



The one-stop destination
for your corporate laws
advisory



OVERHAULING THE COMPANIES ACT

Incorporating Key Changes – Companies Amendment Act, 2017



RSM IN INDIA

- RSM India (comprising of RSM Astute Consulting Group and affiliates) is consistently ranked amongst India's top 6 tax, accounting and consulting groups [International Accounting Bulletin, August 2017]
- Nationwide presence through offices in 11 key cities across India
- Multi-disciplinary personnel strength of over 1,400
- International delivery capabilities

rsmindia.in

RSM AROUND THE GLOBE

- Sixth largest audit, tax and consulting network across the globe
- Annual combined fee income of US\$ 4.87 billion
- Combined staff of over 43,000 in over 800 offices across 120 countries
- RSM is the fifth largest audit, tax and consulting group in the USA

rsm.global



Overhauling the Companies Act

Incorporating Key Changes – Companies Amendment Act, 2017

Preface

The Companies Act, 2013 has substituted the Companies Act, 1956 with most provisions becoming effective as on 1 April 2014. Ever since the Companies Act, 2013, was introduced, the Ministry of Corporate Affairs came out with over 100 Rules, Notifications, Circulars and Removal of Difficulties Orders, in order to remove anomalies, address genuine hardships, put to rest the concerns of the various stakeholders and also to improve ease of doing business. Further, MCA has introduced two Amendment Acts, first one, being the Companies (Amendment) Act, 2015 introduced on 29 May 2015 and the second Amendment Act, viz, the Companies (Amendment) Act, 2017 which aims at a massive overhauling of the Companies Act, received the assent of the President of India on, as recently as 3 January 2018. MCA has notified 26 January 2018, as the date on which the Act shall come into force and only section 4 of the said Act pertaining to name reservation and change of name by Companies shall come into force from this date. The remaining sections of the Act are not yet into force.

The Companies Act, 2013, as on date has 29 chapters containing 470 sections out of which 41 sections have been omitted/ deleted. The Act thus has 429 operative sections now, out of which two sections, one pertaining to Repeal of Certain enactments and savings and one section pertaining to constitution of NFRA are yet to be notified.

We in our earlier publication, Companies Act, 2013–A Regulatory Handbook for Corporates, gave an overview of the Companies Act, 2013 with provisions updated till 30 June 2015.

In the maze of all these changes, it is not surprising that most businesses and professionals have lost track of the updated version of the Companies Act, as it stands today. We have in this publication consolidated and updated the important provisions of the Companies Act, which in our view, will help them in taking proper corporate actions and decisions.

While the focus of this publication still is in respect of the most significant provisions from the perspective of the business and corporate world; for the ease of reference to our readers, we have in this publication, used a different font to include the amendments to the various provisions and also to include certain provisions, which were not notified during the time of our earlier publication, but which today, have been duly notified.

We have at the beginning introduced a Compliance Calendar for our readers covering the regular as well as a few important event based compliances. The procedural compliances, though, have not been discussed at length. It is necessary to ascertain the detailed regulations based on specific facts prior to taking action.

The distinguishing exemptions as given from time to time, and, as they stand today, from

an Ease of Doing Business perspective, have been listed below:

Reduced Governance	<ul style="list-style-type: none"> • Unlisted public companies not required to appoint independent directors if they fulfil certain conditions. • Private companies with only debt securities listed on exchanges to be considered as unlisted companies and hence not required to have Audit Committee and Nomination and Remuneration Committee. • Sections pertaining to Insider trading and forward dealing have been deleted. • Change in Promoter's shareholding no longer to be reported to the ROC.
Greater Flexibility	<ul style="list-style-type: none"> • The Concept of Abridged Annual Return and Board Report introduced. • Particulars to be included in the directors' report have been significantly curtailed. • Certificate of Commencement of Business- a thing of the past. • Total share capital to include only shares with Voting Rights. • Cap on political contributions removed.
Restructuring /Liquidation/ Winding up	<ul style="list-style-type: none"> • Voluntary Liquidation deleted from the Companies Act, 2013. • Fast Track Exit of Companies – a reality. • Cross border mergers- a reality. • Minority buy-outs- a reality. • Sick Companies taken out of purview of the Act.
Operational Freedom	<ul style="list-style-type: none"> • Inter Corporate Loans permissible within the Group with common Directors, by having prior approval of the Shareholders. • Extra Ordinary General Meetings of WOS of Foreign Bodies Corporate can be held anywhere in the world and not mandatorily in India. • Definition of "Joint Venture" introduced in the Act. • CSR expenditure to be determined on the basis of the previous year's figures only. • Postal Ballot not mandatory where facility of E- Voting is given to the Shareholders. • Internal Auditors to be either an individual or a partnership firm or a body corporate.

This updated publication is of extreme relevance to companies, businessmen, directors, shareholders, managerial personnel (CEO/CFO/CS) and other stakeholders. With a view to assist our readers in getting acquainted with the Companies Act, 2013, all the important provisions of the same have been presented in a user friendly manner, in simple and uncomplicated language.

We hope this endeavor assists you in taking appropriate steps towards ensuring compliance with the Companies Act, 2013 read along with the Companies (Amendment) Act, 2015 and also the Companies (Amendment) Act, 2017 and not to forget with all the Rules, Notifications, Circulars and Orders.

Happy Reading!

Table of Contents

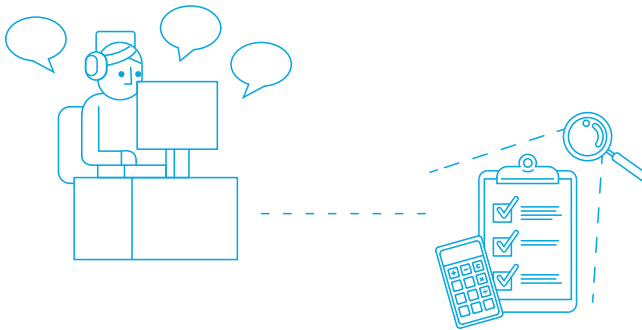
Company : Critical Ongoing Compliances	1
Directors : Critical Compliances	2
Company : Critical Event-Based Compliances	3 – 10
Chapter 1: Accounts and Audit	11 – 19
Chapter 2 : Directors and Committees of the Board	20 – 30
Chapter 3 : Key Managerial Personnel and Managerial Remuneration	31 – 38
Chapter 4 : Charges and Deposits	39 – 43
Chapter 5 : Loans and Investments	44 – 50
Chapter 6 : Related Party Transactions and Other Transactions	51 – 55
Chapter 7 : Share Capital and Dividend	56 – 68
Chapter 8 : Administration and Meetings	69 – 78
Chapter 9 : Other Miscellaneous Provisions	79 – 89
Abbreviations	90 – 91

Company: Critical Ongoing Compliances

Particulars	Forms	Due Dates		
		15 Days	30 Days	60 Days
Filing of Annual Return	Form MGT-7 to be filed from the conclusion of Annual General Meeting			✓
Filing of Annual Accounts	Form AOC-4/ AOC-4 XBRL /AOC-4 CFS (In case of OPC within 180 days) from the close of Financial Year		✓	
Annual Return of a foreign Company	Form FC-4 from the date of Balance Sheet			✓
Appointment of Auditor	Form ADT-1 to be filed from the conclusion of Annual General Meeting	✓		
Notice of Resignation by the auditor	Form ADT-3 from the date of resignation		✓	
Form for filing Cost Audit Report with Central Government	Form CRA-4 from the date of receipt of Cost Audit Report		✓	
Appointment of Director & KMP & changes therein	Form DIR-12 from the date of appointment or change		✓	
Notice of Resignation of Director (Optional)	Form DIR-11 from the date of resignation		✓	
Shifting of Registered Office	Form INC-22 from the date of such change		✓	
Appointment for Creation/ Modification of Charge (other than Debentures)	Form CHG-1 from the date of creation/ modification of charge		✓	
Satisfaction of Charge	Form CHG-4 from the date of satisfaction of charge		✓	
Person not holding Beneficial Interest in shares	Form MGT-6 from the date of receipt of declaration from the registered owner and the beneficial owner		✓	

Directors: Critical Compliances

- Submit Form MBP- 1 to the Company with respect to disclosure of their interest or concern in other companies, firms, bodies corporate or association of individuals at First Board Meeting in every Financial Year or wherever there is change then at the immediate next Board meeting held after such change.
- Submit Form DIR-8 in every Financial Year with the Company stating their non-disqualification from continuing as directors.
- Every independent director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in Section 149 (6).



Company: Critical Event–Based Compliances

Sr. No.	Particulars	Time Frame
1.	Appointment as an Additional Director of the Company	
	Notice of Board Meeting	
	Obtain consent letter from the individual for his appointment	
	Hold Board Meeting for appointment of additional director	
	Issue Letter of appointment	
	File Form DIR-12	Within 30 days from the date of appointment
	Make entry in the Register of Directors	
2.	Regularization of Director at AGM	
	Pass Resolution at AGM	
	Issue Letter of appointment	
	File Form DIR-12	Within 30 days from the date of AGM
	Update designation from Additional Director to Director in the Register of Directors	
3.	Resignation of Director	
	Receive Resignation Letter	
	Hold Board Meeting	
	File Form DIR-12	Within 30 days from the date of resignation
	Update entry in the Register of Directors	
	Revoke all the authority /ies given to such Director	
4.	Increase in Authorized Share Capital	
	Notice of Board Meeting	
	Hold Board Meeting	
	Send notice of EGM to the shareholders	
	Hold EGM	

Sr. No.	Particulars	Time Frame
	Alter MOA & AOA	
	File E-Form MGT-14	Within 30 days from the EGM
	File E- Form SH-7 (Stamp Duty to be paid as applicable)	Within 30 days from the EGM
5.	Allotment of Shares on Rights Basis	
	Notice of Board Meeting	
	Hold Board Meeting for approval of draft letter of offer	
	Dispatch letter of offer	At least 3 days before the opening of issue
	File Form MGT-14 (Not Applicable in case of private Companies)	Within 30 days from the Board Meeting
	Receive Letters of Renunciation	
	Receive Letters of Acceptance	
	Hold Board Meeting for allotment of Shares	
	File Form PAS-3	Within 30 days from the date of allotment
	Issue Share Certificate	Within 2 months from the date of allotment after payment of stamp duty
	Entry in Register of Members	
6.	Private Placement of Shares	
	Notice of Board Meeting for proposal of private placement	
	Hold Board Meeting	
	Notice of EGM	
	Hold EGM	
	File Form MGT-14	Within 30 days of EGM

Sr. No.	Particulars	Time Frame
	Make an offer to identified person	The letter of offer should be should be open for at least 15 days but not more than 30 days
	Hold Board Meeting for allotment	
	File Form PAS-3	Within 15 days of Board Meeting
	Issue Share Certificates	Within 2 months from the date of allotment after payment of stamp duty
	Entry in the Register of members	
7.	Adoption of New set of MOA & AOA	
	Notice of Board Meeting	
	Hold Board Meeting for approval of new set of MOA & AOA	
	Call EGM	
	Hold EGM	
	Altered MOA & AOA	
	File Form MGT-14	Within 30 days of EGM
8.	Shifting of Registered Office (RO) within the local limits of same city	
	Notice of Board Meeting	
	Hold Board Meeting	
	File Form INC-22	Within 30 days of Board Meeting
9.	Shifting of RO outside the local limits of city but within the jurisdiction of same ROC	
	Notice of Board Meeting	
	Hold Board Meeting	

Sr. No.	Particulars	Time Frame
	Send Notice of EGM	
	Hold EGM	
	File Form MGT-14	Within 30 days of EGM
	File Form INC-22	Within 30 days of EGM
10.	Shifting of RO from one state to another	
	Notice of Board Meeting	
	Hold Board Meeting for calling EGM	
	Hold EGM for shifting of RO	
	Filing of Form MGT-14	Within 30 days of EGM
	Obtain the details of List of creditors and take NOC from creditors	
	Affidavits- Verifying petition/ list of creditors/ No Employees retrenched	
	Publish Newspaper Advertisement in INC-26 (In English and Vernacular Language giving at least 14 days' notice to General Public)	
	Copy of the Application to be served to ROC in the form GNL 1	Post 14 days of advertisement
	Notice to Chief Secretary	Simultaneously
	Form INC-23 – Application to RD	Within 30 days from determining the list of creditors
	Apply to RD and get the Order for shifting of RO	
	File Form INC 28	Within 30 days from receipt of RD Order
	Hold board meeting for shifting of RO	
	File Form INC 22	Within 30 days of the date of board resolution.

