ has been substituted with the words ‘Institute of Cost Accountants of India’.</p>

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		standards” mean such standards as are issued by the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government.	as are issued by the Institute of Cost Accountants of India, constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government.	
62.	149 (3)	Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year.	<p>The section shall be substituted as under:</p> <p>Every company shall have at least one director who stays in India for a total period of not less than one hundred and eighty-two days during the financial year:</p> <p>Provided that in case of a newly incorporated company the requirement under this sub-section shall apply proportionately at the end of the financial year in which it is incorporated.</p>	<p>The period of 182 days for determining whether a director is resident in India shall be computed with reference to the financial year. Currently it is calculated with reference to previous calendar year</p> <p>Clarity is also given for resident director in case of newly incorporated companies.</p>
63.	149(6)(c)	(c) who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two	<p>The following shall be substituted:</p> <p>(c) who has or had no pecuniary relationship, other than remuneration as such director</p>	<p>Earlier the Independent Director of the Company was disallowed from having any kind of pecuniary relationship with the Company.</p> <p>Now, the Independent Director can accept remuneration as a director or enter into</p>

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		immediately preceding financial years or during the current financial year;	or having transaction not exceeding ten per cent. of his total income or such amount as may be prescribed with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;	transaction (not exceeding 10% of his total income or such amount as may be prescribed) with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;
64.	149(6)(d)	none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;	<p>The following shall be substituted:</p> <p>none of whose relatives-</p> <p>(1) is holding any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year:</p> <p>Provided that the relative may hold security or interest in the company of face value not exceeding fifty lakh rupees or two per cent. of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;</p>	It also seeks to specify restriction on pecuniary relationship entered into by a relative of the independent director.

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			<p>(ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;</p> <p>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year, or</p> <p>(iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii);"</p>	
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65.	149(6)(e)	<p>Who neither himself nor any of his relatives</p> <p>(i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;</p> <p>(ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—</p> <p>(A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or</p> <p>(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross</p>	<p>The following proviso shall be inserted:</p> <p>“Provided that in case of a relative who is an employee, the restriction under this clause shall not apply for his employment during preceding three financial years”</p>	<p>In case of relatives of ID, their employment with the Company for the three preceding financial years is to be considered.</p>
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		turnover of such firm; (iii) holds together with his relatives two per cent. or more of the total voting power of the company; or (iv) is a Chief Executive or director, by whatever name called, of any non-profit organization that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or		
66.	152 (3) and (4)	(3) No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number under section 154. (4) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number and a declaration that he is not disqualified to become a	(3) No person shall be appointed as a director of a company unless he has been allotted the Director Identification Number under section 154 or any other number as may be prescribed under section 153. (4) Every person proposed to be appointed as a director by the company in general meeting or otherwise, shall furnish his Director Identification Number or such other number as may be prescribed under section 153	In addition to DIN, a director may hold any other identification as may be prescribed by the Central Government under section 153. Thus DIN monopoly to be broken.

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		director under this Act.	and a declaration that he is not disqualified to become a director under this Act.	
67.	153	Every individual intending to be appointed as director of a company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed.	<p>The following proviso shall be inserted:</p> <p>“Provided that the Central Government may prescribe any identification number which shall be treated as Director Identification Number for the purposes of this Act and in case any individual holds or acquires such identification number, the requirement of this section shall not apply or apply in such manner as may be prescribed.”</p>	Flexibility shall be provided with this insertion, by doing away with the statutory requirement of DIN and providing some other universally accepted identification number as may be prescribed by the Government.
68.	157	157. (1) Every company shall, within fifteen days of the receipt of intimation under section 156, furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government with such fees as may be prescribed or with such additional fees as may be prescribed within the time specified under section 403 and	<p>In section 157 of the principal Act,—</p> <p>(i) in sub-section (1), the words and figures, “within the time specified under section 403” shall be omitted;</p> <p>(ii) in sub-section (2), the words and figures, “before the expiry of the period specified under section 403 with additional fee”, shall be omitted.</p> <p><u>The amended clause reads as under</u></p>	In addition to DIN, a director may hold any other identification as may be prescribed by the Central Government under section 153

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		<p>every such intimation shall be furnished in such form and manner as may be prescribed.</p> <p>(2) If a company fails to furnish Director Identification Number under sub-section (1), before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.</p>	<p>157. (1) Every company shall, within fifteen days of the receipt of intimation under section 156, furnish the Director Identification Number of all its directors to the Registrar or any other officer or authority as may be specified by the Central Government with such fees as may be prescribed or with such additional fees as may be prescribed and every such intimation shall be furnished in such form and manner as may be prescribed.</p> <p>(2) If a company fails to furnish Director Identification Number under sub-section (1), with additional fee, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.</p>	
69.	160 (1)	<p>A person who is not a retiring director in terms of section 152 shall, subject to the provisions of this Act, be</p>	<p>The following proviso shall be inserted:</p> <p>"Provided that requirements of</p>	<p>In case of appointment of Independent Directors and Directors recommended by the Nomination and Remuneration Committee or a director recommended by the Board of Directors of the</p>

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		<p>eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than twenty-five per cent. of total valid votes cast either on show of hands or on poll on such resolution.</p> <p>(In case of private company - Section 160 shall not apply - Notification Dated 5th june, 2015.)</p>	<p>deposit of amount shall not apply in case of appointment of an independent director or a director recommended by the Nomination and Remuneration Committee, if any, constituted under sub-section (1) of section 178 or a director recommended by the Board of Directors of the Company, in the case of a company not required to constitute Nomination and Remuneration Committee.”</p>	<p>Company (in the case of a company not required to constitute Nomination and Remuneration Committee), the requirement of deposit money of Rs. 1 lakh has been dispensed with.</p>
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70.	161 (2)	The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period of not less than three months from India:	<p>The section shall be amended to read as :</p> <p>The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company or holding directorship in the same company, to act as an alternate director for a director during his absence for a period of not less than three months from India:</p>	The Existing Director can't be appointed as an alternate director for any other director of the same Company.
71.	161 (4)	In the case of a public company , if the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board:	<p>in sub-section (4),—</p> <p>(a) the words "In the case of a public company," shall be omitted;</p> <p>(b) after the words "meeting of the Board", the words "which shall be subsequently approved by members in the immediate next general meeting" shall be inserted.</p> <p><u>The amended clause reads as under</u></p> <p>If the office of any director appointed by the company in</p>	All companies including a private company may fill up the causal vacancy by the board and casual vacancy filled by the Board shall be subsequently approved in the immediate next general meeting.

