



E-Filing Under Companies Act, 2013

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Overview of

- ❖ Passed by Lok Shabha on 18-12-2012
- ❖ Passed by Rajya Shabha on 08-08-2013
- ❖ Got President Assent on 29th August 2013 & notified on 30th August, 2013
- ❖ 470 Sections (658)
- ❖ 29 Chapters (13)
- ❖ 7 Schedules (15)
- ❖ 99 Sections were notified on 12-09-2013
- ❖ 199 Sections were notified w.e.f 01-04-2014
- ❖ 172 Sections Yet to be notified

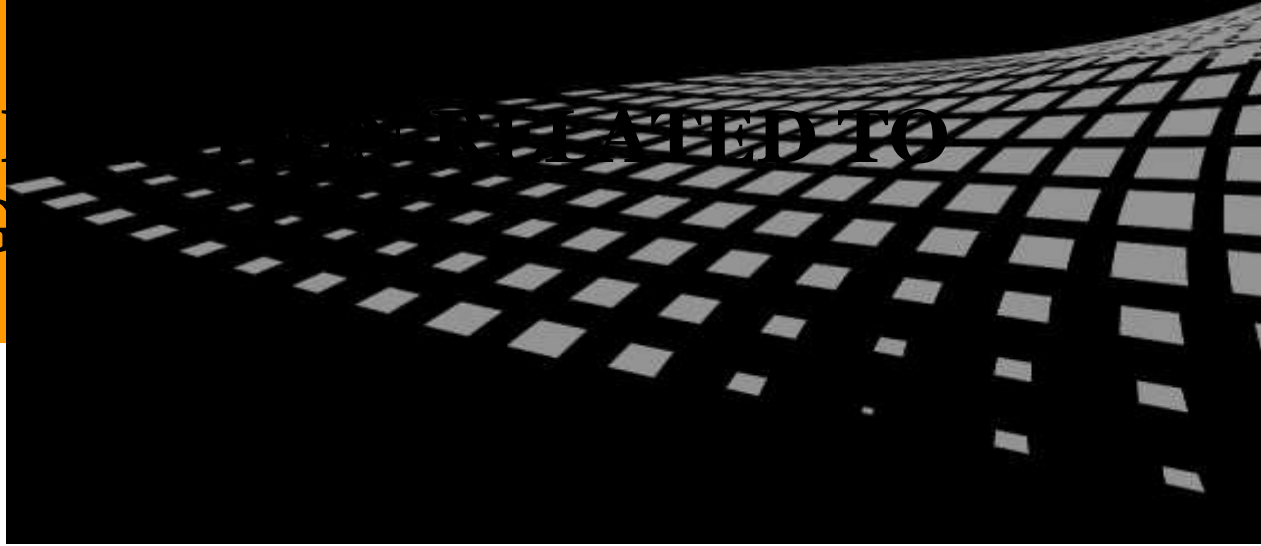
IMPORTANT DEFINITIONS RELATED TO ANNUAL FILING

Financial Statement Section

- (i) a balance sheet as at the end of the financial year;
- (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
- (iii) cash flow statement for the financial year;
- (iv) a statement of changes in equity, if applicable; and
- (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

**IMPORTANT DEVELOPMENTS RELATED TO
ANNUAL FILING**



IMPORTANT D

2(85) “small company” means a company, other than a public company,—

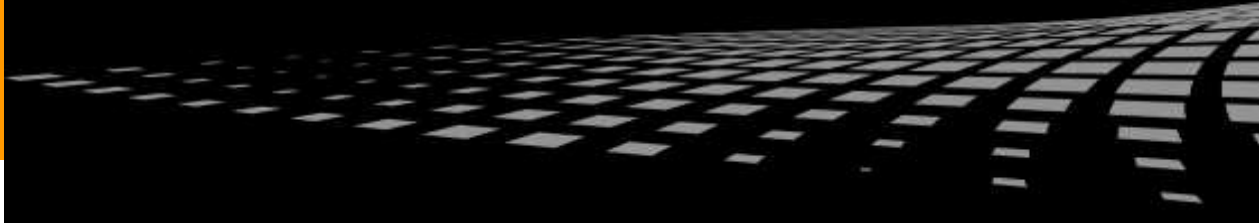
- (i) paid-up share capital of which does not exceed 50 lakh rupees or such higher amount as may be prescribed which shall not be more than 5 crore rupees; or
- (ii) turnover of which as per its last profit and loss account does not exceed 2 crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:

