

A PRÉCIS OF THE COMPANIES (AMENDMENT) BILL, 2017

BACKGROUND:

The Companies (Amendment) Bill, 2017 was a result of the long consultative process undertaken by the Companies Law Committee constituted by the Ministry of Corporate Affairs, Government of India in an attempt to make recommendation on various issues in implementation of the Companies Act, 2013.

The Companies (Amendment) Bill, 2017 was introduced in Lok Sabha on March 16, 2016 and was referred to the Standing Committee on Finance on April 12, 2016.

The Government after considering the suggestions of the Standing Committee gave the notice of amendment as approved by the Cabinet to the Lok Sabha. The Lok Sabha had passed the Companies (Amendment) Bill, 2017 on July 27, 2017 which was subsequently passed by Rajya Sabha on December 19, 2017 and is now pending for President's assent.

This document aims to present a section-wise comparison of the Companies (Amendment) Bill, 2017 with the existing key provisions of Companies Act, 2013 along with its impact/analysis as summarized below:

SECTION WISE COMPARISON OF THE COMPANIES (AMENDMENT) BILL, 2017 WITH THE CORRESPONDING PROVISIONS OF THE COMPANIES ACT, 2013

Pre Amendment	Post Amendment	Impact
Sec 2 (6) - Definition of Associate Company		
"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 twenty per cent of total share capital, or of business decisions under an agreement;	"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 purpose of this clause- (a) the expression "significant influence" means control of at least twenty per cent. of total voting power, or control of or participation in business decisions under an agreement;	• Change in explanation of the term 'significant influence' under the definition of Associate Company to include control of voting power instead of existing share capital. • The term 'Joint Venture' has also been defined. • These changes impacts the compliances relating to consolidation of accounts and RPTs.

	<i>(b) the expression “joint venture” means a joint arrangement whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement.</i>	
Sec 2 (30) - Definition of Debenture		
"debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;	"debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not; Provided that- <i>(a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and</i> <i>(b) such other instrument, as may be prescribed by the Central Government in consultation with Reserve Bank of India, issued by a company,</i> shall not be treated as debenture;	- The definition of the “debenture”, now excludes instruments referred to in Chapter III-D of the Reserve Bank of India Act 1934 and such other instruments prescribed by the Central Government in consultation with the RBI. What is an Instrument under Chapter III-D of the Reserve Bank of India Act, 1934? Derivative, Money Market Instruments, Repo, Reverse Repo, securities of the Central Government or a State Government or such securities of a local authority as may be specified in this behalf by the Central Government and, for the purposes of "repo" or "reverse repo", include corporate bonds and debentures are all instruments covered under Chapter III-D of the Reserve Bank of India Act, 1934.
Sec 2(46) - Definition of holding company		
"holding company", in relation to one or more other companies, means a company of which such companies are subsidiary companies;	“holding company”, in relation to one or more other companies, means a company of which such companies are subsidiary companies; Explanation: For the purposes of this clause, the expression “company” includes any body corporate.	The expression “Company” now also includes any “body corporate”.
Sec 2(49) - Definition of interested Director		
"interested director" means a director who is in any way, whether by himself or through any of his relatives or firm, body	<i>This clause is now omitted</i>	Definition of interested Director is deleted.

corporate or other association of individuals in which he or any of his relatives is a partner, director or a member, interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into by or on behalf of a company.		
Sec 2(51) - Definition of Key Managerial Personnel		
(51) "key managerial personnel", in relation to a company, means- (i) the Chief Executive Officer or the managing director or the manager; (ii) the company secretary; (iii) the whole-time director; (iv) the Chief Financial Officer; and (v) such other officer as may be prescribed	(51) "key managerial personnel", in relation to a company, means— (i) the Chief Executive Officer or the managing director or the manager; (ii) the company secretary; (iii) the whole-time director; (iv) the Chief Financial Officer; and (v) such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and (vi) such other officer as may be prescribed.	The Board may also designate any officer who is not more than one level below the Directors and is in whole-time employment of the Company as Key Managerial Personnel.
Sec 2(57) - Definition of net worth		
"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.	"net worth" means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.	- The debit or credit balance of profit and loss account is also included in the calculation of <i>net worth</i>. - This change will ease out the calculations with respect to CSR, public deposits and applicability of Cost Audit, power of CG to prescribe manner of circulation of financial statements, powers of Board w.r.t. selling of undertaking, valuation by Registered Valuers.
Sec 2(76) - Definition of related party		
"related party", with reference to a company, means- (i) a director or his relative;	"related party", with reference to a company, means- (i) a director or his relative;	Any body corporate which is holding, subsidiary or an associate company of such company or a

(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 or his relative is a member or director; (v) a public company in which a director and manager is a director and 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;	(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 or his relative is a member or director; (v) a public company in which a director and manager is a director and 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 body corporate which is - (A) a holding, subsidiary or an associate company of such company; (B) a subsidiary of a holding company to which it is also a subsidiary; or (C) an investing company or the venturer of a company; (ix) such other person as may be prescribed;	subsidiary of a holding company to which it is also a subsidiary or an investing company or venture of the Company, shall be considered as a related party.
Sec 2(85) - Definition of small company		
“Small company” means a company, other than a public company,- (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore	“Small company” means a company, other than a public company,- (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ten crore	The maximum paid-up share capital amount which can be prescribed has been increased from Five Crore Rupees to Ten crore rupees and maximum turnover limit from Twenty Crore Rupees to One Hundred Crore Rupees, for the

rupees; (ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees:	rupees; (ii) turnover of which <i>as per profit and loss account for the immediately preceding financial year</i> does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than <i>one hundred crore rupees</i> .	purpose of determining a company as a small company. • Further, turnover should be calculated based upon the profit and loss account for “the immediately preceding financial year” instead of “last financial year”.
Sec 2(91) - Definition of turnover		
“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.	<i>“turnover” means the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.</i>	- The definition of turnover has been completely changed to mean the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year. - This is much needed amendment considering its impact under sections 18, 76, 92, 135, 136, 138, 143, 148, 149, 188, 203, relevant rules and related disclosures.
Sec 3A - Members severally liable in certain cases		
-----	<i>3A. If at any time the number of members of a company is reduced, in the case of a public company, below seven, in the case of a private company, below two, and the company carries on business for more than six months while the number of members is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with less than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.</i>	- A new section regarding liability of members in case number of members is reduced from statutory minimum, i.e. seven in the case of public company or two in case of a private company has been inserted. - This section was there in the erstwhile Companies Act, 1956 but was not available in the Companies Act, 2013. Hence, included.

Sec 4 – Memorandum

Clause (c) of Sub-section (1): the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof.

Clause (i) of Sub-section (5): Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of sixty days from the date of the application.

Clause (c) of sub-section (1): that the company may engage in any lawful act or activity or business, or any act or activity or business to pursue any specific object or objects, as per the law for the time being in force:

Provided that in case a company proposes to pursue any specific object or objects or restrict its objects, the Memorandum shall state the said object or objects for which the company is incorporated and any matter considered necessary in furtherance thereof and in such case the company shall not pursue any act or activity or business, other than specific objects stated in the Memorandum.

