

Salient Features Regarding Statutory Auditors (under the Companies Act, 2013)

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Company Secretary

- Companies' fulfilling the following criteria will fall under the provisions of Section 139(2) for the appointment of Auditors:
 - Listed – all
 - Public Limited Companies – Paid-up : Rs. 10 Crore or more
 - Or
 - Borrowings : Rs. 50 Crore or more
 - Private Limited Companies – Paid-up : Rs. 20 Crore or more
 - Or
 - Borrowings : Rs. 50 Crore or more
- Other Companies will fall under the provisions of Section 139(1) for the appointment of Auditors.
- Companies falling under Section 139(1):
 - appointment need to be done for a period till the conclusion of every sixth meeting : whether new Company or the existing one;
 - appointment to be ratified at every annual general meeting;
(have been proposed to be deleted vide the Companies (Amendment) Bill, 2017)
 - written consent of the auditor alongwith a certificate from the auditor is required;
 - the Company shall inform the auditor after appointment;
 - the Company shall file form (ADT-1) for appointment of the auditors within 15 days of the appointment of the auditors at the AGM;
 - Form is not required to be filed for subsequent ratification;
 - Form is also not required to be filed for first appointment by the Board, in case of a newly incorporated company.
- Companies falling under Section 139(2):
 - Individual auditor cannot be appointed for more than one term of five consecutive years;
 - Audit Firm as auditor cannot be appointed for more than two terms of five consecutive years;
 - There is a cooling period of five years for both the classes before being getting re-appointed again;
 - Further, there was an initial cooling period of three years irrespective of the tenure of appointment of the present / current auditors with the introduction of the Act (w.e.f. 01.04.2014).
- The first auditors of the Company shall be appointed by the Board within 30 days of the incorporation of the Company, failing which the shareholders of the Company shall appoint the auditors within 90 days of the incorporation of the Company and in both the cases the auditors will hold the office till the conclusion of the first AGM.
- In case of the Company having Audit Committee, the appointment need to be recommended by the Audit Committee too before the approval by the Board.
- In case of casual vacancy, the appointment need to be done by the Board within 30 days of the vacancy. However, in case of casual vacancy due to resignation, the appointment also need to be approved by the shareholders within three months of the date of the Board Meeting.
- If the Auditors is not appointment or re-appointed at AGM, the existing auditor shall continue to be the auditor of the Company.
- In case of removal of the Auditor, the proposal of the Board and the shareholders passed resolution need to be approved by the Regional Director too.

- Auditor can do audit for not more than twenty companies, excluding :
 - (a) OPC
 - (b) Dormant company
 - (c) Small Company
 - (d) Private Company having paid-up capital less than Rs. 100 Crore.
- The Auditor has to report fraud in compliances with the provisions of Section 143 read with rules related thereto.
- The Auditor is required to attend the AGM unless specifically exempted by the Company.
- Auditors cannot render certain services in terms of Section 144 of the Act.
- *Certain salient features of the proposed Companies (Amendment) Bill, 2017 :*
 - a) *Proposed to reduce the fine in case of failure to file resignation by auditor in form ADT-3 to fifty thousand or the remuneration of auditor whichever is less.*
 - b) *Auditors will be having the right to access to accounts and records of the associate companies alongwith subsidiary companies for their audit work.*
 - c) *Proposed that a person who, directly or indirectly, renders any service referred to in Section 144 to the Company or its holding company or its subsidiary company will not be eligible for appointment as Auditor. Currently the restriction is only on the person, whose subsidiary, associate company or any other form of entity is engaged as on the date of appointment is consulting and specialized services as provided in Section 144.*