Provided that nothing in this clause shall apply to—

- (A) a holding company or a subsidiary company;
- (B) a company registered under section 8; or
- (C) a company or body corporate governed by any special Act;

IMPORTANT DEFINITIONS

- 2(62) **“One Person Company”** means a company which has only one person as a member;
- 2(91) **“turnover”** means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year
- 2(57) **“net worth”** means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

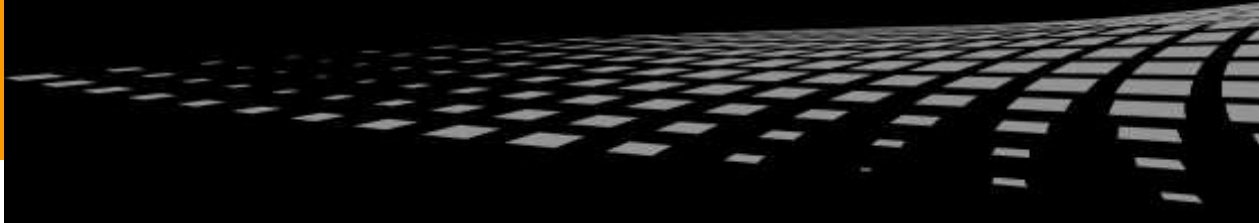


2(41) “financial year”,

in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up:

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year:

Provided further that a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause;

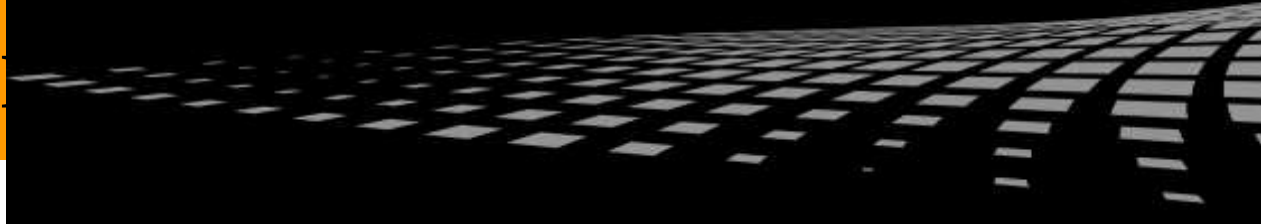


2(43) “free reserves” means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend:

Provided that—

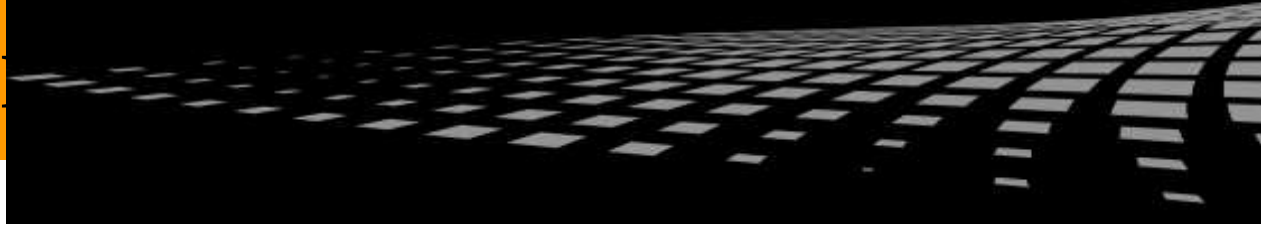
- (i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or
- (ii) any change in carrying amount of an asset or of a liability recognized in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value, shall not be treated as free reserves;

IMPORTANT DEFINITIONS



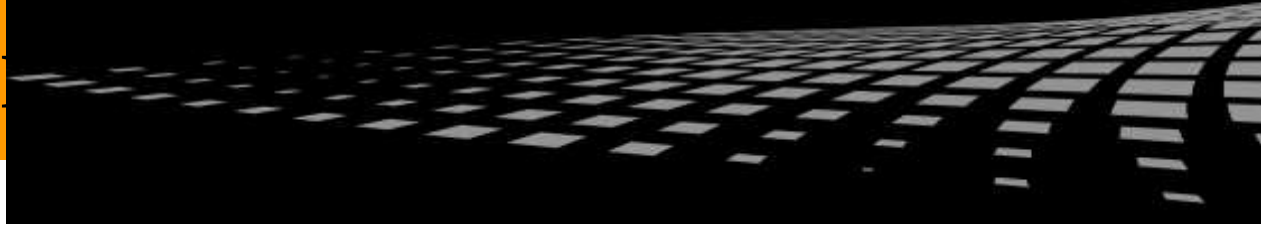
- 2(51) “key managerial personnel”, in relation to a company, means—
- (i) The Chief Executive Officer or the managing director or he manager;
 - (ii) the company secretary;
 - (iii) the whole-time director;
 - (iv) the Chief Financial Officer; and
 - (v) such other officer as may be prescribed;
- 2(59) “officer” includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act;