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			general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board which shall be subsequently approved by members in the immediate next general meeting	
72.	164 (2)	<p>No person who is or has been a director of a company which—</p> <p>(a) has not filed financial statements or annual returns for any continuous period of three financial years; or</p> <p>(b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more, shall be eligible to be re- appointed as a director of that company or appointed</p>	<p>The following proviso shall be inserted:</p> <p>“Provided that where a person is appointed as a director of a company which is in default of clause (a) or clause (b), he shall not incur the disqualification for a period of six months from the date of his appointment.”</p>	<p>The disqualification for appointment of director, with respect to non-filing of financial statements or annual return or failure to repay the deposit by a company in which he is to be appointed, shall not apply for a period of six months from the date of his appointment.</p> <p>Thus it seems that the law makers feel that six months is a good time to make good the violations.</p>

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		in other company for a period of five years from the date on which the said company fails to do so		
73.	164 (3)	<p>164. (1) A person shall not be eligible for appointment as a director of a company, if —</p> <p>(a)*** (b)*** (c)*** (d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence: Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company; (e) an order disqualifying him for appointment as a director has been passed by a court</p>	<p>In sub-section (3), for the proviso, the following proviso shall be substituted, namely:—</p> <p>Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub- section (1) shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification</p>	<p>The amendment proposes to modify proviso to sub-section (3) regarding certain disqualifications to continue to apply even if appeal or petition is filed.</p>

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		<p>or Tribunal and the order is in force;</p> <p>(f) ***</p> <p>(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or</p> <p>(h) ****</p> <p>164(2) ***</p> <p>164(3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2):</p> <p>Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub- section (1) shall not take effect—</p> <p>(i) for thirty days from the date of conviction or order of</p>		
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		<p>disqualification;</p> <p>(ii)where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or</p> <p>(iii)where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed off.</p>		
74.	165 (1)	<p>No person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time:</p> <p>Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.</p> <p>Explanation: For reckoning</p>	<p>The explanation shall be renumbered as explanation I and after explanation 1 the following explanation shall be inserted:</p> <p>Explanation II: For reckoning the limit of directorships of twenty companies, the directorship in a dormant company shall not be included</p>	<p>The amendment excludes directorship in dormant companies from the limit of directorships of twenty companies.</p>

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		the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included.		
75.	167(1)(a)	The office of a director shall become vacant in case- (a) he incurs any of the disqualifications specified in section 164;	In 167 (1) (a) shall be amended to read as under: (a) he incurs any of the disqualifications specified in section 164; Provided that where he incurs disqualification under sub-section (2) of section 164, the office of the director shall become vacant in all the companies, other than the company which is in default under that sub- section	In case a director incurs any of disqualifications under section 164 (2), he shall vacate office in companies other than the company which is in default. This means that the director can continue as a Director in the Company which has defaulted. This is to enable the Company to rectify the default with the help of its existing directors.
76.	167(1)(f)	he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months: Provided that the office shall be vacated by the	in clause (f), for the proviso the following proviso shall be substituted, namely,— "Provided that the office shall not be vacated by the director in case of orders referred to in clauses (e) and (f) (i) for thirty days from the date of conviction or order of	It seeks to amend section 167 with respect to appeal against conviction order. The director will not vacate office in certain cases where an appeal is preferred.

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		director even if he has filed an appeal against the order of such court;	disqualification; (ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed of; or (iii) Where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of.".	
77.	168 (1)	<p>A director may resign from his office by giving a notice in writing to the company and the Board shall on receipt of such notice take note of the same and the company shall intimate the Registrar in such manner, within such time and in such form as may be prescribed and shall also place the fact of such resignation in the report of directors laid in the immediately following general meeting by the company:</p> <p>Provided that a director shall also forward a copy of his resignation along with</p>	In section 168 of the principal Act, in sub-section (1), in the proviso, for the words "director shall also forward", the words, " director may also forward " shall be substituted	<p>The requirement for forwarding of copy of resignation by the resigning director in e-form DIR 11 to the Registrar has been made optional.</p> <p>This is a welcome change for those companies where the resignation is with mutual consent. Whereas, where there are management disputes, the directors still have an option to file DIR 11.</p>

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		detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed.		
78.	173 (2)	<p>The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognizing the participation of the directors and of recording and storing the proceedings of such meetings along with date and time:</p> <p>Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means.</p>	<p>After the first proviso the following proviso shall be inserted:</p> <p>“Provided further that where there is quorum in a meeting through physical presence of directors, any other director may participate through video conferencing or other audio visual means in such meeting on any matter specified under the first proviso.”</p>	<p>This is only clarificatory in nature. It clarifies that Directors can attend any meeting through VC even on restricted items provided there is physical quorum at the venue of such meeting.</p>
79.	177 (1)	<p>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>The section shall be amended to read as:</p> <p>The Board of Directors of every listed public company and such other class or classes of companies, as may be</p>	<p>This brings ease and relief to those Private limited Companies who had their debt instruments listed on the stock exchanges from constituting an Audit Committee</p> <p>The requirement of the committee has now been restricted to only public companies which are</p>