Sr. No.	Particulars	Time Frame
11.	Shifting of RO within the Same State from the Jurisdiction of One ROC to another ROC	
	Notice of Board Meeting	
	Board Meeting calling EGM	
	EGM for shifting of RO	
	File Form MGT-14	Within 30 days from the date of EGM
	No objection received from creditors, depositors and debenture holders	
	File Form GNL-2	Simultaneously
	File Form INC-23	Simultaneously
	File Form INC-28	Within 30 days from RD Order
	Hold board meeting and pass resolution for shifting of RO	
	File Form INC-22	Within 30 days from Board Resolution
12.	Appointment of First Auditor in Board Meeting	
	Obtain Eligibility and Consent from auditor	
	Hold Board Meeting	Within 30 days from the date of registration of the Company
	File Form ADT-1	Within 15 days from the date of appointment
13.	Appointment of First Auditor in General Meeting if Company fails to appoint in 1st Board Meeting	
	Obtain Eligibility and Consent Letter from the auditor	
	Hold Board Meeting	
	Call EGM	Within 90 days from the date of registration of the Company

Sr. No.	Particulars	Time Frame
	Hold EGM	
	Send Letter of Appointment	
	File Form ADT-1	Within 15 days from the date of appointment
14.	Appointment of Auditor at 1st Annual General Meeting for 5 years	
	Obtain Eligibility and Consent Letter from the auditor	
	Hold Board Meeting	
	Call AGM	
	Hold AGM	
	Send Letter of Appointment	
	File Form ADT-1	Within 15 days from the date of appointment
15.	Resignation of Auditor	
	Receive Resignation Letter	
	Hold Board Meeting	
	File Form ADT-3	Within 30 days from the date of resignation
16.	Transfer of Shares	
	Prepare SH-4	
	Payment of Stamp Duty	
	Submit the Share Certificate & Transfer Form	Within 60 days from the date of execution
	Obtain undertaking from the buyer (If Transfer is covered under FEMA)	
	Hold Board Meeting for approval of Share transfer	
	Entry in Register of Members	

Sr. No.	Particulars	Time Frame
17.	Buy-Back : Shareholders' Approval	
	Obtain Valuation Report	
	Pass Board Resolution	
	Obtain a report from Statutory Auditor	
	Call EGM	
	Filing of Letter of Offer and declaration of Solvency (SH-8 & SH-9)	
	Dispatch Letter of Offer	20 days from filing with ROC
	Open of Buy-back Offer	30 days ≥ the offer to be opened ≥ 15 days
	Acceptance and Verification of Form	
	Open Special Bank Account	Immediately after closure of offer period.
	Transfer to CRR	
	Dispatch of Cheques / Return of Share Certificate	Within 7 days from verification
	Extinguishment of Share Certificate	Within 7 days from the date of acceptance of shares
	File Form SH-11	Within 7 days the completion of buy-back
	Entry in Register of Securities bought back	
18.	Buy-Back : Board Approval	
	Obtain Valuation Report	
	Call Board Meeting	
	File Form for Declaration of Solvency	
	Dispatch Letter of Offer	20 days from filing with ROC

Sr. No.	Particulars	Time Frame
	Open of buy-back Offer	30 days \geq the offer to be opened \geq 15 days
	Acceptance and Verification of Form	
	Open Special Bank account	Immediately after closure of offer period.
	Dispatch of Cheques / Return of Share Certificate	Within 7 days from verification
	Extinguishment of Share Certificate	Within 7 days from the date of acceptance of the shares
	File Form SH-11	Within 7 days of the completion of buy-back
	Entry in Register of Securities bought back	



1.1 Accounts

1.1.1 Financial Year [Section 2(41)]

- All companies must follow 1st April to 31st March as their financial year.
- Companies which are holding or subsidiary companies or **associate company** of a foreign company and which are required to follow a different financial year for the purpose of consolidation of their accounts outside India may apply to the NCLT for allowing the company to adopt a different financial year.

1.1.2 Books of Account [Section 128]

- Books of account and other relevant books and papers must be kept at the registered office of the company. However, books of account can be kept at other places in India as may be decided by the Board.
- The Act now specifically provides that books of account can be maintained in electronic mode with servers physically located in India and the manner of their maintenance has also been provided.

1.1.3 Financial Statements [Section 129]

- Companies shall prepare cash flow statement and statement of changes in equity, if applicable, along with the Balance Sheet, Profit and Loss Account and Explanatory Notes.
- OPC, Small Company and Dormant Company may not include a cash flow statement along with the Balance Sheet, Profit and Loss Account and Explanatory Notes.
- Consolidation of financial statements is mandatory for all subsidiaries including associates of the company.
- **Consolidation of financial statements not required by an Unlisted Company if it is:**
 - a. A WOS or a POS of another Company and its members do not object to the Company not presenting CFS; and**
 - b. The Ultimate or the Intermediate holding company files CFS with the ROC, which are in compliance with the AS.**

- A statement containing the salient features of the financial statements must be attached to the financial statements.
- There is no clarity on consolidation of financial statements of Joint venture company.

1.1.4 Re-opening of Accounts [Section 130]

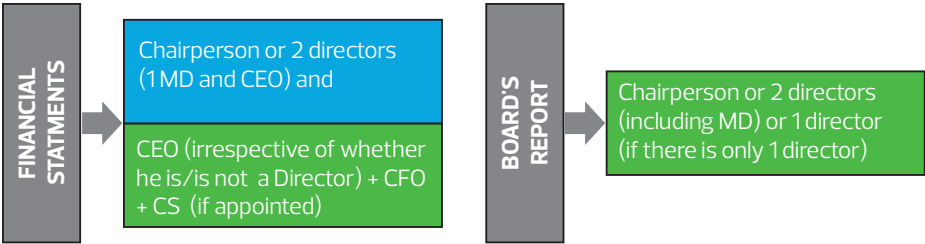
No company shall re-open its books of account and shall not re-cast its financial statements unless an application is made by Central Government, Income-tax authorities, SEBI or any other regulatory authority or any person concerned and an order is made by the NCLT to the effect that:

- a. The relevant earlier accounts were prepared in a fraudulent manner; or
- b. The affairs of the company were mismanaged during the relevant period, casting a doubt on the reliability of financial statements.
- c. **No order shall be made in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year unless direction has been issued by the Central Government for keeping of books of account for a period longer than eight years.**

1.1.5 Voluntary Revision [Section 131]

- Directors of the company may prepare revised financial statements or a revised report in respect of any of the three preceding financial years after obtaining approval of the NCLT in certain cases.
- Revised financial statements or report shall not be prepared or filed more than once in a financial year.
- Detailed reasons for such revision must be disclosed in Board's report.

1.1.6 Authentication of Financial Statements, Board's Report [Section 134]



1.1.7 Filing of Financial Statements with ROC [Section 137]

- A copy of the financial statements, including Consolidated Financial Statement must be filed with the ROC.
- Every company is also required to attach the accounts of its subsidiaries which have been incorporated outside India and not having place of business in India.
- **Holding Company having subsidiary which is a Foreign Company and which is not required to get its Financial Statement audited under its law can file unaudited Financial Statement of such a subsidiary with the ROC along with a declaration to this effect and a translated copy of the Financial Statement in English, in case they are not in English.**
- **Company can file the financial statement with ROC at any time on payment of prescribed additional fee.**
- **However non filing of financial statements for a period of three consecutive financial years, might lead to the directors of the company incurring disqualification.**

1.1.8 Corporate Social Responsibility (CSR) [Section 135]

- **Meaning**

CSR means and includes:

- Projects or programs relating to activities specified **in areas or subject, specified in Schedule VII**"; or
- Projects or programs relating to activities undertaken by the Board of a company in pursuance of recommendations of the CSR Committee of the Board as per declared CSR policy of the company provided such policy covers subjects enumerated in areas **or subject, specified in Schedule VII**".
- **Net Profit:** Net profit means the net profit as per its financial statement in accordance with the applicable provisions of the Act, but shall not include:
 - any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and

- any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 (CSR provisions) of the Act.
 - **"Net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.'**
- **Applicability:** The provisions of CSR shall apply to every company having:
- Net worth: Rs. 500 crore or more; or
 - Turnover: Rs. 1000 crore or more; or
 - Net profit: Rs. 5 crore or more

during the immediately preceding financial year

CSR shall also be obligatory to a foreign company having its branch office or project office in India fulfilling the criteria provided above.

- **Spendable amount on CSR:** Every qualifying company, must spend in every financial year **at least 2%** of the average net profits of the company made during the 3 immediately preceding financial years. Board shall be responsible for ensuring the same.
- **CSR Committee**

Any company fulfilling the applicability criteria set out above must constitute a CSR Committee.

The following table indicates the manner of composition of CSR committee.

Listed Company	Unlisted Company	Private Company	Foreign Company
CSR Committee of listed company shall consist of: <ul style="list-style-type: none">– Minimum 3 directors– Out of which, at least 1 should be an	CSR Committee of an unlisted company, which is not required to appoint an independent director, shall constitute a CSR Committee	– A private company shall constitute a CSR Committee without an independent director.	CSR Committee of a foreign company shall consist of at least 2 persons, of which <ul style="list-style-type: none">– 1 person shall be nominated

Listed Company	Unlisted Company	Private Company	Foreign Company
independent director.	without such director.	– CSR Committee of a private company having only 2 directors on its Board, shall constitute a CSR Committee with only 2 such directors.	by the foreign company and – 1 person shall be the authorized representative of the company who is a person resident in India and whose particulars have been submitted to the ROC as per the provisions of the Act.

- **Functions of the CSR Committee:** CSR Committee shall
 - Formulate and recommend a CSR policy to the Board;
 - Recommend amount of expenditure to be incurred on CSR activities; and
 - Monitor the CSR policy of the company from time to time.
- **Modalities of performing CSR Activities**
 - CSR activities can be undertaken through a registered society or a registered trust or a company established under Section 8 of the Act by the company either singly or along with its holding or subsidiary or associate company, or along with any other company or holding or subsidiary or associate company of such other company or otherwise.
 - Collaboration with other companies for undertaking CSR projects or programs is also permitted subject to the condition that the

collaborating companies are in a position to report separately as per the reporting requirements under the Act.

- **Activities not considered as CSR:** The following activities of the company shall not be considered as CSR activities:
 - CSR Projects or programs or activities undertaken outside India;
 - CSR Projects or programs or activities that only benefit the employees of the company and their families;
 - Contribution of any amount, directly or indirectly, to any political party;
 - Activities undertaken in the normal course of business.
 - One-off events such as marathons/ awards/ charitable contributions, etc.
 - Expenses incurred by the company for fulfillment of any Act/ statute or regulations
- **Responsibility of the Board:** The Board of every qualifying Company shall
 - Include in the Board's report an annual report on CSR activities as per format provided;
 - Approve the CSR policy, take into account recommendations made by the CSR committee and disclose the contents of such policy in the Board's report and place it on company's website;
 - Ensure that the CSR activities are undertaken by the company;
 - Ensure that at least 2% of average net profits are spent on CSR activities.

1.2 Auditors

1.2.1 Internal Audit [Section 138]

- **Applicability:** Internal audit is applicable to the following classes of companies:

Listed Company	Unlisted Public Company	Private Company
<ul style="list-style-type: none">• All	<ul style="list-style-type: none">• PSC: Rs. 50 crore or more or• Turnover : Rs. 200 crore or more or• Outstanding loans & borrowings from banks/public financial institutions : Rs. 100 crore or more at any point during the preceding financial year or• Outstanding deposits : Rs. 25 crore or more at any time during the preceding financial year	<ul style="list-style-type: none">• Turnover : Rs. 200 crore or more or• Outstanding loans & borrowings from banks/public financial institutions: Rs. 100 crore or more at any point during the preceding financial year

- **Qualifications:** Internal Auditor may be either an individual or a partnership firm or a body corporate.
- **Scope:** The Audit Committee of the company or the Board shall, in consultation with the internal auditor, formulate the scope, functioning, periodicity and methodology for conducting the internal audit.

1.2.2 Rotation of Auditors [Section 139]

- **Applicability:** Following class of companies shall not appoint or re-appoint as auditors, in case auditor is an individual, for more than one term of 5 consecutive years and in case of an audit firm, for more than two terms of 5 consecutive years:

Listed Company	Unlisted Public Company	Private Company
<ul style="list-style-type: none">• All	<ul style="list-style-type: none">• PSC: Rs. 10 crore or more or• Public borrowings from financial institutions, banks or public deposits: Rs. 50 crore or more at any point during the preceding financial year	<ul style="list-style-type: none">• PSC: Rs. 50 crore or more or• Public borrowings from financial institutions, banks or public deposits: Rs. 50 crore or more at any point during the preceding financial year

Where company has appointed 2 or more auditors (individual or firm) as joint auditors, the company may follow the rotation in such manner as both or all joint auditors do not complete their term in the same year.

- **Manner of appointment of auditors:** The auditors of a company shall be

appointed in the manner provided below:

- In case a company is required to form an Audit Committee under the Act, auditor shall be appointed through the Audit Committee and in case an Audit Committee is not required to be constituted, the auditor shall be appointed by the Board;
- The Audit Committee shall recommend to the Board the name of the individual or the audit firm and the Board shall consider and recommend such auditor to members for appointment;
- If Board disagrees with the recommendation of Audit Committee, it shall refer back the recommendation to the Audit Committee citing reasons for such disagreement;

The Board shall send its own recommendation, if the Audit Committee decides not to reconsider its original recommendation.

- **Ceiling on number of companies:** A person or a partner of a firm may be appointed or reappointed as an auditor provided the person or partner is at the date of such appointment or reappointment holding appointment as auditor in not more than 20 companies. However, this ceiling of 20 companies shall not include OPC, dormant company, small company and private company having PSC of less than Rs. 100 crore.
- **Ratification of Auditors at subsequent AGM:**
The requirement of annual ratification by members at the AGM, with respect to appointment of auditors is not required now.

1.2.3 Internal Financial Controls– Reporting by Auditors [Section 143]

The auditor in case of a private company

- a) **which is a one person company or a small company; or**
- b) **which has turnover less than Rs.50 crores as per latest audited financials and which has aggregate borrowings from banks or financial institutions or any body corporate at any point of time during the financial year less than Rs.25 crores, is not required to comment on the adequacy of the internal financial controls system in place in such a Company and the operating effectiveness of such controls.**



2.1 Directors [Section 149]**2.1.1 Number of directors**

- A minimum number of 3 directors are required to be appointed in case of a public company and a minimum number of 2 directors are required to be appointed in case of a private company.
- A maximum number of 15 directors can be appointed by a company. However, this number can be increased by a special resolution of the members.

2.1.2 Composition**RESIDENT
DIRECTOR**

- **EVERY COMPANY** shall have a director who has stayed in India for a total period of not less than 182 days **during the financial year.**

**WOMAN
DIRECTOR**

- **LISTED COMPANY**
- **ALL PUBLIC COMPANY WITH**
- **PSC :** Rs. 100 crore or more or
- **Turnover:** Rs. 300 crore or more shall have a woman director

**INDEPENDENT
DIRECTOR**

- **LISTED COMPANY:** 1/3rd directors shall be Independent Directors
- **PUBLIC COMPANY** (if not a WOS, JV or a Dormant Company) shall have 2 independent directors if it is a public company having-
 - **PSC :** Rs. 10 crore or more or
 - **Turnover:** Rs. 100 crore or more or
 - **Outstanding loans, debentures and deposits :** Rs. 50 crore or more.

