

Amendments for May 2023

CA Final – Corporate & Economic Laws

Chapter 1: Appointment and Qualification of Directors

1.3 - Independent Director [Sec. 149(4) – 149(13), Sec. 150, Rules 4, 5, & 6]

Selection of Independent directors - Sec. 150	<ul style="list-style-type: none"> An independent director may be selected from a <i>data bank</i>. The responsibility of exercising due diligence before selecting a person from the data bank, as an independent director shall lie with the company making such appointment. The appointment of independent director shall be approved by the company in general meeting and the explanatory statement annexed to the notice of the general meeting shall indicate the justification for choosing the appointee for appointment as independent director. <i>The Central Government may prescribe the manner and procedure of selection of independent directors who fulfil the qualifications and requirements specified u/s 149.</i>
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Compliances required by a person eligible and willing to be appointed as an independent director – Rule 6 of Companies (Appointment and Qualification of Directors) Rules, 2014

Online Proficiency Self-Assessment Test – Rule 6(4)	<p>Every individual whose name is so included in the data bank under rule 6(1) shall pass an online proficiency self-assessment test conducted by the institute within a period of 2 year from the date of inclusion of his name in the data bank, failing which, his name shall stand removed from the data bank of the institute.</p>
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Exemption from online proficiency self-assessment test

- An individual shall not be required to pass the online proficiency self-assessment test when he has served for a total period of not less than 3 years as on the date of inclusion of his name in the data bank:
 - (A) as a director or KMP, as on the date of inclusion of his name in the databank, in one or more of the following, namely:
 - (a) listed public company; or
 - (b) unlisted public company having a paid-up share capital of ₹ 10 crore or more; or
 - (c) body corporate listed on any recognized stock exchange or in a country which is a member State of the Financial Action Task Force on Money Laundering and the regulator of the securities market in such member State is a member of the International Organization of Securities Commissions; or
 - (d) bodies corporate incorporated outside India having a paid-up share capital of US\$ 2 million or more; or
 - (e) statutory corporations set up under an Act of Parliament or any State Legislature carrying on commercial activities; or
 - (B) in the pay scale of Director or equivalent or above in any Ministry or Department, of the C.G. or any S.G, and having experience in handling:
 - (i) the matters relating to commerce, corporate affairs, finance, industry or public enterprises; or

		<p>(ii) the affairs related to Government companies or statutory corporations set up under an Act of Parliament or any State Act and carrying on commercial activities; or</p> <p>(C) in the pay scale of Chief General Manager or above in the SEBI or the RBI or the IRDAI or the Pension Fund Regulatory and Development Authority and having experience in handling the matters relating to corporate laws or securities laws or economic laws.</p> <ul style="list-style-type: none"> For the purpose of calculation of the period of 3 years referred above, any period during which an individual was acting as a director or as a KMP in 2 or more companies or bodies corporate or statutory corporations at the same time shall be counted only once. Following individuals, who are or have been, for at least 10 years: <ul style="list-style-type: none"> (A) an advocate of a court; or (B) in practice as a chartered accountant; or (C) in practice as a cost accountant; or (D) in practice as a company secretary, shall not be required to pass the online proficiency self-assessment test.
	Restoration of Name - Rule 6(5)	<p>Any individual whose name has been removed from the databank under sub-rule (4), may apply for restoration of his name on payment of fees of ₹ 1,000 and the institute shall allow such restoration subject to the following conditions, namely:</p> <p>(i) his name shall be shown in a separate restored category for a period of one year from the date of restoration within which, he shall be required to pass the online proficiency self-assessment test and thereafter his name shall be included in the databank, only, if he passes the said online proficiency self-assessment test and, in such case, the fees paid by him at the time of initial registration shall continue to be valid for the period for which the same was initially paid; and</p> <p>(ii) in case he fails to pass the online proficiency self-assessment test within one year from the date of restoration, his name shall be removed from the data bank and he shall be required to apply afresh under sub-rule (1) for inclusion of his name in the databank.</p>

1.5 - Appointment of Directors (Sec. 152)

Consent to act as director -Sec. 152(5)	<p>A person appointed as a director shall not act as a director unless he gives his consent to hold the office as director and such consent has been filed with the Registrar within 30 days of his appointment in such manner as may be prescribed.</p>
	<p>Consent to act as Directors - Rule 8 of the Companies (Appointment and Qualification of Directors) Rules, 2014</p> <ul style="list-style-type: none"> Every person who has been appointed to hold the office of a director shall on or before the appointment furnish to the company a consent in writing to act as such in Form DIR-2. The company shall, within 30 days of the appointment of a director, file such consent with the Registrar in Form DIR-12 along with the prescribed fee. In case the person seeking appointment is a national of a country which shares land border with India, necessary security clearance from the Ministry of Home Affairs, Government of India shall also be attached along with the consent.