Clause (i) of Sub-section (5): Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of **twenty days from the date of approval or such other period as may be prescribed.**

Insertion of the following new Sub-sections:

(6A) A company may adopt the model memorandum applicable to such a company;

(6B) In case of any company, which is registered after the commencement of the Companies (Amendment) Act, 2016, in so far as the registered memorandum of such company does not exclude or modify the contents in the model memorandum applicable to such company, those contents shall, so far as applicable, be the contents of the Memorandum of that company in the

In case of proposed company:

- The name reserved by the Registrar shall be valid for 20 days from date of the approval or such other period as may be prescribed instead of 60 days from the date of application, as currently provided;

In case of existing company:

- The Registrar may reserve the name for a period of 60 days from the date of approval.

	<i>same manner and to the extent as if that was contents of the duly registered memorandum of the company.</i>	
Sec 7 – Incorporation		
Clause (c) of Sub-section (1): An affidavit from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief.	Clause (c) of Sub-section (1): A declaration from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief.	- At the time of incorporation of the company, <u>Declaration</u> by each subscriber will be required to be attached instead of an <u>Affidavit</u>. - This will improve the timelines for incorporation of a company and aimed to climb up in ease of doing business rankings.
Sec 12 - Registered office of Company		
Sub-section (1): A company shall, on and from the fifteenth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it. Sub-section (4): Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within Fifteen days of the change, who shall record the same.	Sub-section (1): A company shall, within thirty days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it. Sub-section (4): Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within thirty days of the change, who shall record the same.	- Timelines for newly incorporated Companies to have registered office relaxed to 30 days from the date of incorporation. - Every change of the situation of the registered office shall be notified to ROC within 30 days thereof.

Sec 21 - Authentication of documents, proceedings and contracts		
Save as otherwise provided in this Act,- (a) a document or proceeding requiring authentication by a company; or (b) contracts made by or on behalf of a company, may be signed by any key managerial personnel or an officer of the company duly authorised by the Board in this behalf.	Save as otherwise provided in this Act,- (a) a document or proceeding requiring authentication by a company; or (b) contracts made by or on behalf of a company, may be signed by any key managerial personnel or <i>an officer or employee of the company</i> of the company duly authorised by the Board in this behalf.	An employee can also be authorized to authenticate documents on behalf of the Company, apart from KMP and any officer of the company.
Sec 26 - Matters to be stated in Prospectus		
Sub-section (1): Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall: Clause (a) of Sub-section (1): state the following information, namely:- Clause (b) of Sub-section (1): set out the following reports for the purposes of the financial information, namely:-	Sub-section (1): Every prospectus issued by or on behalf of a public company either with reference to its formation or subsequently, or by or on behalf of any person who is or has been engaged or interested in the formation of a public company, shall be dated and signed and shall: <i>"state such information and set out such reports on financial information as may be specified by the Securities and Exchange Board in consultation with the Central Government:</i> <i>Provided that until the Securities and Exchange Board specifies the information and reports on financial information under this sub-section, the regulations made by the Securities and Exchange Board under the Securities and Exchange Board of India Act, 1992, in respect of such financial information or reports on financial information shall apply."</i> <i>The clauses (a) and (b) of Sub-section (1) shall be omitted.</i>	- The prospectus shall state such information and set out such reports on financial information as may be specified by SEBI in consultation with the Central Government. - Until SEBI specifies the information and reports on financial information, the regulations made by it under the SEBI Act, 1992, in this regard shall apply.
Sec 35 - Civil liability for Mis-statements in Prospectus		
Sub-section (2): No person shall be liable under sub-section (1), if he proves-	Sub-section (2): No person shall be liable under sub-section (1), if he proves-	Section 35 of the Act is amended to relieve the Director, promoter etc. from any civil liability if such

(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent	(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent <i>(c) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required by sub-section (5) of Section 26 to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder.</i>	person(s) has relied on a misleading statement made by an expert and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required and had not withdrawn it.
Sec 42 - Issue of securities on private placement basis		
Sub-section (1): Without prejudice to the provisions of Section 26, a company may, subject to the provisions of this section, make private placement through issued of a private placement offer letter. Sub-section (2): Subject to sub-section (1), the offer of securities or invitation to subscribe securities, shall be made to such number of persons not exceeding fifty or such higher number as may be prescribed, (excluding qualified institutional buyers, and employees of	Sub-section (1): A company may, subject to the provisions of this section, make a private placement of securities. Sub-section (2): A private placement shall be made only to a select group of persons who have been identified by the Board (herein referred to as "identified persons"), whose number shall not exceed fifty or such higher number as may be prescribed [excluding the qualified institutional buyers and employees of the company being offered	Though the entire section is substituted, the major changes are as under: • Return of allotment to be filed within Fifteen (15) days instead of Thirty (30) days. • Unless the return of allotment is filed with the Registrar the monies raised through private placement cannot be utilized.

the company being offered securities under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of Section 62, in a financial year and on such conditions (including the form and manner of private placement) as may be prescribed. Explanation I - If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter. Explanation II - For the purposes of this section, the expression- (i) "qualified institutional buyer" means the "qualified institutional buyer" as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 as amended from time to time. (ii) "private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section. Sub-section (3): No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company.	securities under a scheme of employees stock option in terms of provisions of clause (b) of subsection (1) of Section 62, in a financial year subject to such conditions as may be prescribed. Sub-section (3): A company making private placement shall issue private placement offer and application in such form and manner as may be prescribed to identified persons, whose names and addresses are recorded by the company in such manner as may be prescribed: Provided that the private placement offer and application shall not carry any right of renunciation. Explanation I - "private placement" means any offer or invitation to subscribe or issue of securities to a select group of persons by a company (other than by way of public offer) through private placement offer-cum-application, which satisfies the conditions specified in this section. Explanation II - "qualified institutional buyer" means the qualified institutional buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time, made under the Securities and Exchange Board of India Act, 1992 Explanation III - If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognised stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed	• Private Placement offer letter shall not contain any right of renunciation. • Documentation process simplified to enable quicker raising of funds by companies.
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Sub-section (4): Any offer or invitation not in compliance with the provisions of this section shall be treated as a public offer and all provisions of this Act, and the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be required to be complied with. Sub-section (5): All monies payable towards subscription of securities under this section shall be paid through cheque or demand draft or other banking channels but not by cash. Sub-section (6): A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the date of completion of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent per annum from the expiry of the sixty day. Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than- (a) for adjustment against allotment of securities; or (b) for the repayment of monies where the company is unable to allot securities. Sub-section (7): All offers covered under this section shall be made only to such persons whose names are recorded by	<i>by the provisions of Part I of this Chapter.</i> Sub-section (4): <i>Every identified person willing to subscribe to the private placement issue shall apply in the private placement and application issued to such person alongwith subscription money paid either by cheque or demand draft or other banking channel and not by cash:</i> <i>Provided that a company shall not utilise monies raised through private placement unless allotment is made and the return of allotment is filed with the Registrar in accordance with sub-section (8).</i> Sub-section (5): <i>No fresh offer or invitation under this section shall be made unless the allotments with respect to any offer or invitation made earlier have been completed or that offer or invitation has been withdrawn or abandoned by the company:</i> <i>Provided that, subject to the maximum number of identified persons under subsection (2), a company may, at any time, make more than one issue of securities to such class of identified persons as may be prescribed.</i> Sub-section (6): <i>A company making an offer or invitation under this section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the company is not able to allot the securities within that period, it shall repay the application money to the subscribers within fifteen days from the expiry of sixty days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve per cent. per</i>	
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the company prior to the invitation to subscribe, and that such persons shall receive the offer by name, and that a complete record of such offers shall be kept by the company in such manner as may be prescribed and complete information about such offer shall be filed with the Registrar within a period of thirty days of circulation of relevant private placement offer letter. Sub-section (8): No company offering securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer. Sub-section (9): Whenever a company makes any allotment of securities under this section, it shall file with the Registrar a return of allotment in such manner as may be prescribed, including the complete list of all security-holders, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed. Sub-section (10): If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to the amount involved in the offer or invitation or two crore rupees, whichever is higher, and the company shall also refund all monies to subscribers within a period of thirty days of the order imposing the penalty.	<i>annum from the expiry of the sixtieth day:</i> <i>Provided that monies received on application under this section shall be kept in a separate bank account in a scheduled bank and shall not be utilised for any purpose other than-</i> <i>(a) for adjustment against allotment of securities; or</i> <i>(b) for the repayment of monies where the company is unable to allot securities.</i> Sub-section (7): No company issuing securities under this section shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an issue. Sub-section (8): A company making any allotment of securities under this section, shall file with the Registrar a return of allotment within fifteen days from the date of the allotment in such manner as may be prescribed, including a complete list of all allottees, with their full names, addresses, number of securities allotted and such other relevant information as may be prescribed. Sub-section (9): If a company defaults in filing the return of allotment within the period prescribed under sub-section (8), the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees. Sub-section (10): Subject to sub-section (11), if a company makes an offer or accepts monies in contravention of this section, the company, its promoters and	
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	<i>directors shall be liable for a penalty which may extend to the amount raised through the private placement or two crore rupees, whichever is lower, and the company shall also refund all monies with interest as specified in sub-section (6) to subscribers within a period of thirty days of the order imposing the penalty.</i> <i>Sub-section (11): Notwithstanding anything contained in sub-section (9) and sub-section (10), any private placement issue not made in compliance of the provisions of the subsection (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 and Securities and Exchange Board of India Act, 1992 shall be applicable.</i>	
Sec 53 - Prohibition on issue of shares at discount		
Sub-section (2): Any share issued by a company at a discounted price shall be void.	Sub-section (2): Any share issued by a company at a discount shall be void. (2A) <i>Notwithstanding anything contained in sub-sections (1) and (2), a company may issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by the Reserve Bank of India under the Reserve Bank of India Act, 1934 or the Banking (Regulation) Act, 1949."</i>	• The words "discounted price" has been substituted with the word "discount". • Further, the companies are now allowed to issue shares at a discount to its creditors when its debt is converted into shares in pursuance of any statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by RBI under the Banking Regulation Act, 1949 or the RBI Act, 1934.
Sec 54 - Issue of sweat equity shares		
Clause (c) of Sub-section (1): not less than one year has, at the date of such issue, elapsed since the date on which the company had commenced business,	In section 54, in sub-section (1), clause (c) shall be omitted.	• A company will be allowed to issue sweat equity shares at any time after its incorporation. • Prior to this, such shares could be issued only after the expiry of one year from the date of commencement of business.