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			prescribed, shall constitute an Audit Committee.	listed.
80.	177 (4) (iv)	<p>(iv) approval or any subsequent modification of transactions of the company with related parties;</p> <p>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;"</p>	<p>After the first proviso the following proviso shall be inserted:</p> <p>Provided further that in case of transaction other than transactions referred to in section 188, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board:</p> <p>Provided also that in case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it:</p>	<p>These amendments brings clarity on the scope of audit committee to approve transactions not governed by the provisions of sec 188 but nevertheless are transactions with related parties.</p> <p>This clause also seeks to insert a proviso to provide for ratification by audit committee of transactions involving amount not exceeding one crore rupees within 3 months of transaction, consequences of non-ratification, exemption from approval of audit committee to related party transactions between holding company and its wholly owned subsidiary, other than those covered under Section 188. .</p>

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			Provided also that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company”	
81.	178 (1)	<p>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>The section shall be amended to read as under:</p> <p>The Board of Directors of every listed public 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>This brings ease and relief to those Private limited Companies who had their debt instruments listed on the stock exchanges from constituting an NRC Committee</p> <p>The requirement of the committee has now been restricted to only public companies which are listed</p>
82.	178 (2)	The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be	<p>The section shall be amended to read as:</p> <p>The Nomination and Remuneration Committee</p>	<p>Sub-section (2) required the NRC to evaluate the performance of the directors.</p> <p>However it is now proposed that the NRC will only specify the manner of evaluation of</p>

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		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.	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 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.	directors, board and its committees which can be evaluated by the board, NRC or IDs. The Listing Regulations also provide that NRC shall formulate criteria for evaluation. Hence this amendment is to align the Companies Act with the LODR.
83.	178 (4)(c)	The Nomination and Remuneration Committee shall, while formulating the policy under sub-section (3) ensure that— (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	The proviso shall be substituted to read as: "Provided that such policy shall be placed on the website of the company, if any, and the salient features of the policy and changes therein, if any, along with the web address of the policy, if any, shall be disclosed in the Board's report.";	Now the company is required to place the remuneration policy on its website and it shall disclose only the salient features of such policy with web address in the Board's report, etc.

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		its goals: Provided that such policy shall be disclosed in the Board's report.		
84.	180 (1) (c)	<p>The Board of Directors of a company shall exercise the following powers only with the consent of the company by a special resolution, namely:—</p> <p>(c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company's bankers in the ordinary course of business.</p> <p><u>In case of private company - Section 180 shall not apply - Notification dated 5th june, 2015.</u></p>	<p>The section shall be amended to read as:</p> <p>(c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital free reserves and securities premium, apart from temporary loans obtained from the company's bankers in the ordinary course of business</p>	<p>Securities premium has been included along with paid-up share capital and free reserves for calculation of upper limits on borrowing powers of the Board.</p>

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85.	184 (4)	If a director of the company contravenes the provisions of sub-section (1) or sub-section (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees, or with both.	The section shall be amended to read as: If a director of the company contravenes the provisions of sub- section (1) or sub- section (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees, or with both.	This amendment omits the cap of minimum penalty with respect to failure by directors to disclose interest
86.	184 (5)(b)	Nothing in this section- (b) shall apply to any contract or arrangement entered into or to be entered into between two companies where any of the directors of the one company or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company .	The section shall be substituted to read as: “shall apply to any contract or arrangement entered into or to be entered into between two companies or between one or more companies and one or more bodies corporate where any of the directors of the one company or body corporate or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company or the body corporate	Post this amendment body corporates are included under the ambit of sub-section (5) in certain cases for determining the interest of Directors. Bodies corporate would include companies incorporated outside India but does not seem to include LLPs since there is no share capital in LLPs.
87.	185	The section provides for loan to director (1) Save as otherwise provided in this Act, no	The entire section shall be substituted to read as under: '185. (1) No company shall, directly or indirectly, advance any	The amendment retains the prohibition on loans advances, etc., only on the directors of the company or its holding company or any partner of such director or any firm in which such director or relative is a partner.

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		<p>company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person:</p> <p>Provided that nothing contained in this sub-section shall apply to—</p> <p>(a) the giving of any loan to a managing or whole-time director—</p> <p>(i) as a part of the conditions of service extended by the company to all its employees; or</p> <p>(ii) pursuant to any scheme approved by the members by a special resolution; or</p> <p>(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an</p>	<p>loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by,—</p> <p>(a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or</p> <p>(b) any firm in which any such director or relative is a partner.</p> <p>(2) A company may advance any loan including any loan represented by a book debt, or give any guarantee or provide any security in connection with any loan taken by any person in whom any of the director of the company is interested, subject to the condition that—</p> <p>(a) a special resolution is passed by the company in general meeting:</p> <p>Provided that the explanatory statement to the notice for the relevant general meeting shall disclose the full particulars of the</p>	<p>It however, allows a company to give loan or guarantee or provide security to any person in whom any of the directors is interested subject to passing of special resolution by the company and utilization of loans by the borrowing company for its principal business activities.</p> <p>This is a very welcome change and should open lending between group companies with common directors across the group.</p>
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		<p>interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India.</p> <p>[(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or</p> <p>(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:</p> <p>Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.]</p> <p>Explanation.—For the purposes of this section, the expression “to any other person in whom director is interested” means—</p> <p>(a) any director of the lending company, or of a company</p>	<p>loans given, or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security and any other relevant fact; and</p> <p>(b) the loans are utilized by the borrowing company for its principal business activities.</p> <p>Explanation.—For the purposes of this sub- section, the expression</p> <p>"any person in whom any of the director of the company is interested" means— (a) any private company of which any such director is a director or member;</p> <p>(b)any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or</p> <p>(c)any body corporate, the Board of directors, managing director or manager, whereof is</p>	
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		<p>which is its holding company or any partner or relative of any such director;</p> <p>(b) any firm in which any such director or relative is a partner;</p> <p>(c) any private company of which any such director is a director or member;</p> <p>(d) any body corporate at a general meeting of which not less than twenty- five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or</p> <p>(e) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.</p> <p>(2) If any loan is advanced or a guarantee or security is given or provided in contravention of the provisions of sub-section (1), the company shall be punishable with fine which</p>	<p>accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.</p> <p>(3) Nothing contained in sub-sections (1) and (2) shall apply to—</p> <p>(a) the giving of any loan to a managing or whole-time director—</p> <p>(i) as a part of the conditions of service extended by the company to all its employees; or</p> <p>(ii) pursuant to any scheme approved by the members by a special resolution; or</p> <p>(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the rate of prevailing yield of one year, three year, five year or ten year Government security closest to the tenor of the loan; or</p>	
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		<p>shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.</p> <p>In case of private company - Section 185 shall not apply to a private company-</p> <p>(a) in whose share capital no other body corporate has invested any money;</p> <p>(b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees,</p>	<p>(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or</p> <p>(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:</p> <p>Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.</p> <p>(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section,—</p> <p>(i) the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees;</p>	
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		<p>whichever is lower; and</p> <p>(c) such a company has no default in repayment of such borrowings subsisting at the time of making transactions under this section. - Notification dated 5th june, 2015.</p>	<p>(ii) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees; and</p> <p>(iii) the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.</p>	
88.	186 (2)	<p>(2)No company shall directly or indirectly —</p> <p>(a) give any loan to any person or other body corporate;</p> <p>(b)give any guarantee or provide security in connection with a loan to any other body corporate or person; and</p>	<p>In the section the following explanation shall be inserted-</p> <p>Explanation: For the purposes of this sub- section, the word "person" does not include any individual who is in the employment of the company</p>	<p>Giving of loans to employees has now been specifically excluded from the ambit of the provisions of the sec 186, which was already clarified by MCA in one of its earlier notifications.</p>