1.6 - Directors Identification Number (DIN) [Secs. 153 – 159, Rules 9 – 12]**Allotment of
DIN – Sec. 154**

The C.G. shall, within one month from the receipt of the application u/s 153, allot a DIN to an applicant in such manner as may be prescribed.

Allotment of DIN – Rule 10 of The Companies (Appointment and Qualification of Directors) Rules, 2014

- (1) On the submission of the Form **DIR-3** on the portal and payment of the requisite amount of fees through online mode, an application number shall be generated by the system automatically:
Provided that no application number shall be generated in case of the person applying for DIN is a national of a country which shares land border with India, unless necessary security clearance from the Ministry of Home Affairs, Government of India has been attached along with application for DIN.
- (2) After generation of the application number, the C.G. shall process the applications received for allotment of DIN, decide on the approval or rejection thereof and communicate the same to the applicant along with the DIN allotted in case of approval by way of a letter by post or electronically or in any other mode, within a period of one month from the receipt of such application.
- (3) If the C.G., on examination, finds such application to be defective or incomplete in any respect, it shall give intimation of such defect or incompleteness, by placing it on the website and by email to the applicant who has filed such application, directing the applicant to rectify such defects or incompleteness by resubmitting the application within a period of 15 days of such placing on the website and email.
- (4) In case of rejection or invalidation of application, the fee so paid with the application shall neither be refunded nor adjusted with any other application.
- (5) All DINs allotted to individual(s) by the C.G. before the commencement of these rules shall be deemed to have been allotted to them under these rules.
- (6) The DIN so allotted under these rules is valid for the life time of the applicant and shall not be allotted to any other person.

Chapter 2: Meetings of the Board and its Powers**2.2 - Meetings of Board (Sec. 173)****Participation in
Board Meeting –
Sec. 173(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.

Points to remember

- ***First proviso to Sec. 173 provides that C.G. may, by notification, specify such matters which shall not be dealt with in a meeting through video conferencing or other audio-visual means.***
- ***Second Proviso to Sec. 173 provides 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.***
- ***Rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014, requires the company to comply with the procedure in case of Board Meetings through video conferencing or other audio-visual means.***

- **Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014, specifies the matters not to be dealt with in a meeting through video conferencing or other audio-visual means. However, Rule 4 has been omitted by the Companies (Meetings of the Board and its Powers) Amendment Rules, 2021 w.e.f. 15.06.2021.**

Chapter 8: Companies Incorporated Outside India

8.1 - Definitions

Foreign Company - Sec. 2(42)	<p>means any company or body corporate incorporated outside India which:</p> <p>(a) has a place of business in India whether by itself or through an agent, physically or through electronic mode;</p> <p style="text-align: center;">and</p> <p>(b) conducts any business activity in India in any other manner.</p> <p>Note: Sec. 386 of Companies Act, 2013 interpreted the expression “Place of business” as including a share transfer or registration office.</p> <p>To qualify as foreign company, a company must have the following features:</p> <p>(i) It must be incorporated outside India.</p> <p>(ii) It should have a place of business in India.</p> <p>(iii) Place of Business may be hold by the company directly or through its agent.</p> <p>(iv) Place of business may be physically or through electronic mode.</p> <p>(v) It must conduct a business activity of any nature in India.</p>
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Meaning of Electronic Mode - Rule 2(1)(c) of Companies (Registration of Foreign Companies) Rules, 2014

Electronic mode means carrying out electronically based, -

(a) business to business and business to consumer transactions, data interchange and other digital supply transactions;

(b) offering to accept deposits or inviting deposits or accepting deposits or subscriptions in securities, in India or from citizens of India;

(c) financial settlements, web-based marketing, advisory and transactional services, database services and products, supply chain management;

(d) online services such as telemarketing, telecommuting, telemedicine, education and information research; and

(e) all related data communication services,

whether conducted by e-mail, mobile devices, social media, cloud computing, document management, voice or data transmission or otherwise.

It is immaterial whether the main server is installed in India or outside India.

Note: For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the IFSC set up u/s 18 of the SEZ Act, 2005 shall not be construed as ‘electronic mode’.