Sec 62 - Further issue of share capital		
Clause (c) of Sub-section (1): to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer subject to such conditions as may be prescribed. Sub-section (2): The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode to all the existing shareholders at least three days before the opening of the issue.	Clause (c) of Sub-section (1): to any persons, if it is authorised by a special resolution, whether or not those persons include the persons referred to in clause (a) or clause (b), either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed. Sub-section (2): The notice referred to in sub-clause (i) of clause (a) of sub-section (1) shall be dispatched through registered post or speed post or through electronic mode or courier or any other mode having proof of delivery to all the existing shareholders at least three days before the opening of the issue.	• The right issue offer letter can now be sent through courier also.
Sec 73 - Prohibition on acceptance of Deposits from public		
Clause (c) of Sub-section (2): depositing such sum which shall not be less than fifteen per cent of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account Clause (d) of Sub-section (2): providing such deposit insurance in such manner and to such extent as may be prescribed Clause (e) of Sub-section (2): certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits	Clause (c) of Sub-section (2): depositing, on or before the 30th day of April each year, such sum which shall not be less than twenty per cent of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account; (ii) clause (d) shall be omitted; Clause (e) of Sub-section (2): certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits and where a default had occurred, the company made good the default and a period of five years had lapsed since the date of	• At least 20% of the amount of deposits maturing during the following financial year shall be deposited on/before the 30th day of April each year and kept in a scheduled bank in a separate bank account titled "Deposit Repayment Reserve Account". • Prior to this amendment, atleast 15% of amount of deposits maturing during a financial year and the following financial year was to be deposited. • Requirement of providing deposit insurance has been done away with. • Companies which had defaulted in repayment of deposits earlier can now accept deposits after a period of 5 years from the date of making

	<i>making good the default.</i>	good the default.
<i>Sec 74 - Repayment of Deposits, etc., accepted before commencement of this act</i>		
<i>Clause (b) of Sub-section (1):</i> repay within one year from such commencement or from the date on which such payments are due, whichever is earlier	<i>Clause (b) of Sub-section (1): repay within three years from such commencement or on or before expiry of the period for which the deposits were accepted, whichever is earlier:</i> <i>Provided that renewal of any such deposits shall be done in accordance with the provisions of Chapter V and the rules made thereunder."</i>	- Where any amount of deposit or part thereof or interest thereof remains unpaid on the commencement of the Companies Act, 2013, such amount shall be repaid within Three (3) years from the date of commencement or before the expiry of the period for which the deposit was accepted, whichever is earlier. - Currently the amount was to be repaid within One (1) year or before the expiry of the period for which the deposit was accepted, whichever is earlier.
<i>Sec 76A - Punishment for contravention of Section 73 or Section 76</i>		
<i>Clause (a):</i> the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees.	<i>Clause (a):</i> the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than <i>one crore rupees or twice the amount of deposit accepted by the company, whichever is lower</i> but which may extend to ten crore rupees.	The minimum penalty has been revised to rupees One Crore or twice the amount of deposits accepted by the company, whichever is <u>lower</u>.
<i>Sec 82 - Company to report satisfaction of charge</i>		
<i>Sub-section (1):</i> A company shall give intimation to the Registrar in the prescribed form, of the payment or satisfaction in full of any charge registered under this Chapter within a period of thirty days from the date of such payment or satisfaction and the provisions of sub-section (1) of section 77 shall, as far as may be, apply to an intimation given under this section.	<i>Sub-section (1):</i> A company shall give intimation to the Registrar in the prescribed form, of the payment or satisfaction in full of any charge registered under this Chapter within a period of thirty days from the date of such payment or satisfaction. <i>"Provided that the Registrar may, on an application by the company or the charge holder, allow such intimation of payment or satisfaction to be made within a period of three hundred days of</i>	Timeline for filing of satisfaction of charge has been increased to Three Hundred (300) days on payment of additional fee.

	<i>such payment or satisfaction on payment of such additional fees as may be prescribed."</i>	
Sec 90 - Register of significant beneficial owners in a company		
Where it appears to the Central Government that there are reasons so to do, it may appoint one or more competent persons to investigate and report as to beneficial ownership with regard to any share or class of shares and the provisions of section 216 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.	<i>Sub-section (1): Every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of not less than twenty-five per cent. or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company (herein referred to as "significant beneficial owner"), shall make a declaration to the company, specifying the nature of his interest and other particulars, in such manner and within such period of acquisition of the beneficial interest or rights and any change thereof, as may be prescribed:</i> <i>Provided that the Central Government may prescribe a class or classes of persons who shall not be required to make declaration under this sub-section.</i> <i>Sub-section (2): Every company shall maintain a register of the interest declared by individuals under sub-section (1) and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.</i> <i>Sub-section (3): The register maintained under sub-section (2) shall be open to inspection by any member of the company on payment of such fees as may be prescribed.</i>	Though the entire section is substituted, the major changes are as under: • "Significant Beneficial Owner" has been defined to include every individual, who acting alone or together, or through one or more persons or trust, including a trust and persons resident outside India, holds beneficial interests, of at least 25% or such other percentage as may be prescribed, in shares of a company or the right to exercise, or the actual exercising of significant influence or control as defined in clause (27) of section 2, over the company; • Such Significant Beneficial Owner shall make a declaration to the company specifying the nature of his interest and other particulars, in such manner and within the prescribed period. • Company to maintain a register of the interests so declared by individuals which shall be open to inspection of members. • Company to file return of significant beneficial owners of the company and changes therein with the Registrar. • Stringent penalties have been provided for default of this section including liability for fraud u/s 447.