– Independent Director

ARE YOU AN INDEPENDENT DIRECTOR? FIND OUT WITH THE FOLLOWING QUESTIONNAIRE

Before taking the questionnaire keep the following information ready:

- 1. Names of directors of the company
- 2. List of promoters of the company
- 3. Names of the holding, subsidiary and associate company (associate company has been explained in Chapter 9)
- 4. List of your relatives

QUESTIONS	YES	NO
PROMOTER GROUP		
a. Are you a promoter of the company, its holding, subsidiary or associate company?		
b. Are you related to the promoters or directors of the holding, subsidiary or associate company?		
PECUNIARY RELATIONSHIP*		
c. Do you have a pecuniary relationship (other than remuneration as such director or having transaction greater than 10% of your total income or such amount as may be prescribed), with the company, its holding or subsidiary or associate company? (Answer for the period starting 2 financial years immediately preceding the current financial year)		
d. Do you have a pecuniary relationship (other than remuneration as such director or having transaction greater than 10% of your total income or such amount as may be prescribed), with the promoters or directors of the company, its holding or subsidiary or associate company? (Answer for the period starting 2 financial years immediately preceding the current financial year)		

QUESTIONS	YES	NO
<p>e. Do your relatives hold any security of or interest in the company, its holding or subsidiary or associate company?</p> <p>(Answer for the period starting 2 financial years immediately preceding the current financial year)</p> <p>(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)</p>		
<p>f. Is your relative indebted to the company, its holding, subsidiary or associate company or their promoters or directors?</p>		
<p>g. Have your relatives 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?</p> <p>(Answer for the period starting 2 financial years immediately preceding the current financial year)</p>		
<p>h. Have your relatives had any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company?</p> <p>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 (f), (g) or (h) above?</p> <p>(Answer for the period starting 2 financial years immediately preceding the current financial year)</p>		
<p>i. Do you individually or with your relatives hold 2% or more of the total voting power of the company?</p>		
TRANSACTION WITH COMPANY		
<p>j. Were you an employee or KMP of the company or its holding, subsidiary or associate company?</p> <p>(Answer for the period starting 3 financial years immediately preceding the current financial year)</p>		

QUESTIONS	YES	NO
<p>k. Was any of your relative a KMP of the company or its holding, subsidiary or associate company?</p> <p>(Answer for the period starting 3 financial years immediately preceding the current financial year)</p>		
<p>l. Were you or any of your relatives, an employee, partner or proprietor in any CA, CS or CWA firm working for the company or its holding, subsidiary or associate company?</p> <p>(Answer for the period starting 3 financial years immediately preceding the current financial year)</p>		
<p>m. Were you or any of your relatives, an employee, partner or proprietor in any legal or consulting firm which has had a transaction with the company or its holding, subsidiary or associate company?</p> <p>(Answer for the period starting 3 financial years immediately preceding the current financial year)</p> <p>(The amount of transaction should be 10% or more of the gross turnover of the firm)</p>		
<p>n. Are you a CEO or director of any non-profit organization that receives 25% or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company?</p>		
<p>o. Are you a CEO or director of any non-profit organization that holds 2% or more of the total voting power of the company?</p>		
<p>* Pecuniary relationship does not include transactions entered by an independent director with the company concerned at par with any member of the general public and at the same price as is payable/paid by such member of public i.e. in the ordinary course of business and at arm's length.</p> <p>Any remuneration received from one or more companies by way of sitting fees, reimbursement of expenses for participation in the Board and other meetings, profit related commission approved by the members shall also not fall within the meaning of 'pecuniary relationship.'</p>		

RESULT:	
Answer to all the above questions is NO:	You are an independent director
Answer to any of the above questions is YES:	You are not an independent director

If you clear the above result, you have to comply with the following:

You must give a declaration about your independence at the first Board Meeting you attend and thereafter at the first Board Meeting of every financial year or whenever there is any change in the circumstances which affect your independence.
You must abide by the provisions of Schedule IV which prescribes a code for independent directors.
You shall not be entitled to any further stock option .
Term for holding office for an independent director shall be as under: Independent director shall hold office for term of 5 consecutive years and shall be eligible for re-appointment on passing of a special resolution. Further, independent director shall be eligible to hold office for not more than 2 terms of 5 consecutive years. He shall, however, be eligible for appointment after a cooling period of 3 years.

- **Other provisions governing Independent Directors**
 - **Vacancy:** Any intermittent vacancy of an independent director shall be filled up by the Board at the earliest but not later than the immediate next Board Meeting or 3 months from the date of such vacancy, whichever is later.
 - **Discontinuance of requirement of Independent Director:** Where a company ceases to fulfill any of the applicable conditions stated above for 3 consecutive years, it shall not be required to comply with these provisions until such time as it meets any of such conditions.
- **Liability of Independent Director**

The liability of an independent director would be only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes and with his consent or where he had not acted diligently.

2.1.3 Alternate Director [Section 161]

- An alternate director can be appointed in place of a director who **absents himself from India** for a period of 3 months. **However, the existing Director of the company cannot be appointed as an alternate director for any other director of the same Company.**
- An alternate director to an independent director must also fulfill the criteria of an independent director.

2.1.4 Number of Directorships [Section 165]

- A person can be a director in up to **20 companies. For calculating the limit of directorship of 20 companies, the directorship in dormant companies shall not be included.**
- However, a person cannot be a director in more than 10 public companies including private companies which are holding or subsidiary of a public company.
- In case of a listed company, an independent director shall not serve as an independent director in more than 7 companies and any person who is serving as a whole time director in any listed company shall serve as an independent director in not more than 3 listed companies.

2.1.5 Duties of Directors [Section 166]

A director shall

- Act in accordance with company's articles;
- Act in good faith;
- Exercise his duties with due care and diligence.

A director shall not

- Involve in any conflicting interest with the company;
- Achieve or attempt to achieve any undue advantage;
- Assign his office.

2.1.6 Vacation of Office [Section 167]

- The office of a director shall become vacant if **he absents himself** from all the meetings of the Board held during a period of 12 months with or without seeking leave of absence.
- In case a director,
 - has not filed financial statements or annual returns for any continuous period of three financial years; or
 - has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures or pay interest due or pay any dividend declared

He shall vacate office in companies other than the company which is in default.

2.1.7 Resignation of Director [Section 168]

- The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later.
- The director **may** intimate the ROC within 30 days from the date of resignation.

2.1.8 Casual Vacancy [Section 161]

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.

2.1.9 Board's Report [Section 134]

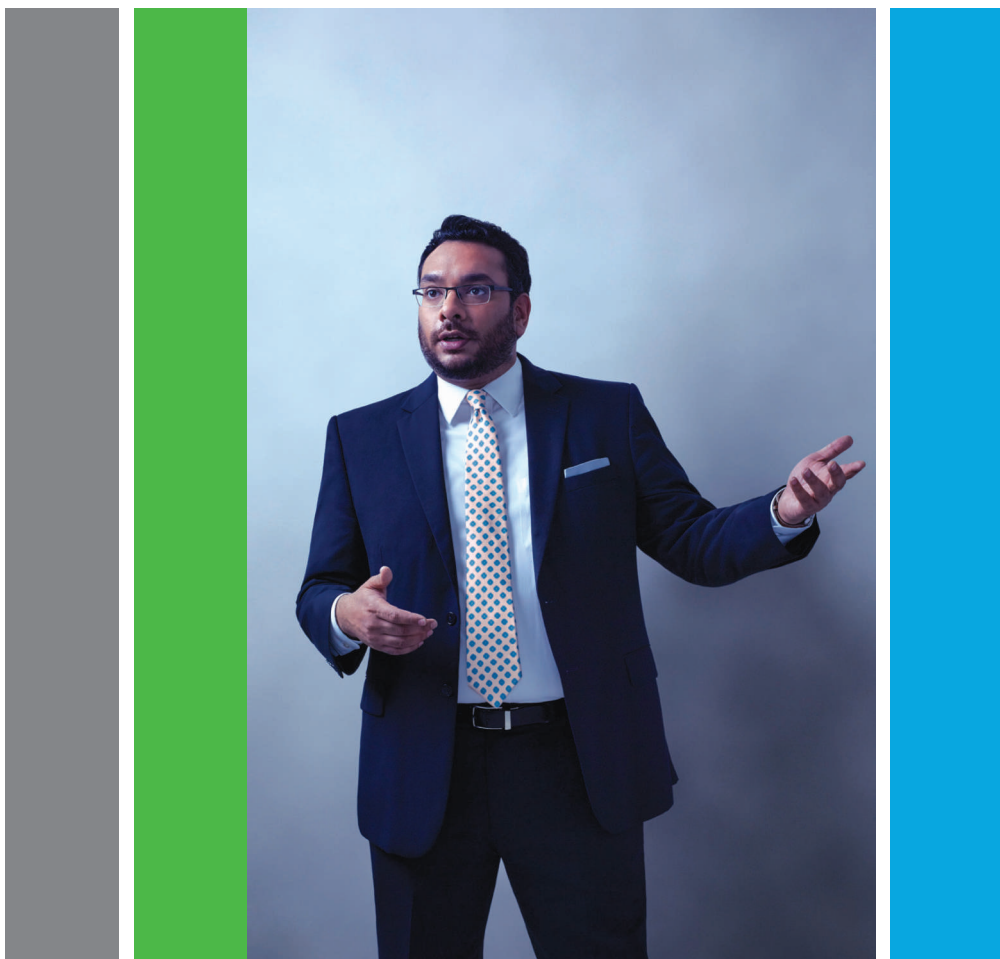
The Board is required to include particulars of contracts, arrangements with related parties, particulars of loans, guarantees and investments, details in respect of adequacy of internal financial controls with respect to financial statements etc.

2.2 Committees

Particulars	Audit Committee	Vigil Mechanism	Nomination and Remuneration Committee	Stakeholders Relationship Committee
Applicability	<ul style="list-style-type: none"> Listed companies Public companies with <ul style="list-style-type: none"> • PSC: Rs. 10 crore or more or • Turnover: Rs. 100 crore or more or • Outstanding loans or borrowings or debentures or deposits: Rs. 50 crore or more. 	<ul style="list-style-type: none"> Listed companies Companies which accept deposits from the public. Companies which have borrowed money from banks and public financial institutions: Rs. 50 crore or more. 	<ul style="list-style-type: none"> Listed companies All public companies <ul style="list-style-type: none"> • PSC: Rs. 10 crore or more or • Turnover: Rs. 100 crore or more or • Outstanding loans or borrowings or debentures or deposits: Rs. 50 crore or more. 	Every company having more than 1000 shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year.
Composition	<ul style="list-style-type: none"> It shall consist of at least 3 directors. Majority should be independent directors who can read and understand 	The Audit Committee shall oversee the vigil mechanism and if there is no Audit committee, the Board shall nominate a director who shall oversee	<ul style="list-style-type: none"> It shall have 3 or more non-executive directors. At least half of the members shall be independent directors. 	It shall consist of a chairperson who shall be a non-executive director and such other members as may be decided by

Particulars	Audit Committee	Vigil Mechanism	Nomination and Remuneration Committee	Stakeholders Relationship Committee
	financial statements.	the vigil mechanism. The establishment shall be disclosed on the website, if any.	<ul style="list-style-type: none"> Chairperson of the company can be member of such committee but shall not chair such committee. The chairperson shall attend the AGM. 	<p>the Board.</p> <ul style="list-style-type: none"> The chairperson shall attend the AGM.
Functions	<p>The functions of the Audit Committee have been enhanced. The Act is silent on the manner of electing the chairman.</p> <p>The Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company.</p>	<ul style="list-style-type: none"> The vigil mechanism shall look into genuine concerns that may be reported by directors and employees. The vigil mechanism shall provide for adequate safeguards against victimization of employees and directors who avail of the vigil mechanism 	<ul style="list-style-type: none"> It shall identify persons who are qualified to become directors and who may be appointed in senior management. It shall recommend to the Board their appointment and removal and shall carry out evaluation of every director's 	It shall consider and resolve the grievances of security holders of the company.

Particulars	Audit Committee	Vigil Mechanism	Nomination and Remuneration Committee	Stakeholders Relationship Committee
		and also provide for direct access to the Chairperson of the Audit Committee or the director nominated to play the role of Audit Committee, as the case may be, in exceptional cases.	<p>performance.</p> <ul style="list-style-type: none">– It shall formulate the criteria for determining qualifications, positive attributes and independence of a director.– It shall recommend to the Board a policy relating to the remuneration for the directors, KMP and other employees.	



3.1 Key Managerial Personnel (KMP) [Section 203]

3.1.1 Meaning

KMP in relation to a company means:

- Chief Executive Officer or the managing director or the manager;
- Whole-time Director;
- Company Secretary;
- Chief Financial Officer;
- Such other officer, **not more than one level below the directors who is in whole-time employment**, designated as KMP by the Board; and such other officer as may be prescribed.

3.1.2 Threshold for Appointment

The following companies shall appoint a whole-time KMP (Except a CS)

- Every listed company and
- Every public company having a PSC of Rs. 10 crore or more.

The threshold for appointment of CS is as follows: Every company having a PSC of Rs. 5 crore or more.

3.1.3 Appointment

- Every company belonging to the class of companies as mentioned above, shall appoint
 - An MD, CEO or Manager and in their absence a whole-time director,
 - CS and
 - CFO
- Every whole-time KMP shall be appointed by means of a resolution of the Board containing the terms and condition of appointment including remuneration.
- If the office of any whole-time KMP is vacated, the resulting vacancy shall be

filled-up by the Board at a meeting of the Board within a period of 6 months from the date of such vacancy.