8.11 - Other Provisions (Secs. 390, 391, 392 & 393)

Exemptions under this Chapter - Sec. 393A	<p>The Central Government may, by notification, exempt any class of:</p> <p>(a) foreign companies;</p> <p>(b) companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India, as may be specified in the notification, from any of the provisions of this Chapter and a copy of every such notification shall, as soon as may be after it is made, be laid before both Houses of Parliament.</p>
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Point to remember

In exercise of the powers conferred by Sec. 393A of the Companies Act, 2013, the C.G. hereby exempts, from the provisions of sections 387 to 392 (both inclusive), the following:

(a) foreign companies;

(b) companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India, insofar as they relate to the offering for subscription in the securities, requirements related to the prospectus, and all matters incidental thereto in the IFSC set up u/s 18 of the SEZ Act, 2005.

Chapter 9: Miscellaneous Provisions**9.4 - Provision relating to Nidhis and its application, etc. - Sec. 406**

Nidhi Rules, 2014 [As amended by Nidhi (Amendment) Rules, 2022]	Incorporation and incidental matters - Rule 4	<p>(a) A Nidhi shall be a public company and shall have a minimum paid-up equity share capital of ₹ 10 lakh: Provided that every Nidhi existing as on the date of commencement of the Nidhi Amendment Rules, 2022, shall comply with this requirement within a period of 18 months from the date of such commencement.</p> <p>(b) On and after the commencement of the Act, no Nidhi shall issue preference shares.</p> <p>(c) If preference shares had been issued by a Nidhi before the commencement of this Act, such preference shares shall be redeemed in accordance with the terms of issue of such shares.</p> <p>(d) No Nidhi (subject to exception) shall have any object in its Memorandum of Association other than 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.</p> <p>(e) Every "Nidhi" shall have the last words 'Nidhi Limited' as part of its name.</p>
	Requirements for minimum number of members, net owned fund etc. - Rule 5	<p>(a) Every Nidhi shall, within a period of 1 year from the date of its incorporation, ensure that it has:</p> <p>(i) not less than 200 members;</p> <p>(ii) Net Owned Funds of ₹ 10 lakh or more;</p> <p>(iii) unencumbered term deposits of not less than 10% of the outstanding deposits as specified in rule 14; and</p> <p>(iv) ratio of Net Owned Funds to deposits of not more than 1:20.</p> <p>(b) Within 90 days from the close of the first financial year after its incorporation and where applicable, the second financial year, Nidhi shall file a return of statutory compliances in Form NDH-1 along with prescribed fee with the Registrar duly certified by a CS in practice or a CA in practice or a Cost Accountant in practice.</p> <p>(c) If a Nidhi is not complying with clauses (i) or (iv) of sub-rule (1) above, it shall within 30 days from the close of the first financial year, apply to the Regional Director in Form NDH-2 along with prescribed fee for extension of time and the Regional Director may consider the application and pass orders within 30 days of receipt of the application:</p>

		<p>Provided that the Regional Director may extend the period upto 1 year from the date of receipt of application.</p> <p>(d) If the failure to comply with sub-rule (1) of this rule extends beyond the second financial year, Nidhi shall not accept any further deposits from the commencement of the second financial year till it complies with the provisions contained in sub-rule (1), and gets itself declared under sub-section (1) of Sec. 406 besides being liable for penal consequences as provided in the Act.</p>
	<p>General restrictions or prohibitions - Rule 6</p>	<p style="text-align: center;">Point to remember</p> <p>The provisions of this rule shall not be applicable for the companies incorporated as Nidhi on or after the commencement of the Nidhi (Amendment) Rules, 2022.</p> <p>No Nidhi shall:</p> <p>(a) carry on the business of chit fund, hire purchase finance, leasing finance, insurance or acquisition of securities issued by any body corporate;</p> <p>(b) issue preference shares, debentures or any other debt instrument by any name or in any form whatsoever;</p> <p>(c) open any current account with its members;</p> <p>(d) acquire or purchase securities of any other company or control the composition of the Board of Directors of any other company in any manner whatsoever or enter into any arrangement for the change of its management;</p> <p>(e) carry on any business other than the business of borrowing or lending in its own name:</p> <p>However, Nidhis which have adhered to all the provisions of these rules may provide locker facilities on rent to its members subject to the rental income from such facilities not exceeding 20% of the gross income of the Nidhi at any point of time during a financial year.</p> <p>(f) accept deposits from or lend to any person, other than its members;</p> <p>(g) pledge any of the assets lodged by its members as security;</p> <p>(h) take deposits from or lend money to any body corporate;</p> <p>(i) enter into any partnership arrangement in its borrowing or lending activities;</p> <p>(j) issue or cause to be issued any advertisement in any form for soliciting deposit:</p> <p>However private circulation of the details of fixed deposit Schemes among the members of the Nidhi carrying the words "for private circulation to members only" shall not be considered to be an advertisement for soliciting deposits.</p> <p>(k) pay any brokerage or incentive for mobilising deposits from members or for deployment of funds or for granting loans.</p> <p>(l) raise loans from banks or financial institutions or any other source for the purpose of advancing loans to members of Nidhi.</p>
	<p>Membership - Rule 8</p>	<p>(a) A Nidhi shall not admit a body corporate or trust as a member.</p> <p>(b) Except as otherwise permitted under the rules, every Nidhi shall ensure that its membership is not reduced to less than 200 members at any time.</p>