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		(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate, exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more.		
89.	186 (3)	Where the giving of any loan or guarantee or providing any security or the acquisition under sub-section (2) exceeds the limits specified in that sub-section, prior approval by means of a special resolution passed at a general meeting shall be necessary.	<p>The section shall be substituted to read as:</p> <p>Where the aggregate of the loans and investment so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceed the limits specified under sub-section (2), no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general</p>	<p>This amendment provides for clarity on aggregation of loan and investments so far made and guarantees so far provided, for the purpose of calculating the limits of loans and investments.</p> <p>Further it also seeks to provide that requirement of passing a special resolution at general meeting shall not be necessary where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company of the securities of its wholly owned subsidiary company. This was nevertheless already provided in the rules.</p>

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			<p>meeting:</p> <p>Provided that where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company, the requirement of this sub-section shall not apply:</p> <p>Provided further that the company shall disclose the details of such loans or guarantee or security or acquisition in the financial statement as provided under sub-section (4).</p>	
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90.	186 (11)	<p>(11) Nothing contained in this section, except sub-section (1), shall apply—</p> <p>(a) to a loan made, guarantee given or security provided by a banking company or an insurance company or a housing finance company in the ordinary course of its business or a company engaged in the business of financing of companies or of providing infrastructural facilities;</p> <p>(b) to any acquisition—</p> <p>(i) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities:</p> <p>Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;</p> <p>(ii) made by a company</p>	<p>The section shall be substituted to read as:</p> <p>"(11) Nothing contained in this section, except sub-section (1), shall apply— (a) to any loan made, any guarantee given or any security provided or any investment made by a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities; (b) to any investment—</p> <p>(i) made by an investment company; (ii) made in shares allotted in pursuance of clause (a) of sub-section (1) of section or in shares allotted in pursuance of rights issues made by a body corporate;</p> <p>(iii) made, in respect of investment or lending activities, by a non-banking financial company registered under Chapter III-B of the Reserve Bank of India Act, 1934 and</p>	<p>It seeks to clarify when the company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities.</p>
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		<p>whose principal business is the acquisition of securities;</p> <p>(iii)of shares allotted in pursuance of clause (a) of sub- section (1) of section 62</p> <p>(iv)Made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business</p> <p>Explanation.—For the purposes of this section,— (a) the expression “investment company” means a company whose principal business is the acquisition of shares, debentures or other securities; (b) the expression “infrastructure facilities” means the facilities specified in Schedule VI.</p>	<p>whose principal business is acquisition of securities</p> <p>Explanation.—For the purposes of this section,— (a) the expression “investment company” means a company whose principal business is the acquisition of shares, debentures or other securities and a company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities, if its assets in the form of investment in shares, debentures or other securities constitute not less than fifty per cent. of its total assets, or if its income derived from investment business constitutes not less than fifty per cent. as a proportion of its gross income.</p> <p>(b) the expression “infrastructure facilities” means the facilities specified in Schedule VI.</p>	
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91.	188 (1)	<p>(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> <p>(a) sale, purchase or supply of any goods or materials;</p> <p>(b) selling or otherwise disposing of, or buying, property of any kind;</p> <p>(c) leasing of property of any kind;</p> <p>(d) availing or rendering of any services;</p> <p>(e) appointment of any agent for purchase or sale of goods, materials, services or property;</p> <p>(f) such related party's appointment to any office or place of profit in the company, its subsidiary</p>	<p>After the second proviso the following proviso shall be inserted:</p> <p>Provided also that nothing contained in the second proviso shall apply to a company in which ninety per cent. or more members, in number, are relatives of promoters or are related parties</p>	<p>The restriction on the eligibility of a related party to vote on a Related party transaction (in which they are interested) shall not be applicable in cases wherein 90% or more members, in number, are relatives of Promoters or are related parties.</p>
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		<p>company or associate company; and (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</p>		
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		<p>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>		
92.	188 (3)	<p>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 (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</p>	<p>The section shall be amended to read as:</p> <p>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 (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</p>	<p>This sub-section has now provided that non-ratification of transaction shall be voidable at the option of not only the Board but also at the option of the shareholders, as the case may be.</p>

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		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	arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board or, as the case may be, of the shareholders 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	
93.	194	<p>1) No director of a company or any of its key managerial personnel shall buy in the company, or in its holding, subsidiary or associate company—</p> <p>(a) a right to call for delivery or a right to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures; or</p> <p>(b) a right, as he may elect, to call for delivery or to make delivery at a specified price and within a specified time, of a specified number of</p>	The entire section shall be omitted.	Considering the fact that SEBI regulations connected with forward dealings for listed companies are comprehensive in nature, such prohibitions are removed from the Companies Act 2013 to avoid duplication.