- A return of appointment of KMP must be filed with the ROC within 30 days from the date of his appointment.
- **KMP 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.**

3.1.4 KMP in more than one company

- Whole-time KMP shall not hold office in more than one company except in its subsidiary company at the same time.
- However, the fact that a person is a KMP in more than one company shall not disentitle him from being a director of any company. He shall need the permission of the Board for the same.
- A company may also appoint as its MD, a person employed as MD or manager in another company subject to the following:
 - a. He is MD or manager in not more than one company.
 - b. The appointment or employment is approved by a unanimous resolution of the Board.
 - c. Specific notice of the meeting where such resolution is to be passed is sent to all directors in India.

3.1.5 Disclosure of Interest

- A KMP must disclose his concern or interest in respect of any items of special business to be transacted at the meeting which is likely to be annexed to notice. He shall also disclose his shareholding interest (provided it is greater than 2% of the paid-up capital) in another company with which a transaction is proposed in the special business.
- Any benefit accruing to a KMP due to inadequate disclosure or non-disclosure with respect to a transaction in which he is interested, shall be held by the KMP in trust for the company.

3.1.6 Register of KMPs

A register of KMPs shall be maintained at the registered office which shall include the details of securities held by each KMP in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.

3.2 Managerial Remuneration [Section 196 and Section 197]

3.2.1 Appointment: A company cannot appoint MD and manager at the same time. The terms and conditions of appointment and the remuneration payable shall be included in the notice convening the Board Meeting and the General Meeting in which the appointment shall be considered.

3.2.2 In case of a Public Company where the appointment of MD, Whole-time Director or manager is in variance to the conditions specified in Part I of the Schedule V, approval of Central Government is required. However, in case of a private company, the remuneration and terms and conditions of appointment of a MD, whole-time director or manager need not be subject to the Schedule V and approval in general meeting.

3.2.3 Term: A manager, MD or whole-time director cannot be appointed or reappointed at a time for a period of more than 5 years. Reappointment of such a person cannot be made earlier than 1 year before the expiry of his term.

3.2.4 Eligibility Conditions

A private company as well as a public company can only appoint or continue in employment any person as MD, whole-time director or manager provided:

1. The person is above 21 years of age.
2. The company has passed a special resolution to appoint person who has attained age of 70 years.
3. The person is not an undischarged insolvent or any time been adjudged as such.
4. The person has not suspended payment to creditors.
5. The person has not been convicted by a Court of an offence and sentenced for term of more than 6 months.

A public company in addition to the above criteria must follow eligibility criteria as

specified in Part I of Schedule V of the Act and in case of variance to meet the coniditons specified in Part I of Schedule V, Central Government approval shall be required.

3.2.5 Return of Appointment

The Act now requires a company to file a return of MD/ whole–time director / manager’s appointment with the **ROC within 60 days**.

3.2.6 Payment of Remuneration

The amount of remuneration payable to the managerial personnel of a company depends on the type of the company and on the availability of adequate profits. Remuneration shall be paid by the following companies in the manner as specified:

- **Private Company:** No limits have been imposed on a private company with respect to the payment of remuneration to managerial personnel.
- **Public Company having profits:** A public company having profits may pay remuneration subject to the following limits:

Particulars of remuneration	Not more than specified percentage (%) of net profits
Total remuneration	11 % (it can exceed this limit with the prior approval of the shareholders of the Company)
Remuneration payable to only one MD, manager or whole–time director	5% (it can exceed this limit with the prior approval of the shareholders of the Company)
More than one MD, manager or whole–time director taken together	10% (it can exceed this limit with the prior approval of the shareholders of the Company)
Remuneration to directors other than MD or whole–time director	1% (if there is a MD or a whole–time director)
Remuneration to directors other than MD or whole–time director	3% (where there is no MD or whole–time director)

The above percentages do not include sitting fees payable to directors.

- **If 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 bank or public financial institution**

concerned or the non-convertible debenture holders or other secured creditor, as the case may be, needs to be obtained by the company before obtaining the approval of the shareholders.

– **Company which does not have profits or has inadequate profits:**

A company, other than a private company, which has inadequate profits or which does not have profits shall pay an amount which shall be the higher of the amounts derived from the methods below:

METHOD A		METHOD B
Compute effective capital		Remuneration as may be decided by the Board and approved by the shareholders
Calculate amount as per the following limits:		No Limit for remuneration
Where effective capital is:	Limit of annual remuneration (in Rs.)	
Negative– Rs. 5 crore	60 lakhs	
Rs. 5 crore– Rs. 100 crore	84 lakhs	
Rs. 100 crore– Rs. 250 crore	120 lakhs	
Rs. 250 crore or more	120 lakhs + 0.01% of the effective capital in excess of Rs. 250 crores.	
Limits can be doubled if Special Resolution is passed		Special Resolution has to be passed
Total remuneration should not exceed the remuneration derived as per Method A and Method B		

Method B shall apply only in case the managerial person is functioning in a professional capacity and possesses graduate level qualification with expertise and specialized knowledge in the field in which the company operates and who does not have during the preceding 2 years prior to his appointment :

– Any interest in the capital of the company or its holding company or any of its

subsidiaries directly or indirectly or through any other statutory structures.

- Any direct or indirect interest or related to the director or promoters of the Company or its holding company or any of its subsidiaries at any time.

Meaning of key terms for the computation of remuneration as per the above methods

Effective capital means:

- aggregate of the PSC (excluding share application money or advances against shares);
- amount standing to the credit of share premium account;
- reserves and surplus (excluding revaluation reserve);
- long-term loans and deposits repayable after 1 year (excluding working capital loans, over drafts, interest due on loans unless funded, bank guarantee, etc. and other short-term arrangements)
- **Reduced by:** Aggregate of any investments (except in case of investments by an investment company whose principal business is acquisition of shares, stock, debentures or other securities); accumulated losses and preliminary expenses not written off.

3.2.7 Conditions for Payment of Remuneration : Remuneration shall be paid as above subject to the following conditions:

- Payment of remuneration is approved by Board and by Nomination and Remuneration Committee, if applicable.
- Company has not defaulted in repayment of any debts, public deposits, debentures, interest thereon for a continuous period of 30 days in preceding financial year before such appointment; and in case of default, the company obtains approval for the remuneration from the secured creditors and this fact is mentioned in the explanatory statement of the notice convening the general meeting
- Special resolution is passed for a period not exceeding 3 years;
- Information and disclosures as required under Schedule V are included in

statement to be given to shareholders along with notice convening general meeting.

In addition to the above, the managerial personnel shall be entitled to certain perquisites which shall not be included in the ceiling of remuneration computed above.

3.2.8 Sitting Fees: Subject to discretion of Board, a director may receive sitting fees for attending meetings of Board or Committee thereof. However, sitting fees to a director shall not exceed Rs. 1 lakh per meeting of Board or Committee thereof. Sitting fees payable to an independent director and woman director shall not be less than fee payable to other directors.

3.3 Calculation of net profit [Section 198]

While computing the net profits under section 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.

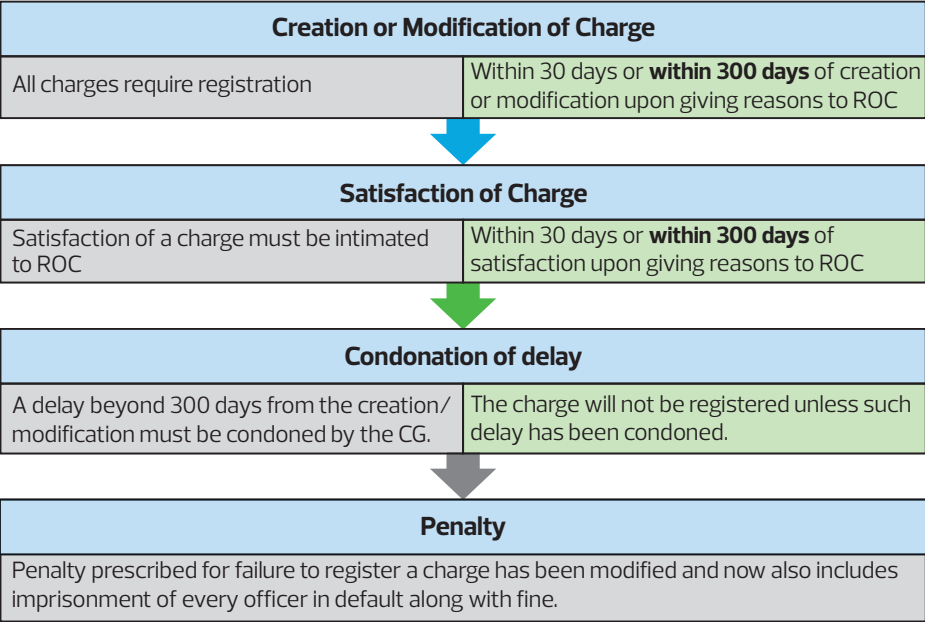
3.4 Recovery of Remuneration [Section 199]

This provision states that where a company is required to re-state its financial statements due to fraud or non-compliance with any requirement under the Act and the rules made thereunder, the company shall recover from any past or present MD or whole-time director or Manager or CEO who, during the period for which the financial statements are required to be re-stated received the remuneration (including stock option) in excess of what would have been payable to him as per restatement of financial statements.



4.1 Charge [Section 77]

The position of law governing charges **except such charges as may be specified by the RBI**, are set out below:



4.2 Deposit [Section 73 and Section 74]

4.2.1 **What is a deposit?** Any receipt of money by way of deposit or loan in any other form by a company.

4.2.2 **What is not a deposit?**

Among other things,

- Amount received from **directors or relatives of directors of a private company, subject to declaration** from such director **or relative**;
- Any amount received by a **company** from another company;
- **Share Application money** or advance for securities received towards allotment of securities, provided shares are allotted within period of 60 days from date of receipt of money;
- **Any amount raised by issue of NCDs not constituting a charge on the assets**

of the company and listed on a recognised stock exchange;

- Amount received from an **employee** of the company not in excess of his annual salary under contract of employment;
- Any **advance** received against orders for the supply of goods or properties or for the rendering of any service, provided it is appropriated within a period of 365 days from the date of acceptance;
- **Any advance towards consideration for providing future services in the form of warranty or a management contract, for a period not exceeding 5 years or as per the prevalent business practice, whichever is less.**

4.2.3 From whom to accept a deposit?

Depending upon the eligibility, some companies can accept deposits only from members while some can accept deposits from public as well as members. The details of the same are set out below:

Threshold	Depositor	Limit
• Private Company	• Member only	• 100% of PSC+ Free reserves + SPA*
• Public Company with Net worth less than Rs. 100 crore or Turnover less than Rs. 500 crore	• Members only	• 35% of PSC+ Free reserves + SPA
• Public Company with Net worth of Rs. 100 crore or more or Turnover of Rs. 500 crore or more	• Members and	• 10% of PSC + Free reserves + SPA
	• Public	• 25% of PSC+ Free reserves + SPA

*** Not applicable to private companies:**

- **which is a start-up, for five years from the date of its incorporation**
- **which fulfills all the following conditions**
 - a. **which is not an associate or a subsidiary company of any other company;**
 - 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**
 - c. **such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section.**

4.2.4 How to accept a deposit?

Circular	A circular should be issued to the members/ public giving such details as have been specified under the Act.
Inform ROC	A copy of the circular must be filed with the ROC within 30 days from the issue of circular.
Bank Account	Deposit at least 20% of the amount of deposits maturing during the current financial year in a separate bank account called Deposit Repayment Reserve Account on or before 30th day of April each year. This account shall be used only for the repayment of deposits.
Deposit Insurance	No longer required.
Depositors Trustees	Where a company has borrowed from its members and/or public, it shall appoint one or more trustees to be called as Depositors Trustees.
Creation of Security	In case of secured deposit, as per the Act a company must mandatorily create a charge on tangible assets in favour of Depositor Trustees.
Credit Rating	Companies need to obtain credit rating from recognised agency every year during the tenure of deposit.
Repayment	Company must certify that the company has not committed any default in the repayment of deposits and interest thereon, accepted either before or after the commencement of this Act 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.

- It must be noted here that except the provisions governing creation of security and repayment, a private company which accepts from its members monies not exceeding 100% of aggregate of the PSC and free reserves and SPA and files the details of the monies so accepted with the ROC is not required to comply with the remaining provisions governing acceptance of deposits, specified above.

4.2.5 Exempt Companies

The provisions governing deposits shall not apply to the following companies:

- Banking Company
- A registered NBFC
- A registered Housing Finance Company
- Such other companies as may be prescribed by Central Government. **(No such companies have been prescribed till date.)**

4.2.6 Penalties for acceptance of deposits in contravention of the provisions of the Act

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 provisions of the Act governing deposits or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified by the Act;

- The company shall, in addition to the payment of the deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore or twice the amount of deposit accepted by the company, whichever is lower but which may extend to ten crore rupees and
- 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 not be less than twenty-five lakh rupees but which may extend to two crore rupees.



5.1 Powers of the Board

5.1.1 Powers [Section 179]

The powers of the Board to be exercised only at a Board Meeting and not by circulation have been widened and now include:

- Issuing securities including debentures within or outside India,
- Granting loans or giving guarantee or security,
- Approving financial statement and Director's report,
- Diversifying the business of the company and
- Taking over of a company or acquiring a control or substantial stake in another company.
- Making political contributions
- Appointing or removing KMP
- Appointing internal auditors and secretarial auditor.

5.1.2 Restrictions [Section 180]

- The provisions deal with restrictions on powers of the Board which require the Board to exercise certain powers only with the approval of its members in the general meeting.
- A special resolution at a general meeting is required for the Board to exercise the powers specified in the section dealing with restriction on powers of the 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**
- These restrictions are not applicable to a private company.

5.1.3 Political contributions [Section 182]

The limit on the maximum amount that can be contributed by the prescribed companies to the political party has been removed by the Finance Act, 2017.