	<i>Sub-section (4): Every company shall file a return of significant beneficial owners of the company and changes therein with the Registrar containing names, addresses and other details as may be prescribed within such time, in such form and manner as may be prescribed.</i> <i>Sub-section (5): A company shall give notice, in the prescribed manner, to any person (whether or not a member of the company) whom the company knows or has reasonable cause to believe-</i> <i>(a) to be a significant beneficial owner of the company;</i> <i>(b) to be having knowledge of the identity of a significant beneficial owner or another person likely to have such knowledge; or</i> <i>(c) to have been a significant beneficial owner of the company at any time during the three years immediately preceding the date on which the notice is issued,</i> <i>and who is not registered as a significant beneficial owner with the company as required under this section.</i> <i>Sub-section (6): The information required by the notice under sub-section (5) shall be given by the concerned person within a period not exceeding thirty days of the date of the notice.</i> <i>Sub-section (7): The company shall,-</i> <i>(a) where that person fails to give the company the information required by the notice within the time specified therein; or</i> <i>(b) where the information given is not satisfactory, apply to the</i>	
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	<i>Tribunal within a period of fifteen days of the expiry of the period specified in the notice, for an order directing that the shares in question be subject to restrictions with regard to transfer of interest, suspension of all rights attached to the shares and such other matters as may be prescribed.</i> <i>Sub-section (8): On any application made under sub-section (7), the Tribunal may, after giving an opportunity of being heard to the parties concerned, make such order restricting the rights attached with the shares within a period of sixty days of receipt of application or such other period as may be prescribed.</i> <i>Sub-section (9): The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8).</i> <i>Sub-section (10): If any person fails to make a declaration as required under sub-section (1), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</i> <i>Sub-section (11): If a company, required to maintain register under sub-section (2) and file the information under sub-section (4), fails to do so or denies inspection as provided therein, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and where the failure is a continuing one, with a</i>	
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	<i>further fine which may extend to one thousand rupees for every day after the first during which the failure continues.</i> <i>Sub-section (12): If any person willfully furnishes any false or incorrect information or suppresses any material information of which he is aware in the declaration made under this section, he shall be liable to action under section 447.</i>	
Sec 92 - Annual Return		
Clause (c) of Sub-section (1): its indebtedness Clause (j) of Sub-section (1): details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them Sub-section (3): An extract of the annual return in such form as may be prescribed shall form part of the Board's report.	Clause (c) of Sub-section (1) shall be omitted; Clause (j) of Sub-section (1): details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors. Sub-section (3): Every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Board's report.	- The requirement related to disclosing indebtedness and details with respect to name, address, country of incorporation etc. of FII in the annual return of the company has been omitted. - The requirement of Form MGT-9 i.e. extract of annual return to be part of the Board's Report has been omitted. Instead, the copy of annual return shall be uploaded on the website of the company, if any, and its link shall be disclosed in the Board's Report.
Sec 93 - Return to be filed with Registrar in case Promoters' stake changes		
Section 93: Every listed company shall file a return in the prescribed form with the Registrar with respect to change in the number of shares held by promoters and top ten shareholders of such company, within fifteen days of such change.	This section is now omitted	Section 93 relating to return to be filed with respect to changes in promoters' and top ten shareholders' stake has been omitted.
Sec 94 - Place of keeping and inspection of registers, returns, etc.		
First proviso to Sub-section (1): Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members	First proviso to Sub-section (1): Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members	The requirement of filing of special resolution in advance with the Registrar of Companies for keeping of the registers and returns at a place other than the registered

entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company and the Registrar has been given a copy of the proposed special resolution in advance. Sub-section (3): Any such member, debenture-holder, other security holder or beneficial owner or any other person may— (a) take extracts from any register, or index or return without payment of any fee; or (b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed	entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company. Sub-section (3): Any such member, debenture-holder, other security holder or beneficial owner or any other person may— (a) take extracts from any register, or index or return without payment of any fee; or (b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed. <i>“Provided that particulars of the register or index or return as may be prescribed shall not be available for inspection under sub-section (2) or for taking extracts or copies under this sub-section.”</i>	office of the company has been done away with. • Further, particulars of the register or index or return as may be prescribed shall not be available for inspection or for taking extracts or copies.
Sec 96 - Annual General Meeting		
Proviso to Sub-section (2): Provided that the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.	Proviso to Sub-section (2): Provided that annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance: <i>Provided further that</i> the Central Government may exempt any company from the provisions of this sub-section subject to such conditions as it may impose.	• The Annual General Meeting ('AGM') of an unlisted company may be held at anyplace in India if consent is given in writing or by electronic mode by all the members in advance.
Sec 100 - Calling of Extra-ordinary General Meeting		
Sub-section (1): The Board may, whenever it deems fit, call an extraordinary general meeting of the company.	Sub-section (1): The Board may, whenever it deems fit, call an extraordinary general meeting of the company.	• A WOS of a company incorporated outside India may hold Extra-ordinary General Meeting at any place outside India.

	<i>"Provided that an extraordinary general meeting of the company, other than of the wholly owned subsidiary of a company incorporated outside India, shall be held at a place within India."</i>	
Sec 101 - Notice of meeting		
Proviso to Sub-section (1): Provided that a general meeting may be called after giving a shorter notice if consent is given in writing or by electronic mode by not less than ninety-five per cent of the members entitled to vote at such meeting.	Proviso to Sub-section (1): <i>"Provided that a general meeting may be called after giving shorter notice than that specified in this sub-section if consent, in writing or by electronic mode, is accorded thereto-</i> <i>(i) in the case of an annual general meeting, by not less than ninety-five per cent. of the members entitled to vote thereat; and</i> <i>(ii) in the case of any other general meeting, by members of the company-</i> <i>(a) holding, if the company has a share capital, not less than ninety-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting; or</i> <i>(b) having, if the company has no share capital, not less than ninety-five per cent. of the total voting power exercisable at that meeting:</i> <i>Provided further that where any member of a company is entitled to vote only on some resolution or resolutions to be moved at a meeting and not on the others, those members shall be taken into account for the purposes of this sub-section in respect of the former resolution or resolutions and not in respect of the latter."</i>	• A general meeting may be held at a shorter notice if in case of an Annual General Meeting consent in writing or by electronic mode is given by not less than 95% of the members entitled to vote and in case of other general meetings consent is given by majority in number of members entitled to vote and who represent not less than 95% of paid-up share capital (in case of company having share capital) or total voting power exercisable at the meeting (in case of company not having share capital). • Currently for calling both AGM and EGM at shorter notice, consent of 95% of members entitled to vote at the meeting is required.