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		<p>relevant shares or a specified amount of relevant debentures.</p> <p>(2) If a director or any key managerial personnel of the company contravenes the provisions of sub-section (1), such director or key managerial personnel shall be punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.</p> <p>Where a director or other key managerial personnel acquires any securities in contravention of sub-section (1), he shall, subject to the provisions contained in sub-section (2), be liable to surrender the same to the company and the company shall not register the securities so acquired in his name in the register, and if they are in dematerialised form, it shall inform the depository not to record such acquisition and such</p>		
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		securities, in both the cases, shall continue to remain in the names of the transferors		
94.	195	<p>1)No person including any director or key managerial personnel of a company shall enter into insider trading:</p> <p>Provided that nothing contained in this sub-section shall apply to any communication required in the ordinary course of business or profession or employment or under any law.</p> <p>Explanation.—For the purposes of this section,—</p> <p>(a)“insider trading” means—</p> <p>(i)an act of subscribing, buying, selling, dealing or agreeing to subscribe, buy, sell or deal in any securities by any director or key managerial personnel or any other officer of a company either as principal or agent if such director or key managerial personnel or any</p>	The entire section shall be omitted.	Considering the fact that SEBI regulations on prohibition of insider trading are comprehensive in nature, such prohibitions are removed from the Companies Act 2013 to avoid duplication.

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		<p>other officer of the company is reasonably expected to have access to any non-public price sensitive information in respect of securities of company; or</p> <p>(ii) an act of counseling about procuring or communicating directly or indirectly any non-public price-sensitive information to any person;</p> <p>(b) “price-sensitive information” means any information which relates, directly or indirectly, to a company and which if published is likely to materially affect the price of securities of the company.</p> <p>(2) If any person contravenes the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider</p>		
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		trading, whichever is higher, or with both.		
95.	196(3)	<p>(3) No company shall appoint or continue the employment of any person as managing director, whole-time director or manager who —</p> <p>(a) is below the age of twenty-one years or has attained the age of seventy years:</p> <p>Provided that appointment of a person who has attained the age of seventy years may be made by passing a special resolution in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;</p>	<p>In section 196 of the principal Act,—</p> <p>(a) in sub-section (3), in clause (a), after the proviso, the following proviso shall be inserted, namely:—</p> <p>“Provided further that where no such special resolution is passed but votes cast in favour of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made.”</p>	<p>It is proposed that a person beyond the age of seventy years can be appointed as managing director or whole time director or manager even when such appointment has not been approved by special resolution provided that the resolution for such appointment is passed with votes cast in favour of the motion exceed the votes, if any, cast against the motion and the Central Government is satisfied, on an application made by the Board, that such appointment is most beneficial to the company, the appointment of the person who has attained the age of seventy years may be made</p>
96.	196 (4)	<p>(4) Subject to the provisions of section 197 and Schedule V, a managing director, whole-time director or manager shall be appointed and the terms and</p>	<p>The section shall be amended to read as:</p> <p>Subject to the provisions of section 197 and Schedule V, a managing director, whole-time</p>	<p>This amendment clarifies that in respect of appointment of managing director, whole time director or manager, the approval of Central Government shall only be required in case the appointment is not in accordance with the matters specified in Part I of</p>

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		conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions specified in that Schedule: In case of private company - Sub-section (4) and (5) of Section 196 shall not apply - Notification dated 5th june, 2015.	director or manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance to the conditions specified in Part 1 of that Schedule:	Schedule V.
97.	197 (1)	The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the	The sub-section shall be amended to read as: (1) The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the	The amendment does away with requirement of obtaining approval of Central Government in case the total managerial remuneration exceeds 11% of the net profits of that company. Further, post the amendment, the Company needs to pass a special resolution for payment of managerial remuneration in excess of prescribed individual limits. It also seeks to provide that, before approval of shareholders prior approval of bank or public financial institution or non-convertible debenture holder or secured creditor shall be obtained where any term loan is subsisting.

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		<p>gross profits:</p> <p>Provided that the company in general meeting may, with the approval of the Central Government, authorize the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:</p> <p>Provided further that, except with the approval of the company in general meeting,—</p> <p>(i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together;</p> <p>(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall</p>	<p>remuneration of the directors shall not be deducted from the gross profits:</p> <p>Provided that the company in general meeting may, authorize the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:</p> <p>Provided further that, except with the approval of the company in general meeting by a special resolution,—</p> <p>(i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together;</p> <p>(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—</p>	
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		<p>not exceed,—</p> <p>(A)one per cent. of the net profits of the company, if there is a managing or whole- time director or manager;</p> <p>(B)three per cent. of the net profits in any other case.</p>	<p>(A)one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;</p> <p>(B)three per cent. of the net profits in any other case.</p> <p>Provided also that,where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting</p> <p>Provided also that, where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of</p>	
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			the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting."	
98.	197(3)	Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V and if it is not able to comply with such provisions, with the previous approval of the Central Government	The sub-section shall be amended to read as: Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V	The requirement of obtaining prior approval of the Central Government in case of absence or inadequate profits has been done away with.
99.	197(9)	(9) If any director draws or receives, directly or indirectly, by way of remuneration any	for sub-section (9), the following sub-section shall be substituted, namely:—	It specifies a time limit of 2 years within which the excess remuneration needs to be refunded by the Director to the Company.