5.2 Loans to Directors [Section 185]

5.2.1 Restricted / Allowable Loans



RESTRICTED

A company cannot give a loan, guarantee or security in respect of a loan to:

- Director of the company
- Director of the holding company
- Partner or relative of director
- Firm in which the director or relative is a partner



ALLOWED

A company may give a loan, guarantee or security with respect to a loan to:

- any private company of which the director of the company is a director or member
- any body corporate at a general meeting of which not less than 25% of the total voting power may be exercised or controlled by any director or by two or more directors of the company, together
- 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.

Subject to fulfillment of following conditions:

- prior approval of members of the company by way of special resolution
- the borrowing company utilizes the loans for its principal business activities

5.2.2 Exemptions

- **Section 185 is not applicable to a private company**
 - a. in whose share capital no other body corporate has invested any money;
 - b. if the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and
 - c. such a company has no default in repayment of such borrowings subsisting at the time of making transactions under this section.

- **General Exemptions**

To Wholly-owned subsidiary	A company can give a loan, guarantee or security in respect of a loan to its wholly-owned subsidiary provided the wholly-owned subsidiary uses the loan made for its principal business activities.
Subsidiary	A company can give a guarantee or security in respect of a loan made by any bank or financial institution to its subsidiary provided the subsidiary uses the loan made for its principal business activities.
Managing or Whole-time director	If the loan is as a part of the conditions of service extended by the company to all its employees or pursuant to any scheme approved by the members by a special resolution.
In ordinary course of business	By 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 loan charges interest at a rate not less than that of the prevailing yield of 1 year, 3 years, 5 years or 10 years government security closest to the tenor of loan.

5.2.3 Loans and Investments by Company [Section 186]

The following table compiled by us answers certain FAQs relating to loans and investments.

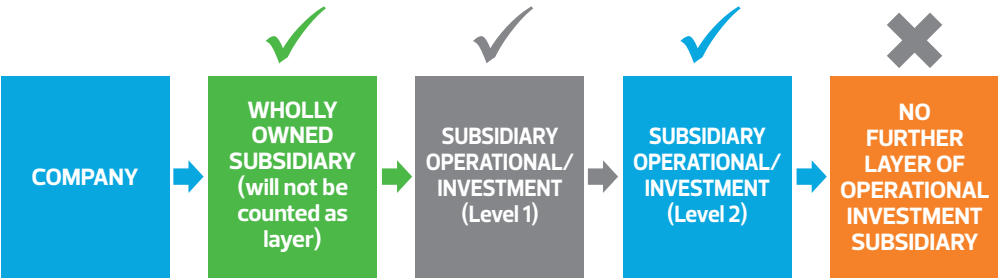
FAQ	Answer
Which company can give loans and make investments?	Any company except that which has defaulted in the repayment of any deposits or in payment of interest thereon shall give any loan or guarantee or security or make an acquisition.
How to give a loan or guarantee or security?	An approval of all the directors present at the meeting of the Board is required prior to giving any loan, guarantee or security.
What are the limits up to which a loan, guarantee or security can be made?	<p>A company cannot:</p> <ul style="list-style-type: none"> – Give any loan to any person or other body corporate; (any person covers, share transfer agents, stock brokers, etc.) – Give any guarantee or provide security in connection with a loan to any other body corporate or person; – Acquire by way of subscription, purchase or otherwise, the securities of any other body corporate – in excess of the higher of 60% of (PSC + free reserves + SPA) or 100% of (free reserves + SPA)
What is the prescribed rate of interest?	A company cannot give a loan at a rate of interest lower than the prevailing yield of 1, 3,5,10 year Government security closest to the tenor of the loan.
What are the disclosures required?	<ul style="list-style-type: none"> – A company which is giving any loan, guarantee or security as per the above provisions shall disclose the particulars and the purpose of the same in the financial statements. – A register in respect of the same shall also be maintained.
What if the company exceeds the limits specified above?	<ul style="list-style-type: none"> – A special resolution of the members is required. The special resolution passed shall specify the total amount up to which the Board is authorized to give such loans/ guarantee or provide security or make acquisition. – However, no such resolution is required in case of a loan, guarantee or security provided by a holding company in respect of its wholly-owned subsidiary, joint venture company or acquisition by holding company in the

FAQ	Answer
	<p>securities of its wholly owned subsidiary company.</p> <ul style="list-style-type: none"> - Approval of the financial institutions concerned where any term loan is subsisting shall also be obtained.
When do the above provisions do not apply?	<p>The above requirements do not apply to:</p> <ul style="list-style-type: none"> - Loan or guarantee given or security provided by a company to its wholly owned subsidiary company or a joint venture company. - Acquisition made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company. - Loan or guarantee given or security provided or investment by a banking company or an insurance company or a housing finance company in the ordinary course of its business. - Loan or guarantee given or security provided or investment by a company engaged in the business of financing of companies or of providing infrastructural facilities. - Investment made by any investment company. - Investment made in shares allotted by rights issue under section 62(1)(a). - Investment made in shares allotted by a body corporate under rights issue. - Investment made in respect of investment or lending activities by a non-banking financial company registered under Chapter III-B of the RBI Act, 1934 and whose principle business is acquisition of securities.

Layers of investment

- **On or after 20th September 2017 no company to have more than two layers of subsidiaries (i.e. investment as well as operating subsidiaries). One layer which consists of one or more wholly owned subsidiary or subsidiaries shall not be taken into account for computing number of layer of subsidiaries.**

- **Any company before 20th September 2017 who already has more than two layers of subsidiaries not to add any further layers of subsidiaries beyond the prescribed limit of allowable layers.**
- **Any company which reduces one or more layers after 20th September, 2017, cannot have number of layers beyond the number of layers it has after such reduction or maximum layers allowed, whichever is more.**
- **Following companies are exempt from the rule of restriction on number of layers of subsidiaries; banking Company as defined in clause (c) of Section 5 of the Banking Regulation Act' 1949 (10 of 1949):**
 - a. **a non-banking financial company as defined in clause (f) of Section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) which is registered with the Reserve Bank of India and considered as systemically important non-banking financial company by the Reserve Bank of India;**
 - b. **It is pertinent to note that only systemically important non-banking financial companies are exempt from the applicability of these Rules and not all NBFCs;**
 - c. **an insurance company being a company which carries on the business of insurance in accordance with provisions of the Insurance Act,1938(4 of 1938) and the Insurance Regulatory Development Authority Act, 1999 (41 of 1999);**
 - d. **a Government company referred to in clause (45) of section 2 of the Act. Companies which have number of layers of subsidiaries in excess of two layers are required to file form CRL-1 with the Registrar of Companies on or before 17 February 2018.**





6.1 Related Party [Section 2(76) and Section 188]

6.1.1 What is the meaning of a 'related party'?

Related Party with reference to a company means:

- i. Director or his relative
- ii. KMP or his relative
- iii. Firm in which a director, manager **or his relative** is a partner
- iv. private company in which a director or manager or his relative is a member or director
- v. public company in which a director or manager or his relative is a director and holds along with his relatives, more than two per cent of its PSC
- vi. any body corporate whose Board, MD or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager
- vii. any person on whose advice, direction or instructions a director or manager is accustomed to act
- viii. any company which is holding, subsidiary or an associate company, fellow subsidiary of such company **or the investing company or venturer of a company**
- viii. KMP of holding company or his relative

Nothing in clause (vi) or (vii) shall apply to advice given in professional capacity.

The definition of the term 'relative' has been limited and now only includes members of a Hindu Undivided Family, husband and wife and father including step father, mother including step mother, son including step son, son's wife, daughter, daughter's husband, brother including step brother and sister including step sister.

“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.

It must be noted that transactions of a private company with a company which is:

- a holding, subsidiary or an associate company of such private company or
 - a subsidiary of a holding company to which it is also a subsidiary or
 - an investing company or the venturer of the company
- shall not attract the provisions of Section 188 related to related party transaction.

6.1.2 What kinds of transactions with related parties require prior approval?

The following transactions require prior approval if they are entered into with a related party:

- Sale, purchase or supply of any goods or materials;
- Selling or otherwise disposing of, or buying, property of any kind;
- Leasing of property of any kind;
- Availing or rendering of any services;
- Appointment of any agent for purchase or sale of goods, materials, services or property;
- Related party's appointment to any office or place of profit in the company, its subsidiary company or associate company;
- Underwriting the subscription of any securities or derivatives thereof, of the company.

6.1.3 What is the procedure for entering into any of the above transactions with a related party?

If the transaction does not exceed the limits specified below: Board resolution is sufficient.	
Transaction	Limit
Sale, purchase or supply of any goods or materials directly or through appointment of agents.	10% of Turnover or Rs. 100 crore, whichever is less.
Selling or otherwise disposing of, or buying, property of any kind directly or through appointment of agents.	10% of Net Worth or Rs. 100 crore, whichever is less.
Leasing of property of any kind.	10% of Net Worth or 10% of Turnover or Rs. 100 crore, whichever is less.

Transaction	Limit
Availing or rendering of any services directly or through appointment of agents.	10% of Turnover or Rs. 50 crore, whichever is less.
Appointment to any office or place of profit in the company, its subsidiary company or associate company.	Remuneration in excess of Rs. 2,50,000 per month.
Remuneration for underwriting the subscription of any securities or derivatives thereof of the company.	1% of Net Worth.
If the transaction exceeds the limits specified above: resolution of the members is required.	

The above trigger shall not apply to any transaction entered into by a company

- In its ordinary course of business **and**
- On an arm's length basis.

6.1.4 What should be done where the above procedure is not followed?

In case where the consent of the Board or members' approval as required is not obtained, the contract/arrangement shall be valid only if it is ratified by the Board or by a special resolution of the members within 3 months from the date on which such contract or arrangement was entered into.

In case it is not ratified within the prescribed time, the contract is voidable not only at the option of the board but also at the option of the **shareholders**.

6.1.5 What are the restrictions on an interested party?

- A director interested in any contract or arrangement with a related party shall not be present at the meeting during discussion on the subject matter of the resolution relating to such contract or arrangement. In case of a private company, a director interested in any contract or arrangement with a related party may participate in the meeting after disclosing his interest.
- A member shall not vote on resolution in general meeting if such member is interested in contract or arrangement placed before the meeting.
- This shall not applicable in two cases:

- In case of a private company.
- In **any other case if 90% or more members in number are relatives of promoters or are related parties.**

6.1.6 What compliance is required?

The following compliances are required in case of related party transactions by a company:

- Board Meeting agenda for passing a resolution for the approval of a related party transaction shall disclose certain particulars.
- The Explanatory Statement annexed to the notice of a general meeting shall contain certain particulars.
- Every contract or arrangement shall be referred to in Board's report to shareholders along with justification for entering into such contract or arrangement.

6.1.7 Will the directors or employees be liable in case of a default?

- In cases where a contract or arrangement with a related party is not ratified as required, if the contract is with a related party to any director or is authorized as such by any other director, the concerned directors shall indemnify the company against loss incurred by the company due to such contract or arrangement.
- In addition to the above, a company can proceed against a director or other employee who had entered into such contract in contravention of provisions of the Act for recovery of loss sustained as a result of such contract.
- The director or any other employee in case of companies other than listed companies shall be punishable with fine and imprisonment.

6.2 Other Restrictions

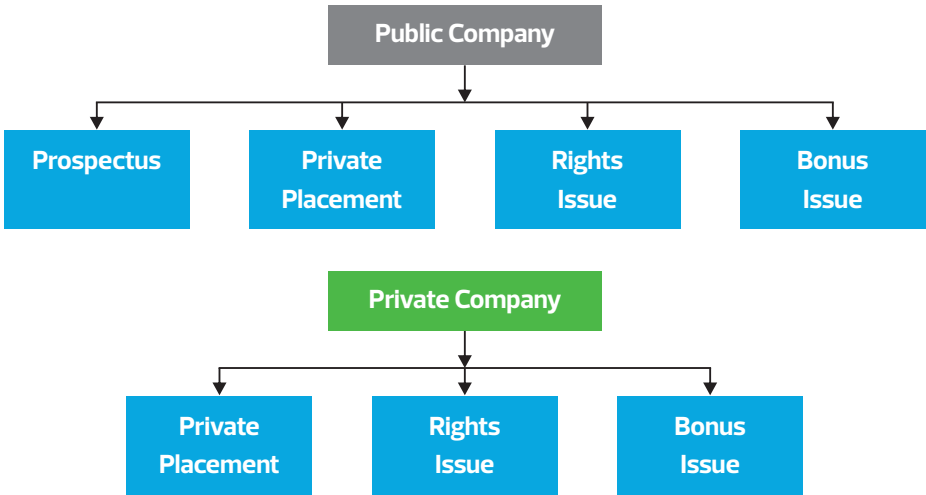
Restrictions on Non-Cash Transactions [Section 192]

Any arrangement between a company and its directors in respect of acquisition of assets for consideration other than cash shall require prior approval by a resolution in general meeting and if the director or connected person is a director of its holding company, approval is required to be obtained by passing a resolution in general meeting of the holding company.



7.1 Issue of Securities

A Company may raise capital by issue of securities in the following ways:



7.1.1 Public Issue (Applicable only to Public Companies) [Sections 23 to Sections 40]

Process	Requirements
Application to stock exchange	Approval from the stock exchange is required for the securities to be dealt with. Failure to apply or obtain permission would entail mandatory refund of money received from applicants.
Issue of red herring prospectus, prospectus or a shelf prospectus (if the company belongs to a class prescribed by SEBI)	The prospectus must contain all the details as are prescribed in the Act and the Rules. The punishment for misstatement in prospectus is very severe and it attracts both criminal and civil liability.
Variation in terms of contract or objects of prospectus	<ul style="list-style-type: none">Terms may be varied only by special resolution through postal ballot.The dissenting shareholders that do not agree with the change shall be given an exit offer by promoters or by controlling shareholders.
Minimum subscription	<ul style="list-style-type: none">Allotment cannot be made unless the minimum amount stated in the prospectus has been

Process	Requirements
	<p>subscribed to.</p> <ul style="list-style-type: none"> – The amount so subscribed shall not be less than 5% of the nominal amount of the security. – If minimum amount is not subscribed to within 30 days, the entire amount received must be refunded.
Bank account	All monies received on application to the securities must be kept in a separate bank account and cannot be used for any purpose other than those stated in the Act.
Allotment	Subject to the condition of minimum subscription being complied with, securities shall be allotted.
Return of allotment	Return of allotment must be filed within 30 days.