	<p>(c) A minor shall not be admitted as a member of Nidhi: Provided that deposits may be accepted in the name of a minor, if they are made by the natural or legal guardian who is a member of Nidhi.</p> <p>(d) A member shall not transfer more than 50% of his shareholding (as on the date of availing of loan or making of deposit) during the subsistence of such loan or deposit, as the case may be: Provided that the member shall retain the minimum number of shares required under subrule (3) of rule 7 at all times.</p>
Net owned funds - Rule 9	<p>Every <i>Nidhi</i> shall maintain Net Owned Funds (excluding the proceeds of any preference share capital) of not less than ₹ 20 lakh or such higher amount as the C.G. may specify from time to time: Provided that every <i>Nidhi</i> existing as on the date of commencement of the <i>Nidhi</i> (Amendment) Rules, 2022 shall comply with this requirement within a period of 18 months from the date of such commencement.</p> <p style="text-align: center;">Points to remember</p> <p>Rule 3(1)(d): Net Owned Funds means the aggregate of paid-up equity share capital and free reserves as reduced by accumulated losses and intangible assets appearing in the last audited balance sheet: Amount representing the proceeds of issue of preference shares shall not be included for calculating Net Owned Funds.</p>
Un-encumbered Term Deposits - Rule 14	<p>Every <i>Nidhi</i> shall invest and continue to keep invested, in unencumbered term deposits with a scheduled commercial bank (other than a co-operative bank or a regional rural bank), or post office deposits in its own name an amount which shall not be less than 10% of the deposits outstanding at the close of business on the last working day of the second preceding month: Provided that in cases of unforeseen commitments, temporary withdrawal may be permitted with the prior approval of the Regional Director by making application in Form NDH-2 along with specified fee, for the purpose of repayment to depositors, subject to such conditions and time limit which may be specified by the Regional Director to ensure restoration of the prescribed limit of 10%.</p>
Loans - Rule 15	<p>(a) A <i>Nidhi</i> shall provide loans only to its members: Provided that in case of joint shareholders, the loan shall be provided to the member whose name appears first in the Register of members</p> <p>(b) The loans given by a <i>Nidhi</i> to a member shall be subject to the following limits, namely:</p> <p>(i) ₹ 2 lakh, where the total amount of deposits of such <i>Nidhi</i> from its members is less than ₹ 2 crore;</p> <p>(ii) ₹ 7.50 lakh, where the total amount of deposits of such <i>Nidhi</i> from its members is more than ₹ 2 crore but less than ₹ 20 crore;</p> <p>(iii) ₹ 12 lakh, where the total amount of deposits of such <i>Nidhi</i> from its members is more than ₹ 20 crore but less than ₹ 50 crore; and</p> <p>(iv) ₹ 15 lakh, where the total amount of deposits of such <i>Nidhi</i> from its members is more than ₹ 50 crore:</p> <p>Provided that where a <i>Nidhi</i> has not made profits continuously in the 3 preceding financial years, it shall not make any fresh loans exceeding 50% of the maximum amounts of loans specified in clauses (i), (ii), (iii) or (iv).</p>