IMPORTANT DEFINITIONS



- 2(94) “whole-time director” includes a director in the whole-time employment of the company
- 2(53) “manager” means an individual who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, whether under a contract of service or not;

IMPORTANT DEFINITION



2(54) “managing director” means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

IMPORTANT DEFINITIONS

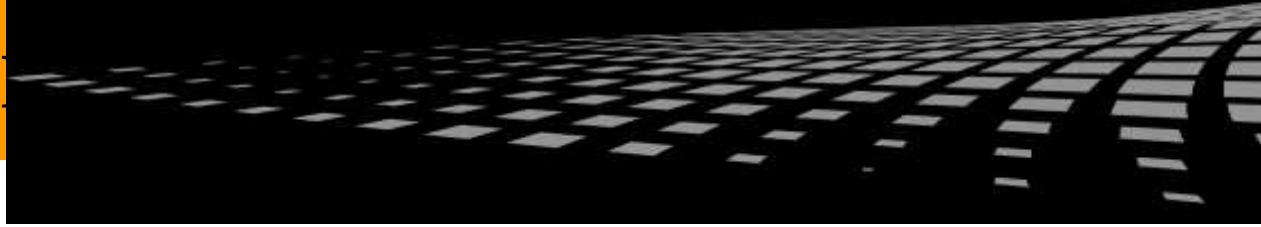
2(6) “associate company”, in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

Explanation.—For the purposes of this clause, “significant influence” means control of at least 20 per cent. of total share capital, or of business decisions under an agreement;

2(18) “Chief Executive Officer” means an officer of a company, who has been designated as such by it;

2(19) “Chief Financial Officer” means a person appointed as the Chief Financial Officer of a company;

IMPORTANT DEFINITION



2(54) “managing director” means a director who, by virtue of the articles of a company or an agreement with the company or a resolution passed in its general meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.

137. Financial Stat

(1) A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within 30 days of the date of annual general meeting.

Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within 30 days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose

137. Financial Stat

Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403:

Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year:

Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

137. Financial Stat

- (2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

Penal Provision

If a company fails to file the copy of the financial statements, the company shall be punishable with fine of 1000 rupees for every day during which the failure continues but which shall not be more than 10 lakh rupees, **and**

The MD and the CFO of the company, if any, and, in the absence of the MD and the CFO, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

Signing of F

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For Financial S

The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorized by the Board **or** by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon.

Signing of Financials

For Board Report

The Board's report and any annexure thereto shall be signed by its chairperson of the company if he is authorized by the Board and where he is not so authorized, shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director



(76) “related party”, with reference to a company, means

(i) a director or his relative;

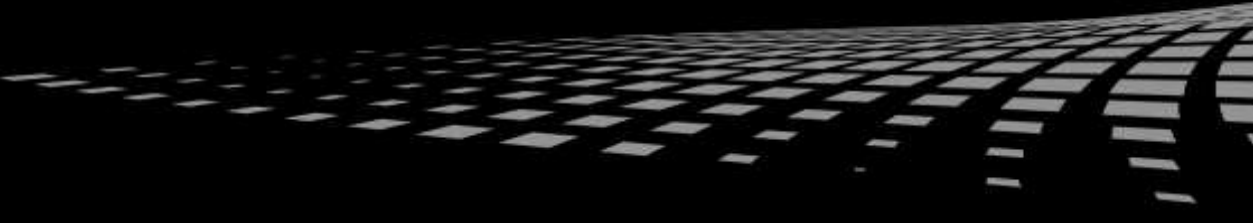
(ii) a key managerial personnel or his relative;

(iii) a firm, in which a director, manager or his relative is a partner;

(iv) a private company in which a director or manager is a member or director;

(v) a public company in which a director or manager is a director or holds along with his relatives, more than two per cent. of its paid-up share capital;

(vi) any body corporate whose Board of Directors, managing director 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, directions or instructions a director or manager is accustomed to act:


Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

(ix) such other person as may be prescribed;