7.1.2 Private Placement (Applicable to Public and Private Companies) [Section 42]

Approval	Approval of shareholders by way of special resolution for proposed offer or invitation of securities is required.
Number of persons to whom offer may be made	<p>Offer shall not be made to more than 200 persons who have been identified by the board in the aggregate in a financial year.</p> <p>Exclusions:</p> <p>Following persons are excluded while calculating the limit of 200 persons.</p> <ul style="list-style-type: none"> – Qualified Institutional Buyers – Employees of the company who have been offered securities under a scheme of employees stock option <p>Restriction of 200 persons is individually for each kind of security.</p>
Value of offer	The value of such offer or invitation per person shall be with an investment size of not less than Rs. 20,000 of face value of the securities.
Private placement offer	A company making private placement shall issue

	private placement offer and application to identified persons. Provided that the private placement offer and application shall not carry any right of renunciation.
Time limit for allotment	<ul style="list-style-type: none"> - Allotment of securities must be completed within 60 days of receipt of application money. - If the company fails to allot securities within 60 days, then the application money must be returned to subscribers within 15 days from the completion of 60 days, failing which interest will be charged at the rate of 12% per annum.

Important Points

- No offer or invitation of another kind of security shall be made unless allotment with respect to offer or invitation made earlier in respect of any other kind of security is completed, withdrawn or abandoned by the company.
- **A company shall not utilize monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar within 15 days from the date of allotment.**
- Application money received shall be kept in a separate bank account in a scheduled bank.
- Application money should be received through cheque/ demand draft/ any other banking channels, **but not in cash.**
- **A company issuing securities under Private Placement shall not release any public advertisements or use any other marketing source to inform public about such issue.**

7.1.3 Rights Issue (Applicable to Public and Private Companies) [Section 62]

Approval	Board approval is required.
Notice	The notice for the Right issue 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.

Allottees:	<p>Allotment shall be made to:</p> <ul style="list-style-type: none">holders of equity share holders of the Company in proportion to the equity shares held on the date of offer.The offer shall be made by notice specifying the number of shares offered and time, being not less than 15 days and not more than 30 days from the date of the offer. <p>A private company may reduce this period subject to the consent of 90% of the members of the company.</p> <ul style="list-style-type: none">If the offer is not accepted within given time it shall be deemed as declined.Unless articles provide otherwise, the offer shall be deemed to include a right to renounce the shares or renounce them in name of any other person.After expiry of the time or on receipt of earlier intimation, the person to whom the offer is made, declines the shares offered, the Board may dispose of the shares in such manner as may be advantageous to the shareholders and the Company. <ul style="list-style-type: none">employees under a scheme of employee's stock option by special resolution of members. (An ordinary resolution shall be sufficient in case of a private company).any other person either for cash or for a consideration other than cash, if 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.
Time limit for allotment	Allotment of securities must be completed within 12 months of passing of resolution.

7.1.4 **Bonus Issue (Applicable to Public and Private Companies) [Section 63]**

- Bonus shares may be issued by a company out of:

- a. its free reserves;
 - b. the securities premium account; or
 - c. the capital redemption reserve account.
- Except upon the fulfillment of certain conditions, a company cannot capitalize its profits or reserves for the purpose of issuing bonus shares.
 - Bonus shares cannot be issued in lieu of dividend.
 - A company which has announced the decision of its Board recommending a bonus issue, shall not subsequently withdraw the same.

7.1.5 Issue of Sweat Equity Shares [Section 54]

- **Approval:** Special Resolution
- **Notice:** Explanatory statement of the notice requires a lot of particulars to be stated therein.
- **Lock in period:** 3 years from the date of allotment
- **Price:** Determined by registered valuer
- **Remuneration:** It shall be treated as part of the managerial remuneration
- **Disclosure:** The following disclosures are required:
 - Board's report must contain certain disclosures.
 - Register of sweat equity shares must be maintained at the registered office and must be authenticated by a CS or any other person authorised by the Board.
 - **A newly incorporated Company can now issue sweat equity shares of a class of shares already issued at any time post its registration.**

7.1.6 Employee Stock Option Scheme [Section 62]

- **By Listed Companies:** Where the equity shares of the company are listed on a recognized stock exchange, the Employees Stock Option Scheme shall be issued, in accordance with the regulations made by SEBI.
- **By Unlisted Companies:** Procedure for Unlisted Companies for issuing employee stock option is as follows:

Conditions/Requirements	Restrictions	Disclosures
<p>a. Special resolution in general meeting and Ordinary resolution in general meeting for a private company.</p> <p>b. The option can only be granted to employees of company, as more specifically defined in the rules.</p> <p>c. The company shall have freedom to determine the exercise price in conformity with applicable accounting policies, if any.</p> <p>d. There shall be a minimum 1 year lock in period between grant of options and vesting of option.</p> <p>e. The company shall have freedom to specify lock in period for shares.</p> <p>f. In event of death of employee while in employment, options granted to him shall vest in the legal heirs or nominees.</p> <p>g. Separate special resolution shall be required for grant of option to employees of subsidiary or holding company; or where the grant of option to employees during 1 year is equal to or exceeds 1% of issued capital.</p>	<p>a. An employee who is promoter or person belonging to promoter group or director directly or indirectly holding more than 10% of outstanding equity shares shall not be eligible for ESOP.</p> <p>b. Options granted to employees shall not be transferable to any other person.</p> <p>c. Options granted cannot be pledged, hypothecated, mortgaged or encumbered.</p>	<p>a. Certain disclosures must be made in Explanatory Statement.</p> <p>b. Board's report for the year must disclose particulars of ESOP.</p> <p>c. Company to maintain Register of Employee Stock Options which can be maintained at the registered office or such other place as may be specified by the Board.</p>

7.1.7 **Issue of Equity Shares with Differential Voting Rights [Section 43]**

With respect to a private company, the provisions of the Act shall be subject to the provisions of the Memorandum and articles.

- **Approval:** The following approvals are required:

- Authorization in the articles of company
- Ordinary Resolution
- In case of listed company, resolution by postal ballot
- **Limit:** Shares with differential voting rights shall not exceed 26% of total post-issue paid-up equity share capital including equity shares with differential voting rights issued at any point of time.
- **Track record:** The company to have track record of distributable profit for last 3 years.
- **No default:** The company should not have defaulted in:
 - filing financial statement and annual return for preceding 3 financial years.
 - payment of dividend, repayment of matured deposits, redemption of preference shares or debentures, payment of interest on deposits or debentures.
- **Conversion:** The company cannot convert existing equity shares into equity shares with differential voting rights and vice versa.
- **Disclosures:** The following disclosures must be made:
 - Disclosure of information required to be given in Explanatory Statement.
 - Disclosure of information as prescribed in Board's report for the financial year in which such issue is completed.
 - Register of members to contain all relevant particulars of the shares so issued.

7.1.8 Issue of Shares on Preferential Basis

- Meaning: 'Preferential Offer' means an issue of shares or other securities, by a company to **any select person or group of persons** on a preferential basis and does not include a
 - public issue
 - rights issue

- employee stock option scheme
 - employee stock purchase scheme
 - issue of sweat equity shares
 - bonus shares or
 - depository receipts issued in a country outside India or foreign securities.
- **Shares:** Equity shares, fully and partly convertible debentures or
 - **Securities:** Any other security convertible into or exchanged with equity shares at a later date.
 - **Approval:** The following approvals are required
 - Authorization in articles of company
 - Special Resolution
 - **Fully paid-up:** Securities shall be made fully paid-up at the time of their allotment.
 - **Disclosure:** Explanatory Statement must disclose certain information.
 - **Allotment:** Within 12 months from special resolution otherwise a fresh special resolution would be required.
 - **Consideration:** Securities may be issued for cash or for any other consideration determined by registered valuer.

The provisions governing private placement should also be followed with respect to issue of shares on preferential basis except where the issue is made to one or more existing shareholders only.

7.1.9 Issue and Redemption of Preference Shares [Section 55]

- **Approval:** The following approvals are required
 - Authorization in articles of company
 - Special Resolution
- **No default:** The company should not have at the time of issue defaulted in

- the redemption of preference shares or
 - payment of dividend due on any preference shares.
- Redemption: The company may redeem the preference shares:
 - at a fixed time or on the happening of a particular event;
 - any time at the company's option; or
 - any time at the shareholder's option.
 - **Where a company fails to redeem any preference shares or to pay dividend, it may, with the consent of the holders of three-fourths in value of such preference shares and with the approval of the NCLT, issue further redeemable preference shares equal to the amount due, including the dividend thereon, in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed preference shares shall be deemed to have been redeemed.**
- **Infrastructure Company:** A company engaged in the setting up and dealing with infrastructural projects may issue preference shares for a period exceeding 20 years but not exceeding 30 years. In this case the company must redeem a minimum ten percent of such preference shares every year latest from the twenty first year.

7.1.10 Restrictions on Purchase by Company or Giving of Loans by it for Purchase of its Shares [Section 67]

Private companies:

- a) in whose share capital no other body corporate has invested any money;
 - b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice its paid up share capital or fifty crore rupees, whichever is lower; and
 - c) such a company is not in default in repayment of such borrowings subsisting at the time of making transactions under this section
- have been exempted from this restriction on purchase by company of its shares or giving loan by company for purchase of its shares.**

7.1.11 Issue of Debentures [Section 71]

- **Approval:** Special Resolution is required for issue of debentures with or without option of conversion into shares.
- **Voting Rights:** The debentures issued shall not carry voting rights.
- **Date of Redemption:** Maximum 10 years from date of issue except companies engaged in infrastructure projects, infrastructure finance companies and infrastructure debt fund non-banking financial companies can issue debentures for more than 10 years but not exceeding 30 years.
- **NCLT may, by order, direct the company to redeem the debentures forthwith on payment of principal and interest due thereon.**
- **Appointment of Debenture Trustee:** If a company issues a prospectus or makes an offer or invites the public or its members exceeding 500 in number for subscription of debentures, appointment of debenture trustee is mandatory.

The company shall appoint a debenture trustee before the issue of prospectus or letter of offer for subscription of its debentures and not later than 60 days after the allotment of the debentures.

- **Duties of Debenture Trustee:** Debenture trustee on coming to a conclusion that the assets of the company are insufficient to discharge the principal amount, may file a petition before the NCLT.
- **Debenture Redemption Reserve (DRR):** The Company shall create Debenture DRR out of profits.

7.2 Payment of Dividend [Section 123]

Final Dividend	
In case of profit	In case of loss
The company may declare dividends out of <ul style="list-style-type: none">- Profits of the company for that year after providing depreciation.- Profits of the company for any	<ul style="list-style-type: none">- In case of inadequacy of profits or absence of profits in any year, a company may declare dividend out of surplus transferred to reserves subject to conditions, namely:<ul style="list-style-type: none">• The total amount to be drawn

Final Dividend	
In case of profit	In case of loss
<p>previous year or years arrived after providing for depreciation.</p> <ul style="list-style-type: none"> – Out of money provided by the Central Government or State Government for the payment of dividend by the company in pursuance of guarantee given by the company. 	<p>shall not exceed one-tenth of the sum of its paid-up share capital and free reserves as per latest audited financial statement.</p> <ul style="list-style-type: none"> • The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared. • The balance of reserves after such withdrawal shall not fall below 15 % of its PSC. • 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 of the current year.
Interim Dividend	
In case of profit	In case of loss
<ul style="list-style-type: none"> – Out of surplus in the profit and loss account. – Out of profits of the financial year in which such interim dividend is sought to be declared. 	<ul style="list-style-type: none"> – Dividend cannot be declared at a higher rate than the average dividends declared by the company during immediately preceding 3 financial years.

– **Procedure:**

- Amount of dividend, including interim dividend, to be deposited in a scheduled bank account within 5 days of declaration of dividend.
- Unpaid or unclaimed dividend from 30 days of declaration to be transferred to Unpaid Dividend Account within 7 days from the expiry of 30 days.

- Unpaid or unclaimed dividend for a period of 7 years from the date of transfer to the Unpaid Dividend Account to be transferred to Investor Education and Protection Fund.



8.1 Registers [Section 88]

– Register of Members

- A company must maintain a register of shareholders, register of debenture holders and a register of any other security holders.
- The register of shareholders must contain details of each class of equity and preference shareholders residing in India and outside India.

– Foreign Register

A company may maintain a register called the 'foreign register' outside India containing particulars of security holders outside India. This is subject to authorization in the articles of the company. Notice of situation of foreign register must be given to the ROC within 30 days from the opening of such a register.

8.2 Investigation of beneficial ownership of shares in certain cases [Section 90]

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.

- **The company shall file a return of significant beneficial owners of the company and changes therein with the Registrar.**
- **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.**
- **If any person wilfully 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 section 447.**

8.3 Annual Return [Section 92]

The provisions apply to all companies including companies not having a share capital

Sr. No.	Particulars	Requirements under the Act
1.	Additional Requirements	The Act now requires a lot of additional information to be provided for in the annual return.
2.	Period of reporting	The annual return must be filed till the close of the financial year and not till the AGM of the company.
3.	Signing	It must be signed by a director and CS and in the absence of a CS by a practicing CS. In case of OPC, small company and private company which is a start up company, it must be signed by CS or in his absence by the director of company.
4.	Certification	Annual return filed by a <ul style="list-style-type: none"> - listed company or - a company with <ul style="list-style-type: none"> • PSC of Rs. 10 crores or more or • turnover of Rs. 50 crore or more, shall be certified by a practicing CS.
5.	Board's report	Now, there is no requirement to have an extract of annual return in Board Report.
6.	Time period for filing	The annual return must be filed with the ROC within 60 days from the AGM.