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		such sums in excess of the limit prescribed by this section or without the prior sanction of the Central Government, where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company.	"(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years or such lesser period as may be allowed by the company , and until such sum is refunded, hold it in trust for the company.";	
100.	197(10)	The company shall not waive the recovery of any sum refundable to it under subsection (9) unless permitted by the Central Government .	<p>in sub-section (10),—</p> <p>(i) for the words "permitted by the Central Government", the words "approved by the company by special resolution within two years from the date the sum becomes refundable" shall be substituted;</p> <p>(ii) the following proviso shall be inserted, namely:— "Provided that where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the</p>	<p>A big relief to Companies since Central Government approval of waiver of the recovery of any sum refundable to Company by the Director has been done away it and now only a special resolution passed within 2 years from the date the sum becomes refundable, is required for such waiver.</p> <p>Further, prior approval of bank or public financial institution or non-convertible debenture holder or secured creditor shall be obtained where any term loan is subsisting.</p>

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			bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver."	
101.	197(11)	In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been obtained	In sub-section (11), the words "and if such conditions are not being complied, the approval of the Central Government had been obtained" shall be omitted	CG approval done away with in cases where Schedule V is applicable on grounds of no profits or inadequate profits

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102.	197(15)	<p>If any person contravenes the provisions of this section, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p>	<p>after sub-section (15), the following sub-sections shall be inserted, namely:—</p> <p>"(16) The auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details as may be prescribed.</p> <p>(17) On and from the commencement of the Companies (Amendment) Act, 2017, any application made to the Central Government under the provisions of this section [as it stood before such commencement], which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended."</p>	<p>It requires auditors of the company in their report under section 143 to make a statement as to whether the remuneration paid by the company is accordance with the provisions of section 197.</p> <p>All existing applications to the CG shall abate and the Company shall have to get the members' approval within a year of the Amendment Act coming into force.</p>
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103.	198(3)	<p>In making the computation as aforesaid, credit shall not be given for the following sums, namely:—</p> <ul style="list-style-type: none"> (a) profits, by way of premium on shares or debentures of the company, which are issued or sold by the company; (b) profits on sales by the company of forfeited shares; (c) profits of a capital nature including profits from the sale of the undertaking or any of the undertakings of the company or of any part thereof; (d) profits from the sale of any immovable property or fixed assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the 	<p>in sub-section (3), in clause (a), after the words "sold by the company", the words "unless the company is an investment company as referred to in the Explanation to section 186" shall be inserted;</p> <p>after clause (e), the following clause shall be inserted, namely:— "(f) any amount representing unrealised gains, notional gains or revaluation of assets."</p>	<p>While computing the net profits u/s 198, only Investment Companies shall give credit to profits, by way of premium on shares or debentures of the company, which are issued or sold by the company</p>
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		<p>company consists, whether wholly or partly, of buying and selling any such property or assets</p> <p>Provided that where the amount for which any fixed asset is sold exceeds the written-down value thereof, credit shall be given for so much of the excess as is not higher than the difference between the original cost of that fixed asset and its written down value;</p> <p>(e) any change in carrying amount of an asset or of a liability recognised in equity reserves including surplus in profit and loss account on measurement of the asset or the liability at fair value.</p>		
104.	<p>236(4)</p> <p>236(5)</p>	<p>(4)The majority shareholders shall deposit an amount equal to the value of shares to be acquired by them under sub-section (2) or sub-section (3), as the case may</p>	<p>In section 236 of the principal Act, in sub-sections (4), (5) and (6), for the words, "transferor company", wherever they occur, the words "company whose shares are being transferred"</p>	<p>Clarificatory in nature as the majority shareholders will have to deposit the money for the minority buy out in the bank account which shall be operated by the Company whose shares are being transferred, i.e., by the company in which the minority shareholders were holding</p>

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	<p>236(6)</p> <p>be, in a separate bank account to be operated by the transferor company for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:</p> <p>Provided that such disbursement shall continue to be made to the entitled shareholders for a period of one year, who for any reason had not been made disbursement within the said period of sixty days or if the disbursement have been made within the aforesaid period of sixty days, fail to receive or claim payment arising out of such disbursement.</p> <p>(5) In the event of a purchase under this section, the transferor company shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares and delivering such shares to the</p>	<p>shall be substituted.</p> <p><u>The amended clause reads as under</u></p> <p>(4)The majority shareholders shall deposit an amount equal to the value of shares to be acquired by them under sub-section (2) or sub-section (3), as the case may be, in a separate bank account to be operated by the company whose shares are being transferred for at least one year for payment to the minority shareholders and such amount shall be disbursed to the entitled shareholders within sixty days:</p> <p>Provided that such disbursement shall continue to be made to the entitled shareholders for a period of one year, who for any reason had not been made disbursement within the said period of sixty days or if the disbursement have been made within the aforesaid period of sixty days, fail to receive or claim payment arising out of such disbursement.</p> <p>(5) In the event of a purchase under this section, the company</p>	<p>their shares and not by the Company who is buying out the shares.</p>
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		<p>majority, as the case may be.</p> <p>(6) In the absence of a physical delivery of shares by the shareholders within the time specified by the company, the share certificates shall be deemed to be cancelled, and the transferor company shall be authorised to issue shares in lieu of the cancelled shares and complete the transfer in accordance with law and make payment of the price out of deposit made under sub-section (4) by the majority in advance to the minority by despatch of such payment.</p>	<p>whose shares are being transferred shall act as a transfer agent for receiving and paying the price to the minority shareholders and for taking delivery of the shares and delivering such shares to the majority, as the case may be.</p> <p>(6) In the absence of a physical delivery of shares by the shareholders within the time specified by the company, the share certificates shall be deemed to be cancelled, and the company whose shares are being transferred shall be authorised to issue shares in lieu of the cancelled shares and complete the transfer in accordance with law and make payment of the price out of deposit made under sub-section (4) by the majority in advance to the minority by despatch of such payment.</p>	
105.	247(2)	<p>(2) The valuer appointed under sub-section (1) shall,—</p> <p>(a) make an impartial, true and fair valuation of any assets which may be</p>	<p>In section 247 of the principal Act, in sub-section (2), in clause (d), for the words "during or after the valuation of assets", the</p>	<p>Restriction placed on Registered Valuer to not undertake valuation of an asset in which he has a direct or indirect interest or becomes so interested during a period of three years prior to appointment as valuer or three years after</p>