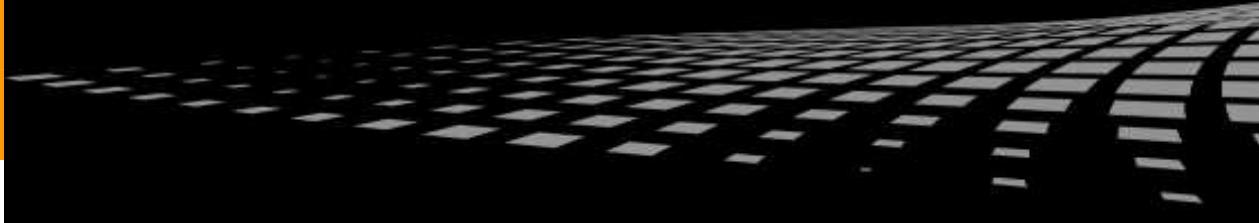
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- (77) “relative”, with reference to any person, means any one who is related to another, if—
- (i) they are members of a Hindu Undivided Family;
 - (ii) they are husband and wife; or
 - (iii) one person is related to the other in such manner as may be prescribed;

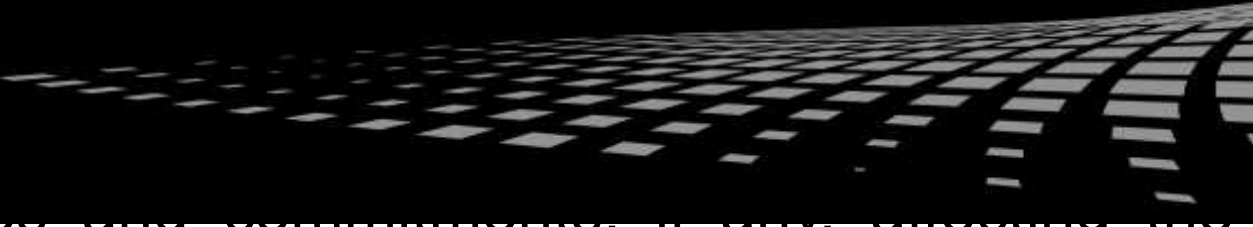
Board Report is no

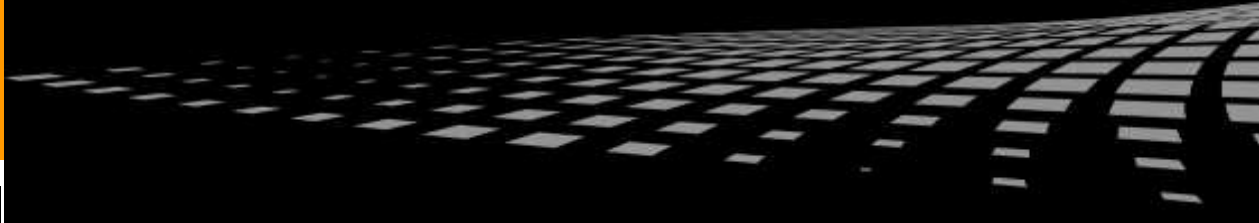
Section 134(3)

There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

- (a) the extract of the annual return (MGT-8)as provided under sub-section (3) of section 92;
- (b) number of meetings of the Board;
- (c) Directors' Responsibility Statement;
- (d) a statement on declaration given by independent directors under sub-section (6) of section 149;
- (e) in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178;

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- (f) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—
 - (i) by the auditor in his report; and
 - (ii) by the company secretary in practice in his secretarial audit report;
 - (g) particulars of loans, guarantees or investments under section 186;
 - (h) particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in AOC-2;
 - (i) the state of the company's affairs;
 - (j) the amounts, if any, which it proposes to carry to any reserves;
 - (k) the amount, if any, which it recommends should be paid by way of dividend;

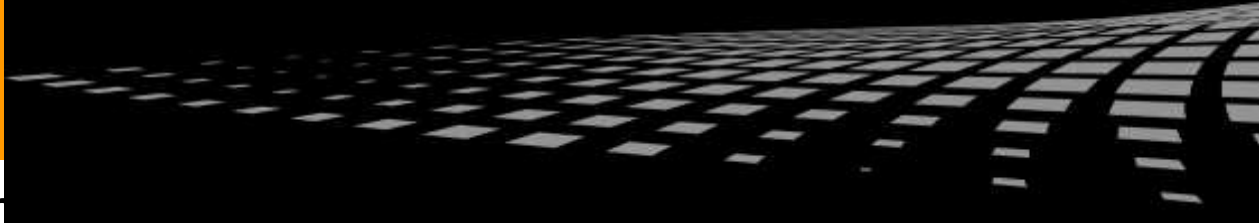
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- (l) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report;
 - (m) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed;
 - (n) a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;
 - (o) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year;

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- (p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors;
- (q) such other matters as may be prescribed.