Sec 117 - Resolutions and agreements to be filed

Sub-section (2): If a company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Clause (e) to Sub-section (3): resolutions passed by a company according consent to the exercise by its Board of directors of any of the powers under clause (a) and clause (c) of sub-section (1) of section 180

Proviso to Clause (g) Sub-section (3): Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions; and

Sub-section (2): If a company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall **not be less than five lakh rupees** but which may extend to twenty-five lakh rupees and every officer of the company who is in default, including liquidator of the company, if any, shall be punishable with fine which shall not be less than **fifty thousand rupees** but which may extend to five lakh rupees.

Clause (e) to Sub-section (3) shall be omitted;

Proviso to Clause (g) Sub-section (3): Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions;

Provided further that nothing contained in this clause shall apply to a banking company in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business;

- The minimum fine for non-filing under this section for company and officer in default is reduced from rupees five lakh to one lakh rupees and from rupees one lakh to rupees fifty thousand.
- Exemption is provided to banking companies from filing resolutions with respect to grant of loans, giving of guarantee or providing of security in respect of loans in the ordinary course of its business.

Sec 123 - Declaration of Dividend

Sub-section (3): The Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared:

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter

Sub-section (3): The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the

- In computing profits, any amount representing unrealized gains, notional gains or revaluation of assets and any change in carrying of an asset or of a liability on measurement of the asset or the liability at fair value shall be excluded therefrom.
- Further dividend can also be declared out of accumulated profits earned by the company in previous

immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.	interim dividend: <i>Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during immediately preceding three financial years."</i>	years and transferred by the company to free reserves in case of inadequate or absence of profits. • The Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend.
Sec 129 - Financial statement		
Sub-section (3) of Section 129: Where a company has one or more subsidiaries, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2): Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in such form as may be prescribed: Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed. Explanation - For the purposes of this sub-section, the word "subsidiary" shall include associate company and joint	Sub-section (3) of Section 129: <i>Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2):</i> <i>Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries in such form as may be prescribed:</i>	• The explanation providing that subsidiary includes associate company and joint venture has been deleted. • The section has been amended to provide for consolidation of the accounts of associate companies in addition to its subsidiaries in the same form and manner as that of its own in accordance with applicable accounting standards. • The company shall also attach along with its financial statement, a separate statement containing the salient features of the subsidiary and associate companies.

venture.	<i>Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed."</i>	
Sec 130 - Re-opening of accounts on Court's or Tribunal's orders		
Proviso to Sub-section (1): Provided that the court or the Tribunal, as the case may be, shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body or authority concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned before passing any order under this section.	Proviso to Sub-section (1): Provided that the court or the Tribunal, as the case may be, shall give notice to the Central Government, the Income-tax authorities, the Securities and Exchange Board or any other statutory regulatory body or authority concerned or any other person concerned and shall take into consideration the representations, if any, made by that Government or the authorities, Securities and Exchange Board or the body or authority concerned or the other person concerned before passing any order under this section. Insertion of Sub-section (3): <i>No order shall be made under sub-section (1) in respect of re-opening of books of account relating to a period earlier than eight financial years immediately preceding the current financial year:</i> <i>Provided that where a direction has been issued by the Central Government under the proviso to sub-section (5) of section 128 for keeping of books of account for a period longer than eight years, the books of account may be ordered to be re-opened within such longer period."</i>	• In addition to authorities already specified, any other person concerned shall be given notice before passing an order for re-opening of accounts and the court or the Tribunal shall also take into consideration the representations made by the other person. • The order for reopening of accounts can be made upto eight (8) financial years proceeding the current financial year unless there is a specific direction under section 128(5) from the Central Government that the books of accounts may be kept for longer period in which case the books of account may be ordered to be reopened for a longer period.

Sec 134 - Financial Statement, Board's Report, etc.

Sub-section (1): The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon. Clause (a) to Sub-section (3): the extract of the annual return as provided under sub-section (3) of section 92; Clause (p) to Sub-section (3): 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; Clause (q) to Sub-section (3): such other matters as may be prescribed	Sub-section (1): The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.”; Clause (a) to Sub-section (3): the web address, if any, where annual return referred to in sub-section (3) of section 92 has been placed”; Clause (p) to Sub-section (3): 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 of the performance of the Board, its Committees and of individual directors has been made; Clause (q) to Sub-section (3): such other matters as may be prescribed “Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in the Board's report: Provided further that where the policy referred to in clause (e) or clause (o) is made available on company's website, if any, it shall be sufficient compliance of the requirements under such clauses if	• CEO whether appointed as a Director or not, shall sign the financial statement, in case there is no chairperson of the Company. [Currently CEO is required to sign, only if he is also acting as a director]. • Disclosures which have been provided in the financial statement shall not be required to be reproduced in the Board's report again. • In place of extract of the annual return, only the web address, if any, where annual return has been placed shall be provided for. • Central Government may prescribe abridged Board's Report for small and one person companies.
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	<i>the salient features of the policy and any change therein are specified in brief in the Board's report and the web-address is indicated therein at which the complete policy is available.";</i> <i>(3A) The Central Government may prescribe an abridged Board's report, for the purpose of compliance with this section by a One Person Company or small company."</i>	
Sec 135 - Corporate Social Responsibility		
Sub-section (1): Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director. Clause (a) to Sub-section (3): formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII. Explanation to Sub-section (5): For the purposes of this section "average net profit" shall be calculated in accordance with the provisions of section 198.	Sub-section (1): Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during the immediately preceding financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director. "Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors."; Clause (a) to Sub-section (3): formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII. Explanation to Sub-section (5): For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of Section 198.	• Eligibility criteria for the purpose of constituting the CSR committee and incurring expenditure towards CSR is to be calculated based on immediately preceding financial year. • Where a company is not required to appoint an independent director, it shall have in its CSR Committee two or more directors.

Sec 136- Right of Member to Copies of Audited Financial Statement

First proviso to Sub-section (1): Provided that in the case of a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting unless the shareholders ask for full financial statements.

Fourth proviso to Sub-section (1):

Provided also that every company having a subsidiary or subsidiaries shall,-

(a) place separate audited accounts in respect of each of its subsidiary on its website, if any;

(b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.

Sub-section (2): A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours.

First proviso to Sub-section (1): Provided that if the copies of the documents are sent less than twenty-one days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by ninety-five per cent. of the members entitled to vote at the meeting in the case of a listed company, the provisions of this sub-section shall be deemed to be complied with, if the copies of the documents are made available for inspection at its registered office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting unless the shareholders ask for full financial statements.

Fourth proviso to Sub-section (1):

Provided also that every listed company having a subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any:

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

(a) where such foreign subsidiary is statutorily required to prepare consolidated financial statement under

- Only listed companies shall place on its website, the separate audited accounts of its subsidiary or subsidiaries [currently all companies required to comply this].
- If the foreign subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of posting audited accounts of subsidiary shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company.
- If the foreign subsidiary is not required to get its financial statement audited, the holding listed company may place such unaudited financial statement on its website.

	<i>any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such foreign subsidiary is placed on the website of the listed company;</i> <i>(b) where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website.";</i> Sub-section (2): A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours. <i>"Provided that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited financial statements, as the case may be, as prepared in respect of each of its subsidiary to any member of the company who asks for it."</i>	
Sec 137 - Copy of Financial Statement to be filed with Registrar		
-----	Insertion of Fifth proviso to Sub-section (1): <i>'Provided also that in the case of a subsidiary which has been incorporated outside India (herein referred to as "foreign subsidiary"), which is not required to get its financial statement</i>	• Unaudited financial statements of foreign subsidiary which is not required to get its accounts audited are allowed to be filed, along with a declaration to that effect.