		<p>Provided further that a member shall not be eligible for any further loan if he has borrowed any earlier loan from the <i>Nidhi</i> and has defaulted in repayment of such loan.</p> <p>(c) For the purposes of sub-rule (2), the amount of deposits shall be calculated on the basis of the last audited annual financial statements.</p> <p>(d) A <i>Nidhi</i> shall give loans to its members only against the following securities, namely:</p> <p>(i) gold, silver and jewellery: Provided that the repayment period of such loan shall not exceed one year.</p> <p>(ii) immovable property: Provided that the total loans against immovable property [excluding mortgage loans granted on the security of property by registered mortgage, being a registered mortgage u/s 69 of the Transfer of Property Act, 1882 shall not exceed 50% of the overall loan outstanding on the date of approval by the board, the individual loan shall not exceed 50% of the value of property offered as security and the period of repayment of such loan shall not exceed 7 years.</p> <p>(iii) fixed deposit receipts, National Savings Certificates, other Government Securities and insurance policies: Provided that such securities duly discharged shall be pledged with <i>Nidhi</i> and the maturity date of such securities shall not fall beyond the loan period or 1 year whichever is earlier: Provided further that in the case of loan against fixed deposits, the period of loan shall not exceed the unexpired period of the fixed deposits.</p>
	Dividend - Rule 18	A Nidhi shall not declare dividend exceeding 25% in a financial year.

Chapter 14: SEBI Act, 1992 and SEBI (LOSR) Regulations, 2015

14.11 - Basics of SEBI (LODR) Regulations, 2015

Applicability of the Regulations - Reg. 3

Unless otherwise provided, these regulations shall apply to a listed entity which has listed any of the following designated securities on recognised stock exchange(s):

- (a) specified securities listed on main board or SME Exchange or **Innovators Growth Platform**;
- (b) **non-convertible securities**;
- (c) Indian depository receipts;
- (d) securitised debt instruments;
- (da) security receipts;
- (e) units issued by mutual funds; and
- (f) any other securities as may be specified by the Board.

Points to remember

- **Provisions of these regulations which become applicable to listed entities on the basis of market capitalisation criteria shall continue to apply to such entities even if they fall below such thresholds.**

	<ul style="list-style-type: none"> Provisions of these regulations which become applicable to listed entities on the basis of the criterion of the value of outstanding listed debt securities shall continue to apply to such entities even if they fall below such thresholds. 	
Key features of SEBI (LODR) Regulations, 2015	<p>Maximum number of directorships - Reg 17A</p>	<p>The directors of listed entities shall comply with the following conditions with respect to the maximum number of directorships, including any alternate directorships that can be held by them at any point of time:</p> <p>(1) A person shall not be a director in more than 7 listed entities: Provided that a person shall not serve as an independent director in more than 7 listed entities.</p> <p>(2) Notwithstanding the above, any person who is serving as a whole-time director/managing director in any listed entity shall serve as an independent director in not more than 3 listed entities.</p> <p>For the purpose of this regulation, the count for the number of listed entities on which a person is a director/independent director shall be only those whose equity shares are listed on a stock exchange.</p>
	<p>Restrictions on Committee Membership - Reg. 26</p>	<p>A director shall not be a member in more than 10 committees or act as chairperson of more than 5 committees across all listed entities in which he/she is a director which shall be determined as follows:</p> <p>(a) all public limited companies, whether listed or not, shall be included and all other companies including private limited companies, foreign companies, high value debt listed entities and companies u/s 8 of the Companies Act, 2013 shall be excluded;</p> <p>(b) for the purpose of determination of limit, chairpersonship and membership of the audit committee and the Stakeholders' Relationship Committee alone shall be considered.</p>
	<p>Report on Corporate Governance to Members</p>	<p>Annual Report of Company shall include a separate section on report on corporate governance.</p> <p>(a) Board of Directors:</p> <p>(i) Composition and category of directors, for example, promoter, executive, non-executive, independent non-executive, nominee director, which institution represented as lender or as equity investor.</p> <p>(ii) Attendance of each director at the Board meetings and the last AGM.</p> <p>(iii) Number of other Board or Board Committees in which he/she is a member or Chairperson.</p> <p>(iv) Number of Board meetings held, dates on which held.</p> <p>(v) Disclosure between directors inter-se.</p> <p>(b) Audit Committee:</p> <p>(i) Brief description of terms of reference.</p> <p>(ii) Composition, name of members and Chairperson.</p> <p>(iii) Meetings and attendance during the year.</p> <p>(c) Nomination and Remuneration Committee:</p> <p>(i) Brief description of terms of reference.</p> <p>(ii) Composition, name of members and Chairperson.</p> <p>(iii) Meetings and attendance during the year.</p> <p>(iv) Performance evaluation criteria for independent directors.</p> <p>(d) Stakeholder Relationship Committee:</p> <p>(i) Name of non-executive director heading the committee.</p>