Related Party Transactions

Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

- (a) sale, purchase or supply of any goods or materials;
- (b) selling or otherwise disposing of, or buying, property of any kind;
- (c) leasing of property of any kind;
- (d) availing or rendering of any services;
- (e) appointment of any agent for purchase or sale of goods, materials, services or property;
- (f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and
- (g) underwriting the subscription of any securities or derivatives thereof, of the company:



Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a special resolution:

Provided further that no member of the company shall vote on such special resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party:

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis.

Two Types of Certifications

Particulars	Section 192(1)	Section 192(2)
Which companies are covered	All companies except – small / one person company	Listed Companies Company having paid up capital of Rs.10 cr or turnover of Rs.50 cr
Coverage of Certification	Correctness of contents of Annual Return	Overall Compliance of Companies Act 2013
Format	MGT 7	MGT 8

What do we certify in section 192 (1)?

Format MGT 7 runs in 34 pages and covers –

- Details of registered office
- Details of registrar and transfer agent
- Principle business activities
- Details of holding / subsidiary / associate cos
- Great details about authorized/ subscribed / paid up capital / debentures / other securities
- Securities premium details
- Turnover and Net-worth calculation

What do we certify in section 192 (1)?

- Shareholding pattern in detail
- Shareholding pattern of Promoters
- Changes in promoters shareholding
- Shareholding pattern of top 10 shareholders
- Shareholding of Directors / KMP
- Indebtedness – secured / unsecured / deposit
- Details of Members / Debentures / security holder
- Details of transfers of shares / securities
- Details of Promoters / KMP / Directors

What do we certify in section 192 (1)?

- Details of meetings of board / committee/ members
- Remuneration of Directors and KMP
- Penalties, Punishments, compounding details
- Details of forms required to be filed and status of filing
- Details of closure of register of security holder
- Details of dividend
- Changes in nominal value of shares

What do we certify in section 192 (1)?

- Details of inter corporate loans / investments
- Related party transactions or transactions in which director was interested
- Details of resolutions passed by postal ballot
- Details of CSR
- Limits u/s 186 vs. actual spending
- Disclosure of directors
- IEPF Transfers
- Maintenance of Statutory Registers
- Appointment of Statutory Auditors

What do we certify u/s 92(2)

- Certification that – “annual return states the facts as at the close of the aforesaid financial year correctly and adequately”
- “Company has complied with provisions of the Act & Rules made there under in respect of There are 18 points”



Consequences of Wrong Certification

Punishment for fraud (Sec 447)

- Section 447 states that without prejudice to any liability including for repayment of any debt under the Act or any other law for the time being in force, any person who is found guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud but which may extend to three times the amount involved in fraud

Punishment for fraud (Sec 447)

- The Section further states that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

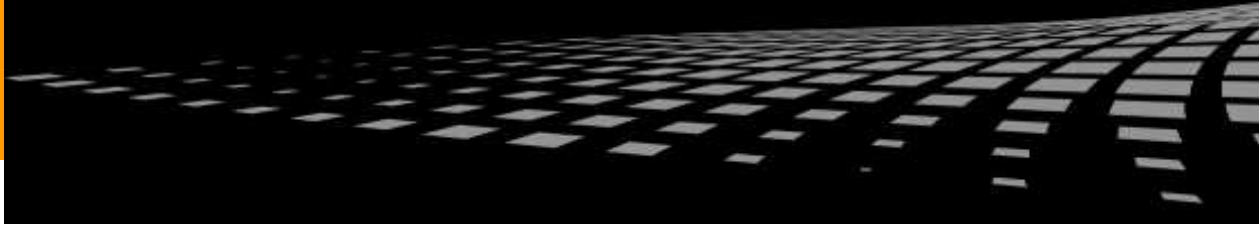
Fraud in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss

Punishment for false statement (Sec 448)

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- Section 448 states that, save as otherwise provided in the Act, if in any return, certificate, financial statement, prospectus, statement or other document required by the Act or Rules made thereunder, any person makes a statement:
 - (a) Which is false in any material particulars, knowing it to be false; or
 - (b) Which omits any material fact, knowing it to be material,

- He shall be liable under Section 447



Thank You

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