	<i>audited under any law of the country of its incorporation and which does not get such financial statement audited, the requirements of the fourth proviso shall be met if the holding Indian listed company files such unaudited financial statement along with a declaration to this effect and where such financial statement is in a language other than English, along with a translated copy of the financial statement in English.</i>	
Sec 139 - Appointment of Auditors		
First proviso to Sub-section (1): Provided that the company shall place the matter relating to such appointment for ratification by members at every annual general meeting.	First proviso to Sub-section (1) shall be omitted.	The requirement relating to ratification of appointment of auditors by members at every AGM has been done away with.
Sec 149 - Company to have Board of Directors		
Sub-section (3): Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year. Clause (c) of Sub-section (6): who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year. Clause (d) of Sub-section (6): none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately	Sub-section (3): Every company shall have at least one director who stays in India for a total period of not less than one hundred and eighty-two days during the financial year: Provided that in case of a newly incorporated company the requirement under this sub-section shall apply proportionately at the end of the financial year in which it is incorporated."; Clause (c) of Sub-section (6): who has or had no pecuniary relationship, other than remuneration as such director or having transaction not exceeding ten per cent of his total income or such amount as may be prescribed with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year.	The 182 days criteria for determining whether a director is resident in India shall be computed with reference to the financial year. Currently it is calculated in reference to previous calendar year.

preceding financial years or during the current financial year Sub-clause (1) to clause (e) of Sub-section (6): holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed	Clause (d) of Sub-section (6): none of whose relatives- (i) is holding any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year: <i>Provided that the relative may hold security or interest in the company of face value not exceeding fifty lakh rupees or two per cent. of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;</i> (ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; or (iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii);"	
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Sec 153 - Application for allotment of Director Identification Number

Every individual intending to be appointed as director of a company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed.

Every individual intending to be appointed as director of a company shall make an application for allotment of Director Identification Number to the Central Government in such form and manner and along with such fees as may be prescribed.

- The Central Government has been empowered to recognize any other identification number to be treated as Director Identification Number (DIN).

"Provided that the Central Government may prescribe any identification number which shall be treated as Director Identification Number for the purposes of this Act and in case any individual holds or acquires such identification number, the requirement of this section shall not apply or apply in such manner as may be prescribed."

Sec 160 - Right of Persons Other than retiring Directors to stand for Directorship

Sub-section (1): A person who is not a retiring director in terms of section 152 shall, subject to the provisions of this Act, be eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than twenty-five per cent. of total valid votes cast either on show of hands or on poll on such resolution.

Sub-section (1): A person who is not a retiring director in terms of section 152 shall, subject to the provisions of this Act, be eligible for appointment to the office of a director at any general meeting, if he, or some member intending to propose him as a director, has, not less than fourteen days before the meeting, left at the registered office of the company, a notice in writing under his hand signifying his candidature as a director or, as the case may be, the intention of such member to propose him as a candidate for that office, along with the deposit of one lakh rupees or such higher amount as may be prescribed which shall be refunded to such person or, as the case may be, to the member, if the person proposed gets elected as a director or gets more than twenty-five per cent. of total valid votes cast either on show of hands or on poll on such resolution.

- The requirement of deposit of rupees one lakh with respect to nomination of directors shall not be applicable in case of appointment of independent directors or directors nominated by nomination and remuneration committee or a director recommended by the Board of Directors of the Company, in the case of a company not required to constitute Nomination and Remuneration Committee.

	<i>“Provided that requirements of deposit of amount shall not apply in case of appointment of an independent director or a director recommended by the Nomination and Remuneration Committee, if any, constituted under sub-section (1) of section 178.”</i>		
<i>Sec 161 - Appointment of Additional Director, Alternate Director and Nominee Director</i>			
<i>Sub-section (2):</i> The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period of not less than three months from India. <i>Sub-section (4):</i> In the case of a public company, if the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board:	<i>Sub-section (2):</i> The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company <i>or holding directorship in the same company</i> , to act as an alternate director for a director during his absence for a period of not less than three months from India. <i>Sub-section (4):</i> If the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board <i>which shall be subsequently approved by members in the immediate next general meeting.</i>	• A person is restricted from being appointed as an alternate director if he is holding directorship in the same company. • Casual vacancy may be filled by the board and casual vacancy so filled shall also be <u>subsequently approved by members</u> in the immediate next general meeting.	
<i>Sec 164 - Disqualifications for appointment of Director</i>			
<i>Sub-section (2):</i> No person who is or has been a director of a company which- (a) has not filed financial statements or annual returns for any continuous period of three financial years; or (b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due	<i>Sub-section (2):</i> No person who is or has been a director of a company which- (a) has not filed financial statements or annual returns for any continuous period of three financial years; or (b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due	• When a director is appointed in company which is in default of filing of financial statements or annual return or repayment of deposits or pay interest or redemption of debentures or payment of interest thereon or payment of dividend then such director shall not incur the disqualification for a period of six months from the date of his appointment.	

date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more, shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so. Proviso to Sub-section (3): Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall not take effect- (i) for thirty days from the date of conviction or order of disqualification; (ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or (iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed off	date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more, shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so. "Provided that where a person is appointed as a director of a company which is in default of clause (a) or clause (b), he shall not incur the disqualification for a period of six months from the date of his appointment."; Proviso to Sub-section (3): Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification."	
Sec 165 - Number of Directorships		
Explanation to Sub-section (1): For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included.	Explanation to Sub-section (1): For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included. Explanation II.—For reckoning the limit of directorships of twenty companies, the directorship in a dormant company shall not be included.	• The directorship in a dormant company shall not be included in the limit of directorships of 20 companies.

Sec 167 - Vacation of office of Director		
Clause (a) to Sub-section (1): he incurs any of the disqualifications specified in section 164. Proviso to clause (f) of Sub-section (1): Provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court	Clause (a) to Sub-section (1): he incurs any of the disqualifications specified in section 164. <i>“Provided that where he incurs disqualification under sub-section (2) of section 164, the office of the director shall become vacant in all the companies, other than the company which is in default under that sub-section.”;</i> Proviso to clause (f) of Sub-section (1): <i>“Provided that the office shall not be vacated by the director in case of orders referred to in clauses (e) and (f)-</i> <i>(i) for thirty days from the date of conviction or order of disqualification;</i> <i>(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed of; or</i> <i>(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed of.”</i>	• In case a director incurs any of disqualifications under section 164(2) due to default of filing of financial statements or annual return or repayment of deposits or pay interest or redemption of debentures or payment of interest thereon or payment of dividend, then he shall vacate office in all the companies other than the company which is in default. • Also, if appeal is preferred against disqualification by such director the vacation shall not take effect until such further appeal or petition is disposed of.
Sec 168 - Resignation of Director		
Proviso to Sub-section (1): Provided that a director shall also forward a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed.	Proviso to Sub-section (1): Provided that a director may also forward a copy of his resignation along with detailed reasons for the resignation to the Registrar within thirty days of resignation in such manner as may be prescribed.	• Optional filing of e-form DIR-11 w.r.t regarding forwarding of copy of resignation by director to the Registrar.

Sec 173 - Meetings of Board

Sub-section (2): The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognising the participation of the directors and of recording and storing the proceedings of such meetings along with date and time:

Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means.