		<ul style="list-style-type: none"> (ii) Name and designation of compliance officer. (iii) Number of shareholders' complaints received during the financial year. (iv) Number of complaints not solved to the satisfaction of shareholders. (v) Number of pending complaints. <p>(e) Risk Management Committee:</p> <ul style="list-style-type: none"> (i) Brief description of terms of reference. (ii) Composition, name of members and chairperson. (iii) Meetings and attendance during the year. <p>(f) General Body meetings:</p> <ul style="list-style-type: none"> (i) Location and time, where last three AGMs held. (ii) Whether any special resolutions passed in the previous 3 AGMs. (iii) Whether any special resolution passed last year through postal ballot - details of voting pattern. (iv) Person who conducted the postal ballot exercise. (v) Whether any special resolution is proposed to be conducted through postal ballot. (vi) Procedure for postal ballot. <p>(g) Disclosures:</p> <ul style="list-style-type: none"> (i) Disclosures on materially significant related party transactions that may have potential conflict with the interests of company at large. (ii) Details of non-compliance by the listed entity, penalties, strictures imposed on the entity by stock exchange or SEBI or any statutory authority, on any matter related to capital markets, during the last 3 years. (iii) Details of establishment of whistle Blower policy and affirmation that no personnel have been denied access to the audit committee (iv) Details of compliance with mandatory requirements and adoption of non-mandatory requirements of clause 49.
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14.14 - Corporate Governance

Audit Committee (Regulation 18)	Composition of Audit Committee	<ul style="list-style-type: none"> (a) The audit committee shall have minimum 3 directors as members. Atleast Two-thirds of the members of audit committee shall be independent directors. In case of a listed entity having outstanding superior rights (SR) equity shares, the audit committee shall comprise of only independent directors. (b) All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise. (c) The Chairperson of the Audit Committee shall be an independent director. (d) The Chairperson of the Audit Committee shall be present at AGM to answer shareholder queries. (e) The audit committee at its discretion shall invite the finance director or head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives, to be present at the meetings of the committee. (f) The Company Secretary shall act as the secretary to the committee.
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Nomination and Remuneration Committee (Regulation 19)	<p>(1) The board of directors shall constitute the nomination and remuneration committee as follows:</p> <p>(a) the committee shall comprise of atleast three directors;</p> <p>(b) all directors of the committee shall be non-executive directors; and</p> <p>(c) at least 2/3rd of the directors shall be independent directors.</p> <p>(2) The Chairperson of the nomination and remuneration committee shall be an independent director.</p> <p>Provided that the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee.</p> <p>(3) The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance.</p> <p>(4) The Chairperson of the nomination and remuneration committee may be present at the AGM, to answer the shareholders' queries; however, it shall be up to the chairperson to decide who shall answer the queries.</p> <p>(5) The nomination and remuneration committee shall meet at least once in a year.</p>
Risk Management Committee (Regulation 21)	<p>(a) The Risk Management Committee shall have minimum 3 members with majority of them being members of the BOD, including at least 1 independent director and in case of a listed entity having outstanding SR equity shares, at least 2/3rd of the Risk Management Committee shall comprise independent directors.</p> <p>(b) The Chairperson of the Risk Management Committee shall be a member of the Board of Directors and senior executives of the listed entity may be members of the committee.</p> <p>(c) The risk management committee shall meet at least twice in a year.</p> <p>(d) The quorum for a meeting of the Risk Management Committee shall be either 2 members or 1/3rd of the members of the committee, whichever is higher, including at least 1 member of the board of directors in attendance.</p> <p>(e) The meetings of the risk management committee shall be conducted in such a manner that on a continuous basis not more than 180 days shall elapse between any two consecutive meetings.</p> <p>(f) The Board of Directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit and such function shall specifically cover cyber security.</p> <p>(g) It may be noted that the role and responsibilities of the Risk Management Committee shall mandatorily include the performance of functions specified in Part D of Schedule II.</p> <p>(h) The provisions of this regulation shall be applicable to top 1000 listed entities, determined on the basis of market capitalisation, as at the end of the immediate previous financial year and a high value debt listed entity.</p> <p>(i) The Risk Management Committee shall have powers to seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.</p>
Management of Subsidiary companies - Regulation 24	<p>(1) At least one independent director on the board of the listed entity shall be a director on the board of an unlisted material subsidiary, whether incorporated in India or not.</p> <p><i>Material Subsidiary - The term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds 20% of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.</i></p>