8.4 Electronic Records [Section 120]

The following companies may maintain their records in electronic form

- Every listed company or
- A company having not less than 1000 shareholders, debenture holders and other security holders.

Responsibility: The onus is on the MD, CS or any other director or officer as decided by the Board for security of records.

8.5 Meetings

8.5.1 Annual General Meeting (AGM) [Section 96]

The table below containing FAQs compiled by us explains the provisions relating to AGM

Sr. No.	Particulars	Requirements
1.	When should an AGM be held?	First AGM First AGM must be held within 9 months from the closure of the first financial year of the company. Subsequent AGM <ol style="list-style-type: none">AGM must be held in each year.AGM must be held within 15 months from the date of previous AGM.AGM must not be held later than 6 months from the date of closure of the financial year.
2.	Where to conduct AGM?	AGM must be held either at registered office of the company or at some other place within the city, town or village where the registered office of the company is situated. Unlisted Public companies and Private Companies can conduct AGM at any place in India if all members give their consent in advance.
3.	On what days can you conduct an AGM?	AGM must be held during business hours i.e. between 9 a.m. to 6 p.m. on any day which is not a national holiday.
4.	How much notice is required?	Notice must be given at least 21 clear days in advance. It may be sent in electronic format. Shorter Notice. A shorter notice may be given subject to consent of at least 95% of the members entitled to vote.
5.	What is the quorum required for conducting an AGM?	Private Company 2 members are required to be personally present for a valid meeting. Public Company Minimum number of members required to be

Sr. No.	Particulars	Requirements								
		personally present for a valid meeting shall be as per the requirement stated below: <table><tr><th>No. of Members of the Company</th><th>No. members as on the date of AGM</th></tr><tr><td>less than 1,000 members:</td><td>5 members</td></tr><tr><td>1,001 to 5,000 members:</td><td>15 members</td></tr><tr><td>more than 5,000 members:</td><td>30 members</td></tr></table>	No. of Members of the Company	No. members as on the date of AGM	less than 1,000 members:	5 members	1,001 to 5,000 members:	15 members	more than 5,000 members:	30 members
No. of Members of the Company	No. members as on the date of AGM									
less than 1,000 members:	5 members									
1,001 to 5,000 members:	15 members									
more than 5,000 members:	30 members									
6.	Can a member vote electronically?	Every listed company and a company having not less than 1000 shareholders, shall provide to its members facility to exercise their right to vote at general meetings by electronic means subject to the fulfillment of certain requirements.								
7.	What is the filing that should be done with respect to an AGM?	<ul style="list-style-type: none">– Every listed company must prepare a report on AGM.– The report shall be signed by the Chairman of the meeting or in his absence by 2 directors one of whom shall be MD, if there is one and CS of the Company.– The report is to be filed with ROC within period of 30 days from date of conclusion of AGM.								

A private company may, however, contain more lenient provisions than those provided in the Act governing notice of meeting, explanatory statement, quorum for meetings, chairman of meetings, proxies, restriction on voting rights, voting by show of hands and demand for poll.

8.5.2 Extra Ordinary General Meetings (EGM)

The Board may whenever it deems fit, call an EGM.

All provisions relating to Notice (including shorter notice) and quorum as provided in respect of an AGM shall be applicable to an EGM.

Wholly owned subsidiaries of companies incorporated outside India are allowed to hold their EGM outside India.

8.5.3 Board Meetings

The table below indicates the provisions relating to Board Meetings.

Sr. No.	Particulars	Requirements
1.	How often should you conduct a Board Meeting?	<p>First meeting of the Board First Board Meeting must be held within 30 days of incorporation.</p> <p>Subsequent Board meetings 4 meetings to be held every year. Gap between two meetings should not be more than 120 days.</p> <p>OPC, Small company, dormant company and a private company (if such private company is a start-up) to have two board meeting in each half of a calendar year and the gap between the two meetings not to be less than ninety days.</p>
2.	How much notice is required?	<ul style="list-style-type: none"> – At least 7 days' notice in writing should be given to every director at his address registered with the Company. – Notice can be sent by hand delivery or post or electronic means. <p>Shorter Notice</p> <ul style="list-style-type: none"> – A meeting may be called at a shorter notice but 1 independent director must be present. If independent director is not present, the decisions will be final subject to ratification by an independent director. – In case of conveying of Board Meeting by a private company at shorter notice a circular for clarification by MCA would be welcome.
3.	What is the quorum required for conducting a Board Meeting?	<ul style="list-style-type: none"> – The quorum required is 1/3rd of the total strength or 2 directors whichever is higher. – In situations where due to the removal or resignation of a director, required quorum is not present, the continuing directors may appoint new directors to fulfill the quorum requirement or for calling an AGM/ EGM.

8.5.4 Board Meeting Through Video Conferencing [Section 173]

- **Notice of the meeting:** The notice of the meeting shall inform the directors regarding the option available to them to participate through video conferencing mode or other audio visual means.
- **Intimation by Director**
 - a. A director intending to participate through video conferencing or audio visual means shall communicate his intention to the chairperson or the CS of the company.
 - b. The director, who desires, to participate may intimate his intention of participation through the electronic mode at the beginning of the calendar year and such declaration shall be valid for 1 calendar year.
 - c. **Such declaration shall not debar him from participation in the meeting in person in which case he shall intimate the company sufficiently in advance of his intention to participate in person.**
- **While conveying Board Meeting through video conferencing or any other audio video means, a company must:**
 - a. safeguard the integrity of the meeting by ensuring sufficient security and identification procedures.
 - b. record proceedings and prepare the minutes of the meeting.
 - c. store for safekeeping and marking the tape recordings or other electronic recording mechanism as part of the records of the company at least before the time of completion of audit of that particular year.
 - d. **to ensure that no person other than the concerned director are attending or having access to the proceedings of the meeting through video conferencing mode or other audio visual means; and**
 - e. **to ensure that participants attending the meeting through audio visual means are able to hear and see the other participants clearly during the course of the meeting.**

- **The following matters shall not be dealt with in a meeting through video conferencing or other audio visual means:**
 - a. approval of the annual financial statements;
 - b. approval of the Board's report;
 - c. approval of the prospectus;
 - d. **audit committee meetings for consideration of financial Statement including consolidated financial statement if any;**
 - e. approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.

However, the directors can attend the meeting through video conference on the above matters if the required quorum is present at the venue of meeting.

8.6 Proxies [Section 105]

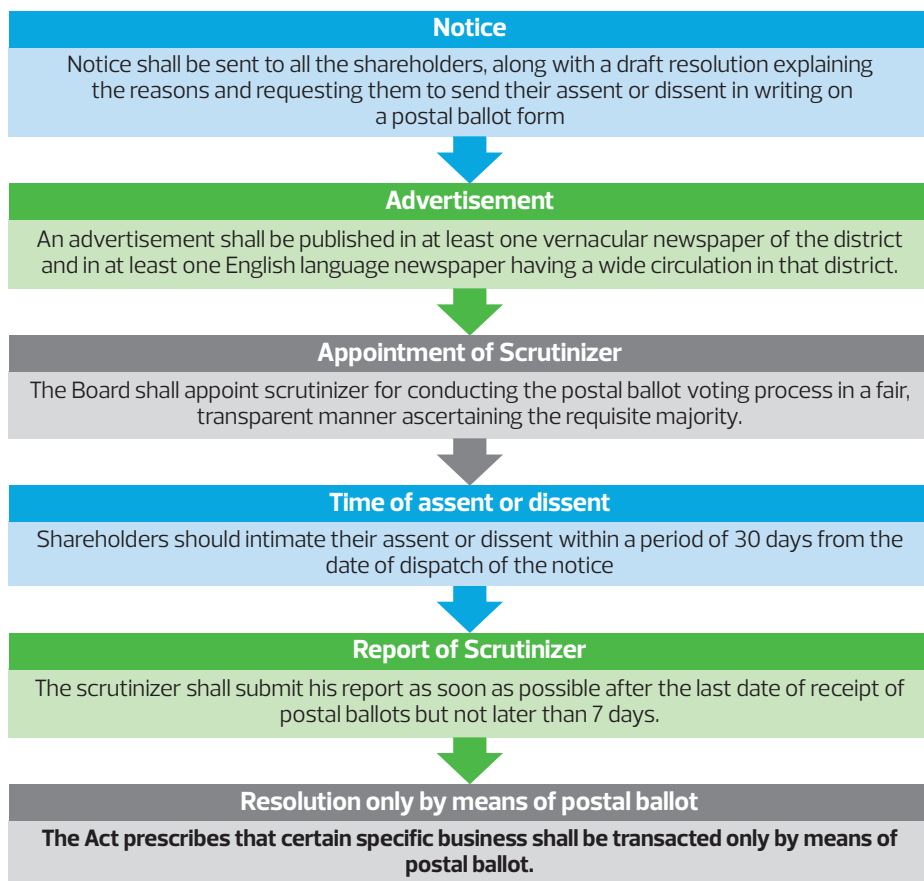
- A person appointed as proxy cannot act on behalf of more than 50 members and holding in aggregate more than 10% of total share capital of the company carrying voting rights.
- However, a member holding more than 10% of the total share capital of the company carrying voting rights may appoint a single person as proxy and such person shall not act as proxy for any other person or shareholder.

8.7 Postal Ballot [Section 110]

(Applicable to Listed and Public Companies having more than 200 members)

For any item of business required to be transacted by means of postal ballot, the same may be transacted at a 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.

Following procedure shall be followed for passing of resolution by postal ballot.



8.8 Miscellaneous

8.8.1 Limitation of time for Issue of Certificates [Section 56]

Every company shall deliver the certificates of all securities allotted, transferred or transmitted within the time limits specified below:

- **Incorporation:** Within a period of **2 months** from the date of incorporation in the case of subscribers to the memorandum.
- **Allotment:** Within **2 months** from the date of allotment, in case of any allotment.
- **Transfer:** Within a period of **1 month** from the date of receipt of the

instrument of transfer by the Company.

- **Debentures:** Within a period of **6 months** from the date of allotment of debenture.

8.8.2 Secretarial Audit [Section 204]

- **Applicability:**
 - Listed Company
 - Public company having
 - PSC: Rs. 50 crore or more or
 - Turnover: Rs. 250 crore rupees or more.
- **Authority:** Practicing CS
- **Duty of Company:** The Company shall give all assistance and facilities to Practicing CS for auditing the secretarial and related records of the Company.
- **Board Report:** Board report shall include any explanation to any qualification or observation or any remarks made by Practicing CS in Secretarial Audit Report.



9.1 Changes in Key Definitions

- **Definition of Subsidiary** is amended to provide for exercise or control of more than one-half of the total voting power either by the holding company at its own or together with one or more of its subsidiary companies, in the company.
- **Preference shares with no voting rights** no longer to be considered for determining holding – subsidiary relationship between companies.
- **Definition of Holding Company** amended to include body corporate too.
- **Related party** to include holding companies which might be foreign bodies corporate. This was already the provision under the Accounting Standards.

9.2 Memorandum and Articles of Association [Section 4 and Section 5]

The Act has introduced a few changes with respect to the Memorandum and Articles of Association of a company. The key changes are listed below:

9.2.1 Memorandum of Association: The **objects clause** of the memorandum need not be classified into main, ancillary and other objects. It should only state the objects for which the company is incorporated along with matters considered necessary for its furtherance.

9.2.2 Articles of Association: The articles may contain a provision for **entrenchment** to the effect that specified provisions of the articles may be altered only if conditions or procedures that are more restrictive than those applicable in the case of a special resolution are met with. The provisions for entrenchment can be made in the articles by a unanimous resolution of the private company or a special resolution of a public company.

Reservation of name of company: The proposed name of new company will be valid / reserved for the period of 20 days.

The company to have its name, address of registered office and Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications.

9.3 PSC Requirement and Commencement of Business

- **No minimum paid up share capital prescribed for private as well as for public companies.**
- **Certificate of Commencement of Business is no longer required even for public companies.**

9.4 Common Seal

A company is not mandatorily required to have a common seal.

9.5 Associate Company [Section 2(6)]

The Act contains the definition of the term 'associate company'. Thus an associate company in relation to another company, means a company, in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

- **Significant influence means control of at least 20% of total voting power or control, or participation of business decisions under an agreement.**
- **Joint venture means joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.**

9.6 Small Company



IS A SMALL COMPANY

- Small company means a company, other than a public company with
- PSC : upto Rs. 50 lakh and
- Turnover: upto Rs. 2 crores.
- CG may increase the prescribed limit upon PSC and turnover as and when needed but **upto 10 crore and 100 crore respectively.**



IS NOT A SMALL COMPANY

- A holding company or a subsidiary company are not a small company even if they fulfill the criteria.
- a company registered under section 8.
- a company or body corporate governed by any special Act.

9.6.1 Features

- Only a private company can be classified as a small company.
- The status of a company as 'small company' may change from year to year. Thus the benefits which are available during a particular year may stand withdrawn in the next year and become available again in the subsequent year.

9.6.2 Special Provisions and Exemptions available to a small company

- The annual return can be signed by the CS alone, or where there is no CS, by a single director of the company.
- A small company may hold only two Board Meetings in a year, i.e. one Board Meeting in each half of the calendar year with a minimum gap of 90 days between the two meetings.
- A small company need not include Cash Flow Statement as a part of its financial statements.
- Mandatory rotation of auditor is not applicable to a small company.
- The procedure for merger of two small companies is simpler.