Sub-section (2): The participation of directors in a meeting of the Board may be either in person or through video conferencing or other audio visual means, as may be prescribed, which are capable of recording and recognising the participation of the directors and of recording and storing the proceedings of such meetings along with date and time:

Provided that the Central Government may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio visual means.

"Provided further that where there is quorum in a meeting through physical presence of directors, any other director may participate through video conferencing or other audio visual means in such meeting on any matter specified under the first proviso."

- Directors are allowed to participate on restricted items at Board meetings through video conferencing or other audio-visual means if there is quorum through physical presence of directors.
- This move is expected to provide relief to Directors to participate in discussion and voting in important matters like approval of financial statements etc, without travelling to the place of meeting.

Sec 177 - Audit Committee

Sub-section (1): The Board of Directors of every listed company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

Clause (iv) in Sub-section (4): approval or any subsequent modification of transactions of the company with related parties;

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

Sub-section (1): The Board of Directors of **every listed public company** and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.

Clause (iv) in Sub-section (4): approval or any subsequent modification of transactions of the company with related parties;

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

Provided further that in case of transaction, other than transactions referred to in section 188, and where

- Related party transactions other than those prescribed under section 188, if not approved by Audit committee, shall be decided by the Board of Directors based on the Audit Committee's recommendations.
- In case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director

	<i>Audit Committee does not approve the transaction, it shall make its recommendations to the Board.</i> <i>Provided also that in case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it:</i> <i>Provided also that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company.</i>	concerned shall indemnify the company against any loss incurred by it.
Sec 180 - Restrictions on powers of Board		
<i>Item (c) in Sub-section (1):</i> to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary: loans obtained from the company's bankers in the ordinary course of business.	<i>Item (c) in Sub-section (1):</i> to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its <i>paid-up share capital, free reserves and securities premium and free reserves</i>, apart from temporary loans obtained from the company's bankers in the ordinary course of business.	Securities premium account is also included within the purview of Section 180 along with paid-up share capital and free reserves for calculation of maximum limits on borrowing powers of the Board.

Sec 185 - Loan to Directors, etc		
Sub-section (1): Save as otherwise provided in this Act, no company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person: Provided that nothing contained in this sub-section shall apply to- (a) the giving of any loan to a managing or whole-time director- (i) as a part of the conditions of service extended by the company to all its employees; or (ii) pursuant to any scheme approved by the members by a special resolution; or (b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India. (c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or (d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company: Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.	Sub-section (1): <i>No company shall, directly or indirectly, advance any loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by,-</i> <i>(a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or</i> <i>(b) any firm in which any such director or relative is a partner.</i> Sub-section (2): <i>A company may advance any loan including any loan represented by a book debt, or give any guarantee or provide any security in connection with any loan taken by any person in whom any of the director of the company is interested, subject to the condition that-</i> <i>(a) a special resolution is passed by the company in general meeting:</i> <i>Provided that the explanatory statement to the notice for the relevant general meeting shall disclose the full particulars of the loans given, or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security and any other relevant fact; and</i> <i>(b) the loans are utilised by the borrowing company for its principal business activities.</i>	Though the entire section is substituted, the major changes are as under: - Advancing of loan, including any loan represented by a book debt to, or give any guarantee or provide any security in connection with any loan taken by following persons is completely restricted- (a) any director of company, or of a company which is its holding company or any partner or relative of any such director; or (b) any firm in which any such director or relative is a partner - The companies are permitted to give loans to entities in which directors are interested after passing special resolution. - If the borrower is a Company then loan should be utilized for its principal business activities.

Explanation.—For the purposes of this section, the expression “to any other person in whom director is interested” means- (a) any director of the lending company, or of a company which is its holding company or any partner or relative of any such director; (b) any firm in which any such director or relative is a partner; (c) any private company of which any such director is a director or member; (d) any body corporate at a general meeting of which not less than twenty five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or (e) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company. Sub-section (2): If any loan is advanced or a guarantee or security is given or provided in contravention of the provisions of sub-section (1), the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person,	Explanation.—For the purposes of this sub-section, the expression “any person in whom any of the director of the company is interested” means- (a) any private company of which any such director is a director or member; (b) any body corporate at a general meeting of which not less than twenty-five per cent. of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or (c) 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. Sub-section (3): Nothing contained in sub-sections (1) and (2) shall apply to- (a) the giving of any loan to a managing or whole-time director- (i) as a part of the conditions of service extended by the company to all its employees; or (ii) pursuant to any scheme approved by the members by a special resolution; or (b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in	
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shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.	<i>respect of such loans an interest is charged at a rate not less than the rate of prevailing yield of one year, three year, five year or ten year Government security closest to the tenor of the loan; or</i> <i>(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or</i> <i>(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:</i> <i>Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.</i> <i>(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, and the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.</i>	
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Sec 186 - Loan and investment by Company

Sub-section (2): No company shall directly or indirectly – (a) give any loan to any person or other body corporate; (b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and (c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate, exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more. Sub-section (3): Where the giving of any loan or guarantee or providing any security or the acquisition under sub-section (2) exceeds the limits specified in that sub-section, prior approval by means of a special resolution passed at a general meeting shall be necessary. Sub-section (11): Nothing contained in this section, except sub-section (1), shall apply- (a) to a loan made, guarantee given or security provided by a banking company or an insurance company or a housing finance company in the ordinary course of its business or a company engaged in the business of financing of companies or of providing infrastructural facilities; (b) to any acquisition- (i) made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities: Provided that exemption to non-banking financial company shall be in respect of its investment and lending activities;	Sub-section (2): No company shall directly or indirectly – (a) give any loan to any person or other body corporate; (b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and (c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate, exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more. Explanation- For the purposes of this sub-section, the word "person" does not include any individual who is in the employment of the company. Sub-section (3): Where the aggregate of the loans and investment so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceed the limits specified under sub-section (2), no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting: Provided that where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned	• Employees have been excluded from the purview of this section. • Shareholders' approval will not be required where a loan or guarantee is given or where a security has been provided by a company to its wholly owned subsidiary company or a joint venture company, or acquisition is made by a holding company, by way of subscription, purchase or otherwise of, the securities of its wholly owned subsidiary company.
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(ii) made by a company whose principal business is the acquisition of securities; (iii) of shares allotted in pursuance of clause (a) of sub-section (1) of section 62. (iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.	subsidiary company, the requirement of this sub-section shall not apply: <i>Provided further that the company shall disclose the details of such loans or guarantee or security or acquisition in the financial statement as provided under sub-section (4).</i> <i>Sub-section (11): Nothing contained in this section shall apply-</i> <i>(a) to any loan made, any guarantee given or any security provided or any investment made by a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of and engaged in the business of financing industrial enterprises, or of providing infrastructural facilities;</i> <i>(b) to any investment-</i> <i>(i) made by an investment company;</i> <i>(ii) made in shares allotted in pursuance of clause (a) of sub-section (1) of section 62 or in shares allotted in pursuance of rights issues made by a body corporate;</i> <i>(iii) made, in respect of investment or lending activities, by a non-banking financial company registered under Chapter III-B of the Reserve Bank of India Act, 1934 and whose principal business is acquisition of securities.";</i> <i>(v) in the Explanation, in clause (a), after the words "other securities" the following shall be inserted, namely:-</i>	
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	<i>"and a company will be deemed to be principally engaged in the business of acquisition of shares, debentures or other securities, if its assets in the form of investment in shares, debentures or other securities constitute not less than fifty per cent of its total assets, or if its income derived from investment business constitutes not less than fifty per cent. as a proportion of its gross income."</i>	
Sec 188 - Related party transactions		
Second proviso to Sub-section (1): Provided further that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party. Sub-section (3): Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a resolution in the general meeting under sub-section (1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the company against any loss incurred by it.	(i) in sub-section (1), after second proviso, the following proviso shall be inserted, namely:- <i>"Provided also that nothing contained in the second proviso shall apply to a company in which ninety per cent. or more members, in number, are relatives of promoters or are related parties";</i> Sub-section (3): Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a resolution in the general meeting under sub-section (1) and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board or, as the case may be, of the shareholders and if the contract or arrangement is with a related party to any director, or is authorised by any other director, the directors concerned shall indemnify the company against any loss incurred by it.	• In cases where 90% or more members in numbers are relatives of promoters or related parties, the requirement relating to restriction on voting by relatives in the general meeting shall not apply. • The non-ratification of transaction shall be voidable at the option of the Board or shareholders, as the case may be. This gives us clarity as the current scenario ratification is allowed both by Board or Shareholders but transaction was only voidable at the option of the Board.