	<p>(2) The audit committee of the listed entity shall also review the F.S. in particular, the investments made by the unlisted subsidiary.</p> <p>(3) The minutes of the meetings of the board of the unlisted subsidiary shall be placed at the meeting of the board of directors of the listed entity.</p> <p>(4) The management of the unlisted subsidiary shall periodically bring to the notice of the board of the listed entity, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary.</p> <p>Significant transaction or arrangement: shall mean any individual transaction or arrangement that exceeds or is likely to exceed 10% of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the unlisted subsidiary for the immediately preceding accounting year.</p> <p>(5) A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding to less than or equal to 50% or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved u/s 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.</p> <p>(6) Selling, disposing and leasing of assets amounting to more than 20% of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved u/s 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.</p>
Report on Corporate Governance	<ul style="list-style-type: none"> There shall be a separate section on Corporate Governance in the Annual Reports of company, with a detailed compliance report on Corporate Governance. Non-compliance of any mandatory requirement of SEBI (LODR) regulations with reasons thereof and the extent to which the non-mandatory requirements have been adopted should be specifically highlighted. The companies shall submit a quarterly compliance report to the stock exchanges within 21 days from the end of each quarter as per the prescribed format. The report shall be signed either by the Compliance Officer or the Chief Executive Officer of the company.

Chapter 15: FEMA, 1999

15.7 - Framework for raising loans through External Commercial Borrowings

ECB Framework	All-in-cost ceiling p.a.	<ul style="list-style-type: none"> For existing ECBs linked to LIBOR whose benchmarks are changed to ARR: Benchmark Rate plus 550 bps spread: For new ECBs: Benchmark rate plus 500 bps spread:.
		<p><i>Points to remember</i></p> <p><i>The term 'All-in-Cost' includes rate of interest, other fees, expenses, charges, guarantee fees, Export Credit Agency (ECA) charges, whether paid in foreign currency or Indian Rupees (INR) but will not include commitment fees and withholding tax payable in INR.</i></p>

Benchmark rate refers to any widely accepted interbank rate or Alternate Reference Rate of 6-month tenor, applicable to the currency of borrowing. Benchmark rate in case of Rupee denominated ECB/TC will be prevailing yield of the GOI securities of corresponding maturity.

All-in-cost ceiling has been temporarily increased by 100 bps for ECBs raised till December 31, 2022.

15.10 - Foreign Exchange Management (Export of Goods and Services) Regulations, 2015

Advance payment against exports - Regulation 15

Where an exporter receives advance payment (with or without interest), from a buyer/third party named in the export declaration made by the exporter, outside India, the exporter shall be under an obligation to ensure that:

- (i) the shipment of goods is made within 1 year from the date of receipt of advance payment;
- (ii) the rate of interest, if any, payable on the advance payment shall not exceed 100 basis points above the London Inter-Bank Offered Rate (LIBOR) or other applicable benchmark as may be directed by the Reserve Bank, as the case may be; and**
- (iii) the documents covering the shipment are routed through the authorised dealer through whom the advance payment is received:

Provided that in the event of the exporter's inability to make the shipment, partly or fully, within 1 year from the date of receipt of advance payment, no remittance towards refund of unutilized portion of advance payment or towards payment of interest, shall be made after the expiry of the period of one year, without the prior approval of the Reserve Bank.

15.8A - The Foreign Exchange Management (Overseas Investment) Rules 2022

Refer RTP (May 2023 Exams) issued by ICAI

Chapter 18: FCRA, 2010

18.3 - Regulation of Foreign Contribution and Foreign Hospitality (Sec. 3 - Sec. 10)

Persons to whom Sec. 3 shall not apply (Sec. 4)

Nothing contained in Sec. 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10:

- (a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or
- (b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or
- (c) as an agent of a foreign source in relation to any transaction made by such foreign source with the C.G. or S.G.; or
- (d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the C.G. with regard to the acceptance or retention of such gift or presentation; or
- (e) from his relative; or
- (f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the FEMA, 1999; or
- (g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified u/s 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

Intimation of receiving foreign contribution from Relatives - Rule 6 of Foreign Contribution (Regulation) Rules, 2011

Any person receiving foreign contribution in excess of ₹ 10 Lakh or equivalent thereto in a financial year from the relatives shall inform the C.G. regarding the details of the foreign contribution received by him in electronic form in Form FC 1 within 3 months of receipt of such contribution.

18.7 - Appeals and Revision (Sec. 31 - Sec. 32)

Revision of orders by C.G. (Sec. 32)

The Central Government may either-

- of its own motion or
- on an application for revision by the person registered under this Act,

call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.