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	(yet to be notified)	<p>required to be valued; (b) exercise due diligence while performing the functions as valuer; (c) make the valuation in accordance with such rules as may be prescribed; and (d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets.</p>	<p>words "during a period of three years prior to his appointment as valuer or three years after the valuation of assets was conducted by him" shall be substituted <u>The amended clause reads as under</u></p> <p>(2) The valuer appointed under sub-section (1) shall,— (a) make an impartial, true and fair valuation of any assets which may be required to be valued; (b) exercise due diligence while performing the functions as valuer; (c) make the valuation in accordance with such rules as may be prescribed; and (d) not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during a period of three years prior to his appointment as valuer or three years after the valuation of assets was conducted by him.</p>	valuation of assets.
106.	366(2)	<p>(2) With the exceptions and subject to the provisions contained in this section, any company formed, whether</p>	<p>In section 366 of the principal Act, in sub-section (2),— (i) for the words "seven or more members", the words "two or</p>	<p>This provides for conversion of LLPs with minimum two partners, into a company under the companies Act, 2013.</p>

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		<p>before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act or of any other law for the time being in force or being otherwise duly constituted according to law, and consisting of seven or more members, may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, in such manner <u>as may be prescribed</u> and the registration shall not be invalid by reason only that it has taken place with a view to the company's being wound up:</p> <p>Provided that—</p> <p>(i) a company registered under the Indian Companies Act, 1882 or under the Indian Companies Act, 1913 or the Companies Act, 1956, shall not register in pursuance of this section;</p> <p>(ii) a company having the liability of its members limited by any Act of Parliament</p>	<p>more members" shall be substituted;</p> <p>(ii) in the proviso, after clause (vi), the following clause shall be inserted, namely:—</p> <p>"(vii) a company with less than seven members shall register as a private company."</p> <p><u>The amended clause reads as under</u></p> <p>(2) With the exceptions and subject to the provisions contained in this section, any company formed, whether before or after the commencement of this Act, in pursuance of any Act of Parliament other than this Act or of any other law for the time being in force or being otherwise duly constituted according to law, and consisting of two or more members may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, in such manner <u>as may be prescribed</u> and the registration shall not be invalid by reason</p>	<p>With the earlier restriction of seven members, LLPs with only two members, could not convert into a company under this section.</p>
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		<p>other than this Act or by any other law for the time being in force, shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;</p> <p>(iii) a company shall be registered in pursuance of this section as a company limited by shares only if it has a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in the one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons;</p> <p>(iv) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person, or where proxies are allowed, by proxy, at a general meeting summoned for the purpose;</p> <p>(v) where a company not</p>	<p>only that it has taken place with a view to the company's being wound up:</p> <p>Provided that—</p> <p>(i) a company registered under the Indian Companies Act, 1882 or under the Indian Companies Act, 1913 or the Companies Act, 1956, shall not register in pursuance of this section;</p> <p>(ii) a company having the liability of its members limited by any Act of Parliament other than this Act or by any other law for the time being in force, shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;</p> <p>(iii) a company shall be registered in pursuance of this section as a company limited by shares only if it has a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in the one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons;</p> <p>(iv) a company shall not register</p>	
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		<p>having the liability of its members limited by any Act of Parliament or any other law for the time being in force is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person, or where proxies are allowed, by proxy, at the meeting;</p> <p>(vi) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and liabilities as may have been contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the</p>	<p>in pursuance of this section without the assent of a majority of such of its members as are present in person, or where proxies are allowed, by proxy, at a general meeting summoned for the purpose;</p> <p>(v) where a company not having the liability of its members limited by any Act of Parliament or any other law for the time being in force is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person, or where proxies are allowed, by proxy, at the meeting;</p> <p>(vi) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company or of such debts and</p>	
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		adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.	<p>liabilities as may have been contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.</p> <p>(vii) a company with less than seven members shall register as a private company.</p>	
107.	374	<p>374. Every company which is seeking registration under this Part shall,—</p> <p>(a) ensure that secured creditors of the company, prior to its registration under this Part, have either consented to or have given their no objection to company's registration under this Part;</p> <p>(b) publish in a newspaper, advertisement one in English and one in vernacular language in such form as may be prescribed giving notice about registration under this Part, seeking objections and address them suitably;</p>	<p>In section 374 of the principal Act, after clause (d), the following proviso shall be inserted, namely:—</p> <p>“Provided that upon registration as a company under this Part a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008 shall be deemed to have been dissolved under that Act without any further act or deed.”.</p>	Provides for automatic dissolution of LLP under the LLP Act, in case it is converted into a company under the Companies Act, 2013.