9.7 Section 8 Company

The table below contains certain FAQs compiled by us dealing with the important provisions related to a Section 8 Company:

Sr. No.	Particulars (FAQs)	Provision
1.	What is a section 8 company?	<p>A section 8 company is a company which is a limited company that:</p> <ul style="list-style-type: none">- has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object- intends to apply its profits, if any, or other income in promoting its objects and- intends to prohibit the payment of any dividend to its members.

Sr. No.	Particulars (FAQs)	Provision
2.	What are the key exemptions provided to a Section 8 company?	<p>A section 8 company enjoys the following key exemptions:</p> <ul style="list-style-type: none"> - It is not required to appoint a company secretary. - A notice of only 14 days may be given for holding a general meeting. - Recording of minutes is not mandatory except where the articles require the minutes to be confirmed by circulation. - There shall be no maximum limit on the number of directors, number of directorships and appointment of independent director is not required. - Provisions governing right of persons other than retiring directors to stand for directorship shall not apply where articles provides for election of directors by ballot. - Only 1 meeting of the Board is required to be held in every 6 calendar months. - The quorum for meetings of the Board shall be either 8 members or 25% of its total strength, whichever is less, minimum being presence of two directors. - Constitution of Nomination and Remuneration Committee and Stakeholders Relationship Committee is not required. - Resolutions governing borrowing monies, investing the funds of the company and granting loans or giving guarantee or providing security may be passed by circulation. - Provisions governing disclosure of interest by director shall only apply where terms and conditions of the contract or arrangement exceed Rs. 1 lakh. - Register of contracts or arrangements must be maintained only where the terms and conditions of the contract or arrangement exceed Rs. 1 lakh.

9.8 Dormant Company [Section 455]

9.8.1 Which company can apply for the status of a dormant company?

- Company which is formed for a future project or to hold an asset or intellectual property and has no significant accounting transaction or
- An inactive company i.e. a company which has not been carrying on any business or operation or has not made any significant accounting transaction or has not filed financial statements and annual return in the last 2 financial years.

9.8.2 What documents should a dormant company file?

A dormant company must file a 'Return of Dormant Company' annually for maintaining its status as a dormant company.

9.9 Merger under the NCLT Route [Section 230 – Section 232]

As per the provisions of section 230 –232 of the Companies Act, 2013, a company may enter into an arrangement for amalgamation with another company by making an application along with the Scheme of Amalgamation to the jurisdictional National Company Law Tribunal ("NCLT") where the registered offices of the companies are situated.

1. Both the amalgamating and amalgamated company needs to obtain the approval of majority of creditors.
2. Further, the scheme of amalgamation needs to be approved by the shareholders of both the amalgamating and amalgamated company.
3. Also, approvals from regulatory authorities such as Registrar of Companies (ROC), RD, Official Liquidator (where company is wound up without liquidation) are required for sanction of the Scheme by the NCLT.

9.10 Fast Track Mergers [Section 233]

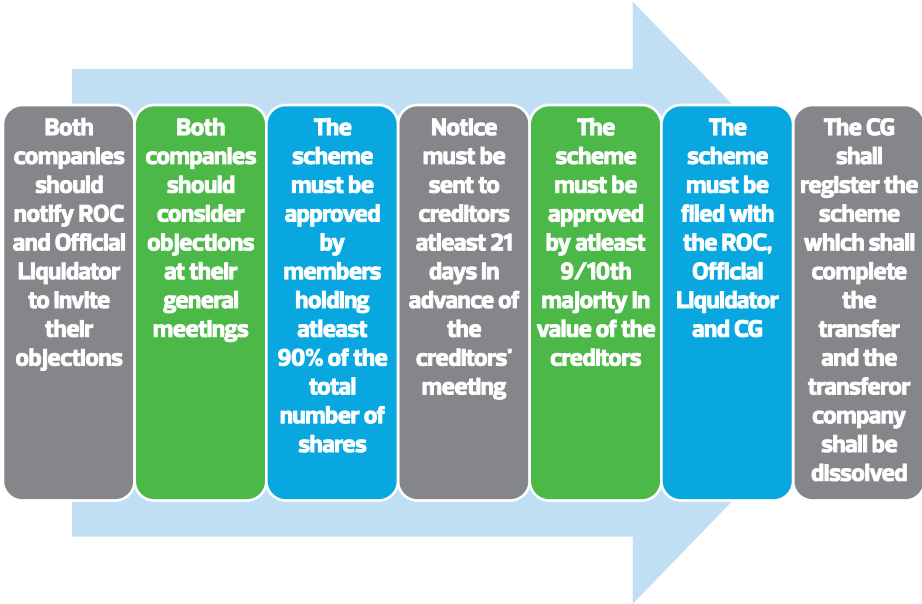
The Act now provides a fast track or a simplified procedure for merger between certain classes of companies where **no approval of the NCLT** is required.

The provisions apply to the merger or amalgamation of the following class of companies :

- Two or more small companies

- Holding company with its wholly-owned subsidiary
- Such other classes as may be prescribed.

Procedure of a Fast Track Merger:



Regular Procedure: Any company to which these provisions are applicable may choose to follow the provisions applicable to mergers and amalgamations applicable to other companies not covered under these provisions.

9.11 Cross Border Merger [Section 234]

Merger of companies registered under this Act and companies incorporated in the jurisdictions of such countries as may be notified from time to time by the Central Government, now permissible. Approval of the RBI along with the approval of the NCLT, would also be needed for such mergers.

9.12 Purchase of Minority Shareholding [Section 236]

In this section, the majority shareholders of the company acquire the shares of minority shareholders.

- In the event of any person or group of persons becoming ninety per cent majority or holding ninety per cent of the issued equity share capital of a

company, by virtue of an amalgamation, share exchange, conversion of securities or for any other reason, such acquirer, person or group of persons, as the case may be, can buy-out the remaining minority shareholding of the Company and for such buy-out it shall notify the company of their intention to buy the remaining equity shares.

- **Price for the same to be determined on the basis of valuation by a registered valuer.**
- **The majority shareholders will have to deposit an amount equal to the value of shares to be acquired by them in a separate bank account to be operated by the company whose shares are being transferred.**

9.13 Class Action [Section 245]

9.13.1 Meaning: A concept of class action has been introduced in the Act which gives right to members or deposit holders to file an application before the NCLT for restraining the company from doing certain acts.

9.13.2 Number of applicants

The requisite number for members/ depositors who can file for class action suit shall be as under:

In case of company having a share capital	In case of company not having a share capital	Requisite number of depositors
Not less than 100 members of the company.	1/5th of the total number of its members.	Not less than 100 depositors.

9.13.3 Reliefs that can be claimed

An application may be filed by eligible members or depositors to the NCLT if it feels that the conduct of the affairs of the company is prejudicial to the interests of the company seeking the following reliefs:

- **Restraining the company** from committing an act ultra vires or in breach of the articles or memorandum of the company, the Act or any other law for the time being in force.
- **Declaring a resolution altering the memorandum or articles as void** if the resolution was passed by suppression of material facts or obtained by

misstatement to the members or depositors and also restraining the company and its directors from acting on such resolution.

9.13.4 Against whom to make a claim?

A claim for damages or compensation or demand for an action can be made in respect of any fraud, misstatement, unlawful or wrong act, etc. against:

- The company
- Its directors
- Its Auditors
- Expert or advisor or consultant

9.13.5 Effect of an order of the NCLT

Any order passed by the NCLT shall be **binding** on every entity against which it has been passed. A company which fails to comply with the order passed by the NCLT in this regard shall be punished with a heavy fine and every officer in default shall be punished with imprisonment and fine.

The provisions of class action do not apply to a banking company.

9.14 Registered Valuer [Section 247]

Wherever a valuation is required to be made in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of company or its liabilities under the Act, it shall be valued by a registered valuer.

9.14.1 Appointment: A registered valuer shall be appointed by the audit committee or in its absence, by the Board.

9.14.2 Qualifications

A person shall be eligible to be appointed as a registered valuer who is having such qualifications and experience, registered as a valuer and being a member of an organisation recognised, in such manner, on such terms and conditions as may be prescribed.

9.14.3 Responsibility of the Registered Valuer: The registered valuer shall

- Make an impartial, true and fair valuation of any assets required to be valued
- Exercise due diligence while performing the functions as valuer

- Make the valuation in accordance with the provisions of the Act and
- Not undertake valuation of any assets in which he is directly or indirectly 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.**

9.14.4 Functions under the Act: A Registered Valuer is required for the purpose of valuation of the following:

- Further issue of shares to any person for cash or for a consideration other than cash.
- Valuation of assets with respect to non-cash transactions involving directors.
- Valuation of property and assets in respect of a compromise or arrangement.
- Purchase of minority shareholding.
- Valuation of assets for the purpose of the report by company liquidator.

9.14.5 Punishment

- The Registered Valuer shall be punished with a penalty if he commits a default.
- The Registered Valuer shall be punished with a penalty and imprisonment if he contravenes the provisions of the Act in order to defraud the company or its members.
- The Registered Valuer shall be liable to refund the remuneration received by him to the company and pay damages to the company or any other person for loss arising out of incorrect or misleading statements of particulars made in his report.

Central Government has delegated the powers and functions vested in it under section 247 of the said Act to the Insolvency and Bankruptcy Board of India.

9.15 Miscellaneous Provisions

9.15.1 Punishment for fraud

- A person 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.

- If the fraud involves public interest, imprisonment shall not be less than three years.
- In case 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 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.

Abbreviations

Abbreviation	Full Form/Meaning
AGM	Annual General Meeting
AOA	Articles of Association
Act	Companies Act, 2013
AS	Accounting Standard
Board	Board of Directors
CA	Chartered Accountant
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CFS	Consolidated Financial Statement
CG	Central Government
CRR	Capital Redemption Reserve
CS	Company Secretary
CSR	Corporate Social Responsibility
CSRC	Corporate Social Responsibility Committee
CWA	Cost and Works Accountant
DRR	Debenture Redemption Reserve
EGM	Extra Ordinary General Meeting
ESOP	Employee Stock Option Scheme
FAQ	Frequently Asked Questions
KMP	Key Managerial Personnel
MCA	Ministry of Corporate Affairs
MD	Managing Director
MOA	Memorandum of Association
NBFC	Non- Banking Financial Company

Abbreviation	Full Form/Meaning
NCLT	National Company Law Tribunal
NFRA	National Financing Reporting Authority
NOC	No Objection Certificate
OPC	One Person Company
POS	Partly Owned Subsidiary
PSC	Paid-up Share Capital
RBI	Reserve Bank of India
RD	Regional Director
RO	Registered Office
ROC	Registrar of Companies
SEBI	Securities and Exchange Board of India
SPA	Securities Premium Account
SH-4	Share Transfer Deed
WOS	Wholly Owned Subsidiary

**Mumbai**

13th Floor, Bakhtawar
229, Nariman Point
Mumbai – 400 021

3rd Floor, A Wing,
Technopolis Knowledge Park
Mahakali Caves Road, Andheri (E)
Mumbai – 400 093

201, Shree Padmini
Teli Galli Junction
Andheri (E), Mumbai – 400 069

New Delhi – NCR

2nd Floor, Tower-B
B-37, Sector-1
Noida – 201 301

Chennai

Apex Towers, 2nd Floor
No.54, II Main Road
R.A. Puram
Chennai – 600 028

1A, Chamiers Apartments
62/121, Chamiers Road
R. A. Puram, Chennai – 600 028

Kolkata

A-6, 12th Floor
Chatterjee International Centre
33A, Jawaharlal Nehru Road
Kolkata – 700 071

Bengaluru

3rd Floor, B Wing
Jubilee Building, 45, Museum
Road, Bengaluru – 560 025

Surat

DTA-2, G-02 to G-05 Plot
Gujarat Hira Bourse
Ichhapore-2
Surat – 394 510

T-720, Belgium Tower
Opp. Linear Bus Stop
Ring Road, Surat – 395 002

B/604-605, Tirupati Plaza
Athwa Gate, Nanpura
Surat – 395 001

Hyderabad

217, Maruthi Corporate Point
Swapnalok Complex
92, Sarojini Devi Road
Secunderabad – 500 003

Ahmedabad

B-504, Narnarayan Complex
Navrangpura
Ahmedabad – 380 009

Pune

102, 1st Floor
Shree Residency
Baner Balewadi Road
Balewadi, Pune – 411 045

Gandhidham

Divyasarka, Plot No. 41
Ward 10-A, Gurukul
Gandhidham – 370 201

Jaipur

346, 3rd Floor
Ganpati Plaza, M.I. Road
Jaipur – 302 001

For further information please contact :

RSM Astute Consulting Pvt. Ltd.

13th Floor, Bakhtawar, 229, Nariman Point, Mumbai – 400 021.

T: (91-22) 6108 5555 / 6121 4444

F: (91-22) 2287 5771

E: emails@rsmindia.in

W: www.rsmindia.in

Offices: Mumbai, New Delhi–NCR, Chennai, Kolkata, Bengaluru, Surat, Hyderabad, Ahmedabad, Pune, Gandhidham and Jaipur.



facebook.com/RSMIndia



twitter.com/RSM_India



linkedin.com/company/rsm-india

RSM Astute Consulting Pvt. Ltd. (including its affiliates) is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network.

Each member of the RSM network is an independent accounting and consulting firm, each of which practises in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction.

The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London, EC4N 6JJ.

The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

In this publication, we have provided an updated version of the Companies Act, 2013 incorporating the amendments made vide the Companies Amendment Act 2015 and Companies Amendment Act 2017. We have also provided a compliance calendar covering regular as well as event based compliances. This publication should not be relied upon for taking actions or decisions without appropriate professional advice and it may be noted that nothing contained in this publication should be regarded as our opinion and facts of each case will need to be analysed based on specific facts. While all reasonable care has been taken in preparation of this publication, we accept no responsibility for any liability arising from any statements or errors contained in this publication.