Restriction on Suo motu revision

The Central Government shall not of its own motion revise any order under this section if the order has been made more than 1 year previously.

Conditions for making application for revision

- The application must be made within one year from the date on which the order in question was communicated to the person or the date on which he otherwise came to know of it, whichever is earlier.
- Where if, the C.G. is satisfied that such person was prevented by sufficient cause from making the application within that period, may admit an application made after the expiry of that period.

Revision - Rule 20 of Foreign Contribution (Regulation) Rules, 2011

An application for revision of an order passed by the competent authority u/s 32 of the Act shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi **in such form and manner, including in electronic form as may be specified by the Central Government** and it shall be accompanied by a fee of ₹ 3,000 only, which shall be paid through the payment gateway specified by the C.G.

W.e.f. 01.09.2022, an application u/s 32 for revision of an order passed by the competent authority shall be made in electronic form only through the website <https://fcraonline.nic.in>.

Chapter 20: IBC, 2016

20.5 - Initiation of Corporate Insolvency Resolution Process - CIRP (Secs. 6 - 12)

Filing of Application - Sec. 7(2)

The financial creditor shall make an application u/s 7(1) in such form and manner and accompanied with such fee as may be prescribed.

Points to remember

Applicant shall serve a copy of application to the registered office of the corporate debtor and to the Board, by registered post or speed post or by hand or by electronic means, before filing with the Adjudicating Authority.

20.8 – Provisions related to Committee of Creditors (CoC) and Resolution Professional (RP) – Secs. 21 to 28**Meeting of committee of creditors – Sec. 24**

- The members of the committee of creditors may meet in person or by such electronic means as may be specified.
- All meetings of the committee of creditors shall be conducted by the RP.
- The RP shall give notice of each meeting of the committee of creditors to-
 - (a) members of Committee of creditors, including the authorised representatives;
 - (b) members of the suspended Board of Directors or the partners of the corporate persons, as the case may be;
 - (c) operational creditors or their representatives if the amount of their aggregate dues is not less than 10% of the debt.

The directors, partners and representative of operational creditors, may attend the meetings of committee of creditors, but shall not have any right to vote in such meetings.

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016**Voting Rights – Regulation 16**

A member of the committee formed under this Regulation shall have voting rights in proportion of the debt due to such creditor or debt represented by such representative, as the case may be, to the total debt.

Constitution of committee – Regulation 17

- The IRP shall file a report certifying constitution of the committee to the Adjudicating Authority within 2 days of the verification of claims received under regulation 12(1).
- The IRP shall hold the first meeting of the committee within 7 days of filing the report under this regulation.
- Where the appointment of RP is delayed, the IRP shall perform the functions of the RP from the 14th day of the insolvency commencement date till a resolution professional is appointed u/s 22.

Meetings of the committee – Regulations 18 & 19

- RP may convene a meeting of the committee as and when he considers necessary.
- **RP may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least 33% of the voting rights.**
Note: Meeting (s) may be convened under this sub-regulation till the resolution plan is approved u/s 31(1) or order for liquidation is passed u/s 33 & decide on matters which do not affect the resolution plan submitted before the Adjudicating Authority.
- A meeting of the committee shall be called by giving not less than 5 days' notice in writing to every participant, at the address it has provided to the resolution professional and such notice may be sent by hand delivery, or by post but in any event, be served on every participant by electronic means in accordance with Regulation 20.
- The committee may reduce the notice period from 5 days to such other period of not less than 24 hours, as it deems fit:
Provided that the committee may reduce the period to such other period of not less than 48 if there is any authorised representative.

20.11 - Liquidation Process

Verification of claims – Sec. 39	(1) The liquidator shall verify the claims submitted u/s 38 within such time as specified by the Board (30 days from the last date for receipt of the claims). (2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying the whole or any part of the claim.
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Points to remember

Liquidator shall also verify the claims collated during the CIRP but not submitted during the liquidation process, within 30 days from the last date for receipt of claims during liquidation process and may either admit or reject the claim, in whole or in part.

20.14 - Voluntary Liquidation of Corporate Persons – Sec. 59

Replacement of Liquidator	The corporate person may replace the liquidator by appointing another insolvency professional as liquidator by passing a special resolution. Such insolvency professional shall, within seven of his appointment as liquidator intimate the IBBI about such appointment.
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Law stated in this publication is upto 30.10.2022 and is relevant for May 2023 Exams and onwards.

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