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		(c) file an affidavit, duly notarised, from all the members or partners to provide that in the event of registration under this Part, necessary documents or papers shall be submitted to the registering or other authority with which the company was earlier registered, for its dissolution as partnership firm, limited liability partnership, cooperative society, society or any other business entity, as the case may be. (d) comply with such other conditions as may be prescribed.		
108.	379	Where not less than fifty per cent. of the paid-up share capital, whether equity or preference or partly equity and partly preference, of a foreign company is held by one or more citizens of India or by one or more companies or bodies corporate incorporated in India, or by one or more citizens of India and one or more companies or bodies corporate	Section 379 of the principal Act shall be renumbered as sub-section (2) thereof and before sub-section (2) as so renumbered, the following sub-section shall be inserted, namely:— "(1) Sections 380 to 386 (both inclusive) and sections 392 and 393 shall apply to all foreign companies"	It specifies that Sections 380 to 386 (both inclusive) and sections 392 and 393 shall apply to all foreign companies

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		incorporated in India, whether singly or in the aggregate, such company shall comply with the provisions of this Chapter and such other provisions of this Act as may be prescribed with regard to the business carried on by it in India as if it were a company incorporated in India.	Provided that the Central Government may, by Order published in the Official Gazette, exempt any class of foreign companies, specified in the Order, from any of the provisions of sections 380 to 386 and sections 392 and 393 and a copy of every such order shall, as soon as may be after it is made, be laid before both Houses of Parliament."	
109.	384(2)	The provisions of section 92 shall, subject to such exceptions, modifications and adaptations as may be made therein by rules made under this Act, apply to a foreign company as they apply to a company incorporated in India.	In section 384 of the principal Act, in sub-section (2), after the word and figures "section 92", the words and figures "and section 135 " shall be inserted	The provisions relating to CSR have been made applicable to Foreign Companies as well.
110.	403	(1) Any document, required to be submitted, filed, registered or recorded, or any fact or information required or authorised to be registered under this Act, shall be submitted, filed, registered or recorded within the time specified in the relevant provision on payment of such fee as may	In section 403 of the principal Act,— (i) in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:— "Provided that where any document, fact or information required to be submitted, filed, registered or recorded, as the	It brings more clarity with respect to late filings of documents under sections 89, 92, 117, 121, 137 and 157 and defaults in filings, consequences, etc. Document, fact or information required to be submitted under section 92 (Annual Return) or 137 (Copy of financial statement to be filed with registrar) may be submitted, after expiry of the period so provided in those sections, on payment of such additional fee as may be prescribed

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		<p>be prescribed:</p> <p>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 under the Act, be also submitted, filed, registered or recorded, after the first time specified on payment of fee and additional fee specified under this section.</p> <p>(2) Where a company fails or commits any default to</p>	<p>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, which shall not be less than one hundred rupees per day and different amounts may be prescribed for different classes of companies :</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</p>	<p>which shall not be less than Rs. 100 per day and different amounts may be prescribed for different classes of companies.</p>
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		<p>submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the first proviso to that sub-section with additional fee, the company and the officers of the company who are in default, shall, without prejudice to the liability for payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default.</p>	<p>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 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.”;</p> <p>(ii) for sub-section (2), the following sub-section shall be substituted, namely:—</p> <p>“(2) Where a company fails or commits any default to submit, file, register or record any document, fact or information under sub-section (1) before the expiry of the period specified in the relevant section, the company</p>	
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			and the officers of the company who are in default, shall, without prejudice to the liability for the payment of fee and additional fee, be liable for the penalty or punishment provided under this Act for such failure or default.”.	
111.	410	410. The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal.	<p>In section 410 of the principal Act, for the words, “orders of the Tribunal”, the words “orders of the Tribunal or of the National Financial Reporting Authority” shall be substituted.</p> <p><u>The amended clause reads as under</u></p> <p>410. The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal or of the National Financial</p>	Clarified that NCLAT shall be the appellate tribunal for NFRA.

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			Reporting Authority.	
112.	441	441. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 19 Sub-section (1) (a) and (b) 73, any offence punishable under this Act (whether committed by a company or any officer thereof) with fine only , may, either before or after the institution of any prosecution, be compounded by—	<p>In section 441 of the principal Act, in sub-section (1),for the words "with fine only", the words "not being an offence punishable with imprisonment only, or punishable with imprisonment and also with fine" shall be substituted</p> <p><u>The amended clause reads as under</u></p> <p>441. (1)Notwithstanding anything contained in the Code of Criminal Procedure, 19 Sub-section (1) (a) and (b) 73, any offence punishable under this Act (whether committed by a company or any officer thereof) not being an offence punishable with imprisonment only, or punishable with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by-</p>	Clarified that offences where imprisonment could be invoked would not be compoundable offence.
113.	446A		After section 446 of the principal Act, the following sections shall be inserted, namely:—	New insertion pertaining to Special Courts.

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			<p>"446A. The court or the Special Court, while deciding the amount of fine or imprisonment under this Act, shall have due regard to the following factors, namely:—</p> <p>(a) size of the company;</p> <p>(b) nature of business carried on by the company;</p> <p>(c) injury to public interest;</p> <p>(d) nature of the default; and</p> <p>(e) repetition of the default</p>	
114.	447	<p>447. Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:</p> <p>Provided that where the fraud in question involves public interest, the term of imprisonment shall not be</p>	<p>In section 447 of the principal Act,—</p> <p>(i) after the words "guilty of fraud", the words "involving an amount of at least ten lakh rupees or one percent. of the turnover of the company, whichever is lower" shall be inserted;</p> <p>(ii) after the proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be</p>	<p>Punishment for frauds have been classified in two thresholds, i.e. frauds involving amount of less than Rs. 10 lakh or 1% of the Company's turnover and frauds involving amount of more than Rs. 10 lakh or 1% of the Company's turnover.</p>

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		<p>less than three years.</p> <p>Explanation.—For the purposes of this section—</p> <p>(i) “fraud” in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;</p> <p>(ii) “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;</p> <p>(iii) “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled.</p>	<p>punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both."</p> <p><u>The amended clause reads as under</u></p> <p>Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud involving an amount of at least ten lakh rupees or one percent. of the turnover of the company, whichever is lower, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:</p> <p>Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.</p> <p>"Provided further that where</p>	
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			the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both."	
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This newsflash is general in nature. In this newsflash, we have the Companies (Amendment) Bill, 2017 passed by Loksabha on July 27, 2017 . It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

4 August 2017