<i>Sec 194 - Prohibition on Forward Dealings in Securities of Company by Director or Key Managerial Personnel</i>		
<i>Prohibition on Forward Dealings in Securities of Company by Director or key Managerial Personnel</i>	<i>This section is now omitted</i>	Since SEBI provisions deal with this subject comprehensively, it is decided to omit Section 194 relating to Prohibition on Forward Dealings in Securities of Company by Director or key Managerial Personnel.
<i>Sec 195 - Prohibition on Insider Trading of securities</i>		
<i>Prohibition on Insider Trading of Securities</i>	<i>This section is now omitted</i>	Since SEBI provisions deal with this subject comprehensively, it is decided to omit Section 195 relating to Prohibition on Insider Trading in Securities of Company.
<i>Sec 197 - Overall maximum Managerial Remuneration and Managerial Remuneration in case of absence or inadequacy of profits</i>		
Sub-section (1): The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits: Provided that the company in general meeting may, with the approval of the Central Government, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V. Provided further that, except with the approval of the company in general meeting,- (i) the remuneration payable to any one	Sub-section (1): The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits: Provided that the company in general meeting may, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V. Second proviso to Sub-section (1): Provided further that, except with the approval of the company in general meeting by a special resolution,- (i) the remuneration payable to any one managing director; or whole-time	• The approval of the Central Government shall not be required at the time of the payment of remuneration exceeding 11% of the net profits of the company. • With the approval of shareholders by way of <u>special resolution</u> the Company can pay the remuneration in excess of individual limits provided for payment of remuneration to executive or non-executive directors [Currently requirement is of ordinary resolution] • Where any term loan of any bank or public financial institution is subsisting or 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, shall

managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together; (ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,- (A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager; (B) three per cent. of the net profits in any other case Sub-section (3): Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or wholetime director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V and if it is not able to comply with such provisions, with the previous approval of the Central Government. Sub-section (9): If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without the prior sanction of the Central Government, where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company.	director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together; (ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,- (A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager; (B) three per cent. of the net profits in any other case <i>“Provided also that, where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting.”;</i> Sub-section (3): Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or wholetime director or manager, by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule V.	be obtained by the company before obtaining the approval in the general meeting [Currently no provision is there for approval of financial institutions etc.] • The auditor of the company shall, in his report, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details.
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Sub-section (10): The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless permitted by the Central Government. Sub-section (11): In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been obtained. Sub-section (15): If any person contravenes the provisions of this section, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.	Sub-section (9): <i>If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years of such lesser period as may be allowed by the company, and until such sum is refunded, hold it in trust for the company."</i> Sub-section (10): The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless approved by the company by special resolution within two years from the date the sum becomes refundable. "Provided that where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver." Sub-section (11): In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in	
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	accordance with the conditions specified in that Schedule. Insertion of following Sub-sections: (16) The auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details as may be prescribed. (17) On and from the commencement of the Companies (Amendment) Act, 2016, any application made to the Central Government under the provisions of this section [as it stood before such commencement], which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended.	
Sec 406 - Provision relating to Nidhis and its application, etc.		
Sub-section (1): In this section, "Nidhi" means a company which has been incorporated as a Nidhi with the object of cultivating the habit of thrift and savings amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit, and which complies with such rules as are prescribed by the Central Government for regulation of such class of companies. Sub-section (2): Save as otherwise expressly provided, the Central Government may, by notification, direct that any of the provisions of this Act shall not apply, or shall apply with such	Sub-section (1): In this section, "Nidhi" or "Mutual Benefit Society" means a company which the Central Government may, by notification in the Official Gazette, declare to be a Nidhi or Mutual Benefit Society, as the case may be. Sub-section (2): The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act specified in the notification- (a) shall not apply to any Nidhi or Mutual Benefit Society; or	• Definition of Nidhi company has been deleted and it is left to the Government to declare a company to be a Nidhi or Mutual Benefit Society by notification in the Official Gazette.

exceptions, modifications and adaptations as may be specified in that notification, to any Nidhi or Nidhis of any class or description as may be specified in that notification. Sub-section (3): A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.	(b) shall apply to any Nidhi or Mutual Benefit Society with such exceptions, modifications and adaptations as may be specified in the notification. Sub-section (3): A copy of every notification proposed to be issued under sub-section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses. Sub-section (4): In reckoning any such period of thirty days as is referred to in sub-section (3), no account shall be taken of any period during which the House referred to in subsection (3) is prorogued or adjourned for more than four consecutive days. Sub-section (5): In reckoning any such period of thirty days as is referred to in sub-section (3), no account shall be taken of any period during which the House referred to in subsection (3) is prorogued or adjourned for more than four consecutive days.	
Sec 446A - Factors for determining level of punishment		
-----	The court or the Special Court, while deciding the amount of fine or imprisonment under this Act, shall have due regard to the following factors, namely:- (a) size of the company;	• A new section has been inserted which lays down certain factors based on which the court or Special court shall take into consideration while deciding the amount of fine or imprisonment under the Act.

	<i>(b) nature of business carried on by the company;</i> <i>(c) injury to public interest;</i> <i>(d) nature of the default; and</i> <i>(e) repetition of the default.</i>	
Sec 446B - Lesser penalties for One Person Companies or small companies		
-----	<i>Notwithstanding anything contained in this Act, if a One Person Company or a small company fails to comply with the provisions of sub-section (5) of section 92, clause (c) of sub-section (2) of section 117, sub-section (3) of section 137, such company and officer in default of such company shall be punishable with fine or imprisonment or fine and imprisonment, as the case may be, which shall not be more than one-half of the fine or imprisonment or fine and imprisonment, as the case may be, of the minimum or maximum fine or imprisonment or fine and imprisonment, as the case may be, specified in such sections."</i>	Relief has been provided to One Person Company and Small Companies in case of non-compliance with certain provisions.
Sec 447 - Punishment for fraud		
Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud: Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.	Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, <i>involving an amount of at least ten lakh rupees or one percent of the turnover of the company</i> 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: Provided that where the fraud in	- Only 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 6 months but which may extend to ten years and shall also be liable to a fine which shall not less than the amount involved in the fraud but which may extend to three times the amount involved in the fraud. - However, if the fraud in question involves public interest, the term of imprisonment shall not be less



	question involves public interest, the term of imprisonment shall not be less than three years. <i>"Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be 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."</i>	than three years. • If the fraud involves an amount less than ten lakh rupees or one per cent of the turnover of the company, whichever is lower and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both.
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